

National Guardianship Association

Standards of Practice

Standards 6, 7, and 15

NGA Standard 6 – Informed Consent

I. Decisions the guardian makes on behalf of the person under guardianship shall be based on the principle of Informed Consent.

II. Informed Consent is an individual's agreement to a particular course of action based on a full disclosure of facts needed to make the decision intelligently.

III. Informed Consent is based on adequate information on the issue, voluntary action, and lack of coercion.

IV. The guardian stands in the place of the person and is entitled to the same information and freedom of choice as the person would have received if he or she were not under guardianship.

V. In evaluating each requested decision, the guardian shall do the following:

A. Have a clear understanding of the issue for which informed consent is being sought,

B. Have a clear understanding of the options, expected outcomes, risks and benefits of each alternative,

C. Determine the conditions that necessitate treatment or action,

D. Encourage and support the person in understanding the facts and directing a decision,

E. Maximize the participation of the person in making the decision,

- F. Determine whether the person has previously stated preferences in regard to a decision of this nature,
- G. Determine why this decision needs to be made now rather than later,
- H. Determine what will happen if a decision is made to take no action,
- I. Determine what the least restrictive alternative is for the situation,
- J. Obtain a second medical or professional opinion, if necessary,
- K. Obtain information or input from family and from other professionals, and
- L. Obtain written documentation of all reports relevant to each decision.

NGA Standard 7 – Standards for Decision-Making

- I. Each decision made by the guardian shall be an informed decision based on the principle of Informed Consent as set forth in Standard 6.
- II. The guardian shall identify and advocate for the person's goals, needs, and preferences. Goals are what are important to the person under guardianship, whereas preferences are specific expressions of choice.
 - A. First, the guardian shall ask the person what he or she wants.
 - B. Second, if the person has difficulty expressing what he or she wants, the guardian shall do everything possible to help the person express his or her goals, needs, and preferences.
 - C. Third, only when the person, even with assistance, cannot express his or her goals and preferences, shall the guardian seek input from others familiar with the person to determine what the individual would have wanted.

D. Finally, only when the person's goals and preferences cannot be ascertained, may the guardian make a decision in the person's best interest.

III. Substituted Judgment

A. Substituted Judgment is the principle of decision-making that substitutes the decision the person would have made when the person had capacity as the guiding force in any surrogate decision the guardian makes.

B. Substituted Judgment promotes the underlying values of self-determination and well-being of the person.

C. Substituted Judgment is not used when following the person's wishes would cause substantial harm to the person or when the guardian cannot establish the person's goals and preferences even with support.

IV. Best Interest

A. Best Interest is the principle of decision-making that should be used only when the person has never had capacity, when the person's goals and preferences cannot be ascertained even with support, or when following the person's wishes would cause substantial harm to the person.

B. The Best Interest principle requires the guardian to consider the least intrusive, most normalizing, and least restrictive course of action possible to provide for the needs of the person.

C. The Best Interest principle requires the guardian to consider past practice and evaluate reliable evidence of likely choices.

NGA Standard 15 – Decision-Making About Withholding and Withdrawal of Medical Treatment

I. The NGA recognizes that there are circumstances in which, with the approval of the court if necessary, it is legally and ethically justifiable to consent to the withholding or withdrawal of medical treatment, including artificially provided nutrition and hydration, on behalf of the person under guardianship. In making this determination there shall in all cases be a presumption in favor of the continued treatment of the person.

II. If the person had expressed or currently expresses a preference regarding the withholding or withdrawal of medical treatment, the guardian shall follow the wishes of the person. If the person's current wishes are in conflict with wishes previously expressed when the person had capacity, the guardian shall have this ethical dilemma reviewed by an ethics committee and if necessary, submit the issue to the court for direction.

III. When making this decision on behalf of the person, the guardian shall gather and document information as outlined in Standard 6 and shall follow Standard 7.