

“Oops! I Did It Again”: Exploring Alternatives to Guardianship Conference

The decision to pursue guardianship is one that should not be taken lightly. Plenary guardianship results in the deprivation of basic rights of the alleged incapacitated person. The PA statute requires an examination of all possible less restrictive alternatives before pursuing guardianship, but these alternatives are often only given a cursory glance. This conference will provide an in-depth look at a variety of alternatives to guardianship that may be appropriate for older adults, in an effort to maintain their autonomy and reduce court involvement.

Keynote (9am – 10am)

The keynote presentation will be presented by Orphans’ Court Administrative Judge Lois Murphy, a statewide leader in guardianship reform. The presentation will review the history of guardianship in Pennsylvania and reasons why guardianship may be pursued, as well as introduce how and why less restrictive alternatives to guardianship should be considered.

Objectives:

- Participants will describe the history of guardianship in Pennsylvania.
- Participants will identify reasons why guardianship is pursued for older adults.
- Participants will recognize why guardianship should be a last resort.

Presenter: Judge Lois Murphy, Administrative Judge of Montgomery County Orphans’ Court

Panel (10:15am – 11:45am)

A panel discussion with subject-matter experts will explore alternatives to guardianship. These alternatives include mediation, supported decision-making, community supports, legal alternatives, and the applicability of restorative justice practices. The panel will provide legal, ethical, and clinical perspectives of guardianship and its alternatives for older adults. This discussion will offer audience members an opportunity to ask questions.

Objectives:

- Participants will identify three local resources providing alternatives to guardianship for older adults.
- Participants will name at least four less restrictive alternatives to guardianship.
- Participants will identify ethical considerations involved in guardianship and less restrictive alternatives.

Presenters: Pam Walz, Esq., Community Legal Services; Kelly Darr, Esq., Disability Rights Pennsylvania; Karen Buck, Esq., Senior Law Center; Diane Menio, Center for Advocacy for the Rights and Interests of the Elderly; The Honorable Sheila Woods-Skipper,

Lunch (11:45am – 12:45pm)

Workshop Session 1 (12:45pm – 2pm) (Choice between 2 workshops)

Mediation

Mediation is frequently used in family court proceedings to attempt to resolve issues prior to a hearing, often with great success. Mediation allows all parties to feel heard and understood, and utilizes a neutral party to assist in finding compromise solutions. The use of mediation in elder care is on the rise, and has allowed a reduction in guardianships when family members can come together to discuss their concerns. In this session, presenters will provide an overview of elder mediation as an alternative to guardianship and explore the benefits and risks of utilizing mediation. Presenters will also examine ethical considerations with mediation, the status of the use of mediation in Pennsylvania, and its use in surrounding jurisdictions.

Objectives:

- Participants will define elder mediation.
- Participants will recognize three benefits of using mediation in possible guardianship cases.
- Participants will become aware of the current status of mediation usage in Pennsylvania and surrounding jurisdictions.
- Participants will identify ethical considerations in utilizing mediation as an alternative to guardianship.

Presenters: Sharon Eckstein, Esq., Eckstein Conflict Resolution Services; Winnie Backlund, Esq., Institute for the Study of Conflict Resolution

Supported Decision-Making & Community Supports

Supported Decision-Making places the individual at the center of the decision-making process, and allows them to identify trusted supports to assist with understanding, making, and communicating decisions. This session will explore supported decision-making and more informal community supports as alternatives to guardianship that maximize the autonomy of the individual. Presenters will discuss abuse and exploitation in the context of supported decision-making and explore working with older persons who lack potential supporters. Additionally, presenters will examine the status of the use of supported decision-making in Pennsylvania and its more defined use in other jurisdictions.

Objectives:

- Participants will define supported decision-making.
- Participants will identify three local resources providing community supports as alternatives to guardianship.
- Participants will become aware of the current status of supported decision-making in Pennsylvania and other jurisdictions.
- Participants will identify the benefits and risks of supported decision-making as an alternative to guardianship.

Presenters: Valerie Snow, Esq., Senior Law Center; Jennifer Hruslinksy, CARIE

Workshop Session 2 (2:15pm – 3:30pm) (Choice between two workshops)

Restorative Justice

Restorative justice practices seek to identify the harms to those who have suffered as a result of the actions of an offender, and to repair those harms and the relationships. It asks: Who has been harmed? What are their needs? Whose obligation is that? Restorative justice practices serve to identify and strengthen the family and encourage the support needed for seniors to remain safe within the community. This workshop will explore the use of restorative justice practices as a tool for addressing issues affecting older adults, including guardianship. This workshop will include an overview of restorative practice with older adults, and will examine the ethical impacts of a restorative model.

Objectives:

- Participants will define the theory and practice of restorative justice.
- Participants will identify the three basic types of restorative justice processes: victim-offender dialogues, family group conferencing, and circle processes.
- Participants will describe how restorative justice practices are useful in the context of issues affecting older adults, including guardianship.
- Participants will connect restorative justice practices with ethical principles and standards.

Presenters: Maati Yvonne Platts, Roots of Justice; Sue Wasserkrug, Esq., CORA Good Shepherd Mediation

Legal Alternatives

Legal documents including Powers of Attorney and Living Wills, and legal processes, including establishing Representative Payees and Health Care Representatives, can be prepared in advance to reduce the need for guardianship of older adults. Presenters will provide an overview of these legal alternatives to guardianship, differentiate between them, and identify how they are established. Presenters will also explore which legal alternatives may be appropriate in different types of cases.

Objectives:

- Participants will identify at least three legal alternatives to guardianship for older adults
- Participants will differentiate between guardianship and powers of attorney
- Participants will define health care representatives as an alternative to guardianship

Presenters: Michelle Berk, Esq., Berk Elder Law & Dana Goldberg, Esq., Senior Law Center

Closing Networking Session (3:30pm – 4pm)