

Easter Seals DuPage & Fox Valley Presents:

**FAMILY RESOURCE
PROTECTION &
PRESERVATION**

10 STEP PLANNING PROCESS (STEPS 1-3)

-GUARDIANSHIP-



The Estate Planning Law Group

Future Care Planning for Children with Special Needs

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Family Resource Protection & Preservation

...Planning for a
Lifetime of Protection,
Guidance & Love



Agenda

*10 Step Planning Process
How to Take Charge of
Your Child's Future
Purple Worksheets*

10 Step Planning Process

Step 1: Identify the Need for Future Care Planning

Step 2: Determine How to Access Services in Illinois

Step 3: Consider Adult Guardianship at Age 18

Step 4: Plan for and Secure Benefits at Age 18

Step 5: Create a Life Care Plan

Step 6: Prepare Wills and Living Trusts

Step 7: Create a Special Needs Trust

Step 8: Build a Team

Step 9: Provide Enough Financial Resources

Step 10: Write or Record a Memorandum of Intent

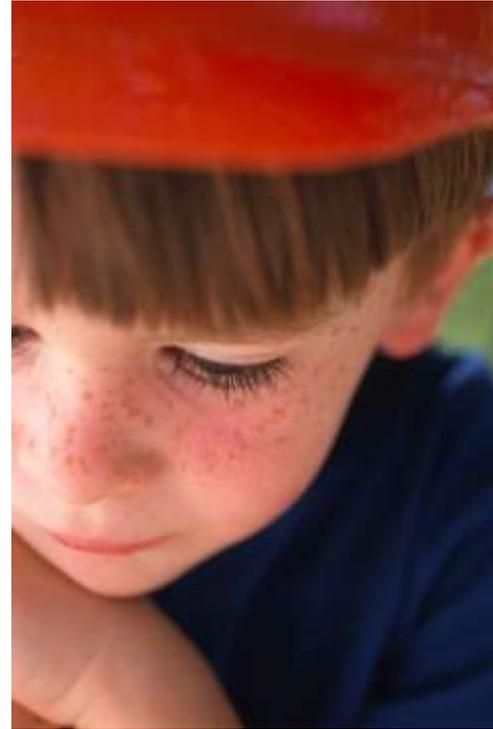
Step 1

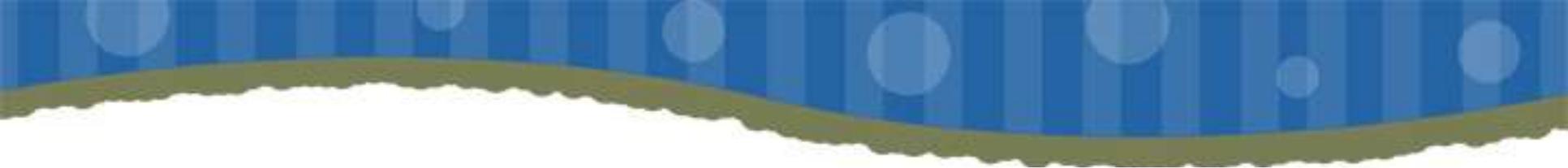
Identify the Need for Future Care Planning

- Will your child or loved one be able to support themselves as an adult?
- Will they be able to make good decisions about their personal care and financial matters?

Step 2

Determine How
to Access
Services in
Illinois





PUNS Listing

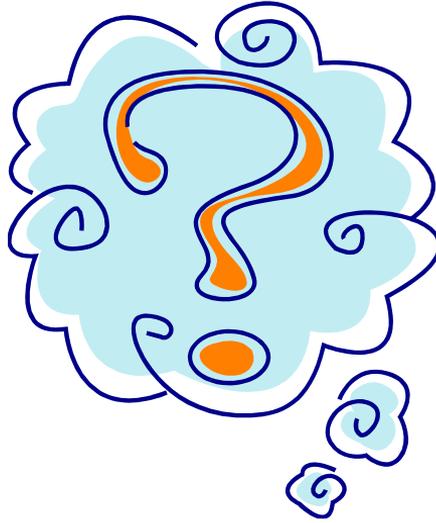
- **Prioritization of Urgency of Need for Services**
 - **Complete a PUNS interview and update every year**
 - **Contact pre-admission screener at local Independent Service Coordination Agency (ISCA)**
 - **Contact Illinois Life Span at 1-800-588-7002**
 - **Contact the Department of Human Services at 1-888-DD-PLANS**
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Step 3

Consider Need for
Adult Guardianship
at Age 18



What Happens at Age 18?



Agenda- Guardianship Issues

1. **Is Guardianship appropriate?**
2. **How to Petition for Guardianship**
3. **Types of Guardianships**
4. **Duties and Responsibilities of the Guardian**
5. **Tricky Issues**



Factors to Consider

Questions . . .

1. Is the individual able to make or communicate responsible decisions?
2. Is the individual capable of managing his or her personal matters and financial matters?
3. Would the appointment of a Guardian benefit the individual?
4. Who should serve as Guardian?

Factors to Consider

Facts . . .

- **Disability alone is not enough**
- **Must be incapable of managing one's person and estate**
- **“Although a person may be disabled in the statutory sense...a guardian is appropriate only if the alleged disabled person is not capable of making and communicating responsible decisions about his care.”**
 - **In re Estate of Hickman, 206 Ill. App. 3d 265 (1991).**

Factors to Consider

The disabled person (ward) . . .

- **Must be 18 years or older**
- **Is not fully able to manage person or estate because of mental deterioration, physical deterioration, physical incapacity, mental illness or developmental disability, or**
- **Because of gambling, idleness, debauchery, or excessive use of intoxicants or drugs, so spends/wastes his estate as to expose himself or his family to want or suffering.**

Types of Guardianship

- Plenary Guardianship—full guardianship of both the person and the estate
- Limited Guardianship—partial guardianship over an enumerated list of decisions to be made
- Standby Guardian—Guardian appoints successor to standby and serve upon Guardian's death/incapacity—may serve for 60 days upon hearing of death/incapacity
- Short term Guardian—temporary appointment by Guardian for another to serve for a short period of time—total 60 days in 12 month period of time.
- Temporary Guardian—court appointed for the immediate welfare and protection of the alleged disable person or his/her estate—must show *actual* harm; expires w/in 60 days of appointment.

Guardianship Powers

Guardian of the Person

- Medical decisions (informed consent)
- Release confidential medical information to coordinate services
- Residential decisions pursuant to court order
- Ensures ward receives proper professional services
- May not admit to Mental Health facility without court order except at the ward's request and if ward has capacity to consent
- May act as a surrogate decision maker w/o court order
- Any decisions to forego/withdraw life-sustaining treatment not authorized under HCSA (Health Care Surrogate Act) requires court order.

Guardianship Powers

Guardian of the Estate—Court approval required!

- Pursuant court order, may authorize the guardian to exercise any or all powers over the estate and business affairs of the ward
- Makes financial decisions
- Must manage estate frugally and make decisions consistent with what ward would have wanted
- May make gifts of income or principal
- Conduct estate planning
- Enter into contracts (if no court order, contract is void as against person and his/her estate but other person is bound by contract)
- Create revocable/irrevocable trusts

Cannot Afford an Attorney?

Consider filing a petition yourself OR....

Prairie State Legal Services

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Must meet certain income and asset guidelines. In general, eligible if household income is less than 125% of the federal poverty level.