




Advancing Autonomy: WINGS Update
 WEADD Conference
 June 15, 2022

Jamie Majerus, Branch Audit Manager
 MN Judicial Branch & WINGS Co-Convenor

Anita Raymond, Director
 Center for Excellence in Supported Decision Making & WINGS Co-Convenor

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Agenda


- Intro and History of WINGS & WINGS MN
- Overview of the Issue
- WINGS/Judicial Branch Collaborations

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Intro and History of WINGS & WINGS MN

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National Level

American Bar Association (ABA)

- Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) - a project to support court-led partnerships in states to drive changes in guardianship policy and practice.
- Brings stakeholders to the table for joint problem solving and action and to open doors to communication.
- About half the states have, or have recently convened, WINGS or a similar guardianship reform.
- ABA convenes meetings with all the states bi-monthly:
 - Open forum topics
 - Collaboration among states
 - Gives states an opportunity to learn from each other.
- Provides Tools/Resources:
 - Education/training
 - Surveys
 - Group evaluation
 - Documents from other states

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History



- ~2010-2015: Supported Decision Making Network: informal group of stakeholders
- WINGS MN: Formalized by small National Guardianship Network grant in 2015; funding several educational events/building stakeholders group
- Administration for Community Living Award in 2016 established VOA MN's Center for Excellence in Supported Decision Making, included designating CESDM as convener of WINGS MN

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History



- Annual Summits/educational events through 2019
- Judicial Partnership and designation of co facilitator – 2018
- Fiscal sponsorship by MAGiC, effective 2020; financial support from MAGiC and MN Bar Association's Elder Law Section
- Webinars since 2020

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Goals



- Supporting individuals, providers, families through education
- Building systems prioritizing supported decision making and alternatives to guardianship
- Sustaining conversations with stakeholders: improve outcomes, increase self-determination


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Mission



- Support elders, persons with disabilities, family members and helpers, service providers, guardians, and conservators through education to understand best practices, rights of persons with guardians/conservators, and responsibilities of guardians/conservators.
- WINGS MN aims to build a system that prioritizes supported decision-making and less restrictive alternatives to guardianship, and that maximizes autonomy for persons under guardianship.
- WINGS MN further aims to sustain cooperative conversations where all guardianship stakeholders work to improve outcomes and increase self-determination for people who may need assistance making legal or medical choices.


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WINGS MN is Dedicated To: 

Supporting elders, persons with disabilities, family members and helpers, service providers, guardians and conservators through education to understand:

- The rights of all adults to make their own decisions, including adults with dementia and other disabilities;
- The many ways to support disabled adults without depriving them of their civil and legal rights;
- Many less restrictive alternatives to guardianship and conservatorship and how to make use of them to protect vulnerable adults while preserving their autonomy;

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WINGS MN is Dedicated To: 

Supporting elders, persons with disabilities, family members and helpers, service providers, guardians and conservators through education to understand:

- How to determine when guardianship or conservatorship is the right option;
- Guardianship best practices;
- Guardian duties and responsibilities, including the duty to maximize the person's participation in decisions about their life;
- The rights of a person with a guardian; and
- How to center planning around the choices and the needs of the vulnerable adult.

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WINGS Membership 

WINGS MN members are from the following groups:


- Center for Excellence in Supported Decision Making & E&ELS, VOA MN
- MN Judicial Branch
- Office of Ombudsman
- Dept of Human Services
- Dept of Education
- Professional Guardianship Agencies
- Members of MAGiC
- U of M Institute of Community Integration
- Social Security
- Essentia Health
- MN Legal Aid & Disability Law Center
- Elder Law Section
- MN Elder Justice Center
- The Arc MN
- Attorneys at Law
- Families of people using SDM

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Impacting Communities 

- Annual Summit
 - Virtual Gatherings
- Quarterly newsletters with local and national news
- Community and Professional Education & Training: Guardianship, SDM, etc.

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Overview of the Issue: Advancing Autonomy

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An Emerging Approach

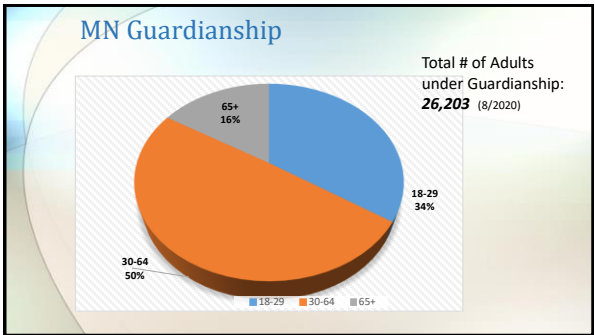
- Changing perspectives of guardianship and supporting people with disabilities
- Understanding benefits of autonomy & self-determination
- Supported Decision Making: how we all make decisions

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Changing Perspectives: Recognizing That

- guardianship has historically been overused
- guardianship is expensive
- guardianship may promote false sense of security
- guardianship often sought to solve problems that guardianship can't solve
- protections of guardianship also bring significant risks to the person
- supporting people in decision making/protecting right to self-determination brings significant benefits

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Supported Decision Making

Assistance from one or more persons of an individual's choosing in understanding the nature and consequences of potential personal and financial decisions which enables the individual to make the decisions and, when consistent with the individual's wishes, in communicating a decision once made.

Minn. Stat. § 524.5-102 Subd. 16a

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Legal Criteria: Guardianship

MN Stat. 524.5-102 Subd. 6: ***Incapacitated Person:***

- impaired to extent lacks sufficient understanding or capacity to make personal decisions

and

- is unable to meet personal needs for medical care, nutrition, clothing, shelter, safety even with use of appropriate technological **and supported decision making assistance** *and*

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Legal Criteria: Guardianship

...and

- Identified needs cannot be met by less restrictive means, including but not limited to use of appropriate technological assistance, **supported decision making, community or residential services, or appointment of a health care agent.**

MN Stat. 524.5-310 (a)(2)

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WINGS / Judicial Branch Collaborations

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Collaborating to Improve Guardianship Systems




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Working Interdisciplinary Networks
of Guardianship Stakeholders
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- SDM legislation exploration
- Default Surrogate Consent Laws exploration
- Modifying HCD legislation exploration
- ABLE Account discussion group
- MN Judicial Branch Grant support

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Improving Systems: WINGS/Judicial Branch Collaboration



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MN Judicial Branch WINGS collaborations

- Conservator/Guardianship Online Training
- Issue spotting and response
- Guardianship Decision Tree

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Decision Tree




Is guardianship the most appropriate intervention?

1. Why is guardianship being requested? What does the person who is asking for it need to know about the person who is being asked to be guardian?

2. What is the nature of the person's need for guardianship?

3. What specific needs is being requested? Can these needs be met through less restrictive means?

4. What is the nature of the specific decision-making question to be decided?

5. Can the person being asked to be guardian consent to the decision?

6. Can the person being asked to be guardian consent to the decision if they are not competent to do so?

7. Can the person being asked to be guardian consent to the decision if they are not competent to do so and there is no one else who can consent on their behalf?

8. Can the person being asked to be guardian consent to the decision if they are not competent to do so and there is no one else who can consent on their behalf and the person being asked to be guardian is not a family member?

9. Can the person being asked to be guardian consent to the decision if they are not competent to do so and there is no one else who can consent on their behalf and the person being asked to be guardian is not a family member and the person being asked to be guardian is not a friend?

10. Can the person being asked to be guardian consent to the decision if they are not competent to do so and there is no one else who can consent on their behalf and the person being asked to be guardian is not a family member, friend, or neighbor?

11. Can the person being asked to be guardian consent to the decision if they are not competent to do so and there is no one else who can consent on their behalf and the person being asked to be guardian is not a family member, friend, neighbor, or community member?

12. Can the person being asked to be guardian consent to the decision if they are not competent to do so and there is no one else who can consent on their behalf and the person being asked to be guardian is not a family member, friend, neighbor, community member, or other person who has a relationship with the person being asked to be guardian?

13. Can the person being asked to be guardian consent to the decision if they are not competent to do so and there is no one else who can consent on their behalf and the person being asked to be guardian is not a family member, friend, neighbor, community member, other person who has a relationship with the person being asked to be guardian, or other person who has a relationship with the person being asked to be guardian?

14. Can the person being asked to be guardian consent to the decision if they are not competent to do so and there is no one else who can consent on their behalf and the person being asked to be guardian is not a family member, friend, neighbor, community member, other person who has a relationship with the person being asked to be guardian, or other person who has a relationship with the person being asked to be guardian?

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Improving Systems: WINGS/Judicial Branch Collaboration



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Grant Awarded!! MN Judicial Branch Advancement of Vulnerable Care Act Project


Goal - to ensure that people subject to guardianship and conservatorship in Minnesota are adequately protected and well cared for.

Objectives:

- Create a complaint process to alert the court of potential maltreatment
- Create the capacity to detect fraud and abuse of persons subject to guardianship/conservatorship
- Create the capacity to document/track information received
- Supported Decision Making training

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Improving Systems: WINGS/Judicial Branch Collaboration




TASKS

- Focus Groups on Court process
- Guardian/Conservator Complaint Process
- System enhancements to MMC/MMG
- Fraud detection
- Mandatory MMG usage
- Supported Decision Making Training

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Focus Groups on Court Process



Comments and Feedback


- Complex language in forms and Bill of Rights
- Consistency between counties and courts
- Process can be complicated for individuals
- A better way to submit complaints
- Periodic audits on guardianships
- Training needs
- More tools and resources
- Effective ways to find Fraud
- Mandatory use of MMG

WINGS Members

- Elder Justice Center
- Volunteers of America
- Dept Human Services – Adult Protective Services
- Lutheran Social Services
- Attorney's ARC MN
- First Fiduciary
- Ombudson Office

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G/C Complaint Process



- Complainant provides complaint via form or phone.
- Complaint is regarding a Guardian or Conservator not acting in the best interests of the Person.
- Complaint is reviewed by Examiner and sent to G/C for response.
- Investigation will include interviews of any persons that is pertinent to the complaint, court case and any other important information.
- Report with recommendations to the court file, recommendations could include; court visitor, reappointment of attorney, further hearings on allegations in complaint.
- Court will review and make determination of next steps in process.
- Other referrals are possible – law enforcement, DHS, APS, etc.

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G/C Complaint Process



Examples of a Guardian or Conservator not acting in the best interests of the Person include, but are not limited to:

- *the residence is unsafe,
- *the Person subject to guardianship is not receiving adequate and appropriate food, proper health care or medications,
- *the Guardian or Conservator is physically, mentally, or sexually abusing the Person subject to guardianship/conservatorship, or failing to prevent or report abuse by another person,
- *family or friends are not permitted to visit or communicate with the Person subject to conservatorship/guardianship,
- *is not following the orders of the court relating to the care of the Person subject to conservatorship/guardianship,

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G/C Complaint Process

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Examples Cont'd

- fails to safeguard the Person subject to conservatorship's money or financial investments,
- doesn't keep the Person subject to conservatorship's money in a separate account,
- uses the Person subject to conservatorship's money or property for the conservator's own benefit,
- sells or otherwise disposes of property belonging to the Person subject to conservatorship without valid reason,
- fails to provide an adequate accounting of the Person subject to conservatorship's assets, or fails to pay the person subject to conservatorship's bills.

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G/C Complaint Process - Form

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MINNESOTA JUDICIAL BRANCH

MINNESOTA JUDICIAL CENTER
25 REV. DR. MARTIN LUTHER KING, DR. HEYDS
SAINT PAUL, MINNESOTA 55155

COMPLAINT AGAINST A GUARDIAN AND/OR CONSERVATOR

1. Court File Number: _____

2. Information about you:

Person Subject to Guardianship/Conservatorship

Not Person Subject to Guardianship/Conservatorship

Name and contact information - phone number and email: _____

If you are not the Person Subject to Guardianship/Conservatorship, what is your interest in the welfare of the Person Subject to Guardianship/Conservatorship or to the case? _____

3. I am making the following complaint against _____.

Guardian / Conservator.

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G/C Complaint Process

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- Anticipated Start Date – Mid-June 2022
- No fee to file a complaint
- You do not need an attorney to file a complaint
- MN Judicial Branch Website - located on the Guardianship and Conservatorship Tabs

Contact: Mark Mestad 651-215-0032
SCAOExaminer@courts.state.mn.us

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System Enhancements to MMC

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- Create a new tab – Accounts Receivable
- Create an emergency conservatorship feature
- Option to add beneficiaries to accounts and assets
- Background study will be added to the party record vs. the case
- Collection of additional data
- Enhance reporting features to be added
- Enhance document upload features for conservators and our staff
- Contact info changes to function like MMG

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System Enhancements to MMG



- Background study will be added to the party record vs. the case
- Collection of additional data
- Add interested persons to system for necessary service
- Add Affidavits of Service and Notice of Restrictions to be filled out and submitted in MMG
- Make Co-signing feature easier to use
- Enhanced reporting features are being added
- Help text being added for Guardians

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Fraud/Abuse Detection



- Create Audit team to conduct random audits of PWBR.
- MMG will contain a flagging like MMC to identify areas of concern and in need of further review.
- MMC automated follow-up process for Level 4 audits.
- Add a tracking flag on Gaurdians/Conservators that have been removed for cause.

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Mandatory MMG Use



MN Judicial Branch General Rules Committee has approved the Court rule to require guardians to file the Personal Well-being report in MMG.

- This will allow better data collection and better reporting for the Branch.
- This will provide efficiencies for judicial branch staff.
- The branch will work WINGS members on concerns and what actions can be taken to address concerns of guardians and stakeholders.
 - Smart phone
 - Computer
 - Self Help desks at court locations
 - Library's
- Do not have a date of implementation

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Supported Decision Making Training



Training developed on Supported Decision Making for the groups listed below:

Judges

Attorneys: Petitioners and Court Appointed

Court Visitors

Guardians/Conservators (focus: family G/Cs)

Interested Persons and family members

Virtually – recorded to have the ability to view later.

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If you want to go fast, go alone.

If you want to go far, go together

African Proverb



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Join our efforts to build networks of people interested in improving guardianship, promoting alternatives to guardianship, and addressing maltreatment of vulnerable adults:

Become a WINGS MN member!
Invitation to summits & educational events // quarterly newsletter

cesdm@voamn.org www.wingsmn.org

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