



GUARDIANSHIP ETHICS

From the guardian's
perspective and the
service provider's
perspective

Pam Wiener, Ph.D.
Alpert JFS
West Palm Beach

ABOUT GUARDIANSHIP (OF ADULTS)

Let's start in an interactive way.

Who has experience working with guardians?

What has been your experience?

What questions do you have about guardianship?

There are voluntary guardianships

plenary guardianships

limited guardianships

guardianship of the person

guardianship of the property

emergency temporary guardianships

guardian advocate

BASIC RULES/STATUTES

- *Family gets first crack at guardianship
- *Socialization with family/friends is encouraged
- *Living wills are respected
- *Wards retain rights to education, life enriching activities

What can be delegated to the guardian?

- *Choice of residence
- *Medical consent or decision making
- *Applying for public benefits
- *Managing property/financial affairs/make gifts
- *To make decisions about social environment
- *Contracting
- *To sue or be sued



SCENARIO 1

You run an ALF. A resident, Sherri, age 55 has a developmental disability. Her sister is her guardian advocate. Sherri is social and alert, friendly and communicative. Sherri has a boyfriend.

The guardian advocate sister has insisted that the ALF make sure that Sherri does not have sexual relations with anyone.

It is clear that Sherri is being intimate in a mutually consensual relationship that appears to be nurturing and appropriate.

Do you inform the sister? Do you take any other action?

Note: people under guardian advocacy are always in a limited guardianship and retain at least one delegable right.

SCENARIO 2

Captain Jack is a delusional veteran about 80 years old. He is robust in appearance, 6'6" tall, 200 lbs. and very animated with a bellowing voice. He retains the right to determine his social environment. He has hypertension, coronary artery disease, MCI, kidney disease, diabetes, peripheral vascular disease. His ALF administers his medications. He has been permitted to sign out and sign in.

The captain has been riding his scooter all around the county, sometimes running out of battery power 5 or more miles from his ALF. When this happens, he pushes the 250 lb. scooter for miles in the Florida heat. He also takes his scooter on the bus. He is very familiar with the bus routes.

Captain Jack has tipped his scooter over, injuring his leg and his hip. He visits one friend from time to time, but otherwise is simply roaming. He rides on streets more than on sidewalks.

The ALF has come to a point where they believe his dementia is worsening. In addition, the exertion after his battery runs out is taking a toll on his health. The ALF calls the guardian seeking a solution.

What would you do? What are the considerations?

SCENARIO 3

Anne is 97 living in IL and is in a voluntary guardianship. She has some people who love her, unrelated, in another state. She was scammed out of nearly \$1 million dollars and was referred to the guardian to protect her assets. Anne makes her own residential, social, medical etc. decisions. She is pretty clear-headed.

She keeps falling. She is not taking her dog out often enough. She is 85 lbs. and frail. The community is concerned and is calling the guardian. The guardian suggests a more supervised environment with more support for her and the dog. Anne refuses.

What are your options as guardian? What is the guardian's obligation? The IL's?



SCENARIO 4

Rose is a 70 year old woman with advanced dementia. A Professional Guardian was appointed as plenary emergency temporary guardian. The events described below occurred during the ETG phase, prior to determination of incapacity, but at a time when all rights were temporarily removed.

Rose became very ill and was hospitalized. The doctors determined that Rose was at the end of her life and asked the Guardian to secure a DNR order so she could be transferred to hospice. Rose had no known advance directives. In order to obtain a DNR, the Guardian needed to petition for extraordinary authority. She needed to establish that two physicians found Rose to be at the end of life and that she had expressed her wishes that her life not be prolonged artificially.

The Guardian contacted the Rose's daughter who confirmed conversations that met the criteria for a DNR.

The daughter had medical issues that precluded her from timely providing an affidavit stating her mother's wishes. So the Guardian turned to Rose's brother, who executed an affidavit so that the motion could be made to the Court. During this time, the Rose's condition worsened and without a DNR, she was intubated and placed on a ventilator.

The day the Court heard the matter, it issued the order for the DNR. When the order was presented to the hospital, the Guardian learned for the first time that Rose was an organ donor. The hospital told the Guardian that she should just deny the organ donation and take Rose off the ventilator so she could go to hospice. The Guardian questioned how she could honor Rose's expressed wishes on the one hand to allow her to die naturally but not, on the other hand, to donate her organs (which could not be done if she was extubated without protecting her organs).

What do you think happened next? What would you do?

THANK YOU

- Pam Wiener, Ph.D.
- FL Registered Guardian 2591
- 561-684-1991
- Pam.wiener@alpertjfs.org
- www.alpertjfs.org

JFS



**Ferd & Gladys Alpert
Jewish Family Service
of Palm Beach County**