

Video 2: Title: Alternatives to Guardianship

Hello, thank you for taking the time to learn more about guardianship. It is important to understand that guardianship is a serious legal tool that can interfere with a person's independence. The law requires that you consider all alternatives. You will sometimes hear these referred to as "lesser restrictive measures." And remember, everyone is presumed to have the capacity to make their own decisions until proven otherwise.

Alternatives to guardianship include formal and informal options to help someone meet their needs and live safely in the community. Sometimes being independent requires getting extra support. This could come in several forms.

First, let's talk about informal support

Chapter Heading: Informal Support

There are many options to consider. Could family, friends or faith communities help? Maybe grocery or prescription delivery is part of the solution. Possibly assistance with transportation?

What about government or private programs that provide home delivered meals or day programs at senior centers? Case managers from various organizations can help find these services and support.

More formal long-term care is also available. Home care services that help with personal needs such as bathing, dressing, and cooking may allow a person to remain in their home. A visiting nurse can provide medical support and help with things like organizing medications. If a person's needs cannot be met while living in their own home, assisted living facilities may be an option. Do some research. The court's guardianship website is a good place to start. Here you will find a resource page with lots of information.

There are also informal steps you can take to help with finances – for example consider direct deposit and automatic bill payment. You may want to consider financial management companies or bill payer services that help organize and pay bills. Social Security has a representative payee program where you can manage income on someone’s behalf. You can also reach out to pension and retirement benefit companies that may have similar programs.

More formal arrangements might include a power of attorney or a trust.

Chapter Heading: More Formal Arrangements: A Power of Attorney or Trust

First, let’s talk about powers of attorney. Using a Power of Attorney document, you can give someone legal authority to make financial, property, and other non-healthcare decisions for you. You get to decide what powers they have. They can: pay bills, conduct banking transactions, buy or sell property on your behalf, and much more. As long as you have capacity to do so, you can always change the powers granted, the person you gave powers to, or revoke the power of attorney entirely. You can also specify that the document stays in place, even if you later become incapacitated.

Next let’s talk about trusts.

In simple terms, when you create a trust, you transfer money or other assets to a trustee, who manages the money for you. Trusts are sometimes set up to help people qualify for benefits such as Medicaid. Trusts are complicated. If you are interested in learning more about trusts, talk to a lawyer.

Let’s move on and talk about two types of Advance Directives: Health Care Proxies and Living Wills

Chapter Heading: Health Care Proxies and Living Wills

There are legal documents, known as advance directives, that can help make sure your health care wishes are honored in the future.

One important type of advance directive is a health care proxy. With a health care proxy, you give a trusted person the ability to make health care decisions *only* when you are unable to make those decisions for yourself. It is important that you trust this person, and they understand your wishes.

Another common type of advance directive is a living will. In a living will, you can specify in writing your preferences about medical care should you become incapacitated. This is particularly helpful if you are involved in a serious accident or facing end-of-life decisions.

If someone isn't able to make health care decisions and doesn't have a living will or health care proxy, they still don't necessarily need a guardian. New York State has a law in place that tells hospitals and nursing homes who in your life can make these decisions for you. This is called the Family Health Care Decisions Act. You can find more information about this law on the guardianship resource page.

Sometimes loved ones disagree on care arrangements, how to manage money, and other issues. One solution to resolving disagreements is dispute resolution.

Chapter heading: Dispute Resolution

Dispute resolution or mediation is a way to resolve disagreements. Mediators can help people have difficult conversations. During this process you may discover alternatives to guardianship that work for everyone. There are Community Dispute Resolution Centers all over New York State.

Another thing you might consider is Supported Decision Making.

Chapter Heading: Supported Decision Making

Everyone makes decisions and processes information differently. Some people need extra time, others need advice from people they trust. Maybe information and choices just need to be broken down in a way that is easy to understand. Supported decision making helps people make and communicate decisions.

Let's talk about one more option –special or single transaction guardianships.

Chapter Heading: Special or Single Transaction Guardianships

If a person does need a guardian, but only for a short period of time, there is another option, special or single transaction guardianships. In this case, a guardian is appointed for a single reason such as helping with benefits or housing. Once the issue is resolved, the guardianship will end.

There are other alternatives to guardianship not mentioned in this video. You should check out the resources page on the guardianship website. If you have explored all alternatives and still believe someone needs a guardian, the court website provides more information on how to pursue this option. Thank you for watching. I hope this information has been helpful.