

THE SC
SUPPORTED Decision Making
PROJECT

Promoting alternatives to guardianship
that preserve autonomy and wellbeing.



able
SOUTH CAROLINA


The Arc
of South Carolina


SOUTH CAROLINA
Developmental Disabilities Council


DISABILITY
RIGHTS
SOUTH CAROLINA


Family Connection
SOUTH CAROLINA

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INTRODUCTION

PURPOSE OF THIS MANUAL

This manual was written by partners of the South Carolina Supported Decision Making Project to provide information about Supported Decision Making to individuals with disabilities and their families. You will read how Supported Decision Making can be used in place of more restrictive means, such as guardianship, to preserve a person's autonomy and independence, while still providing the person with support from his or her family, friends, and community.

Keep in mind that when a person turns 18 in South Carolina, it is presumed that the individual has a capacity to make legal, medical, educational, and other such decisions. Supported Decision Making is in line with this concept. It is a tool that can be used to support adults with disabilities to make their own decisions.

COLLABORATING AGENCIES

This manual was created through funding received from the South Carolina Developmental Disabilities Council. It represents a collaborative effort between:

- Able South Carolina
- Disability Rights SC
- Family Connection of South Carolina
- The Arc of South Carolina

Together these agencies form the South Carolina Supported Decision Making Project.

DISCLAIMER

This manual provides legal information but is not intended to be legal advice. The information is based on the law at the time this manual was produced. In South Carolina there is currently no law that specifically says a Supported Decision Making Agreement can be enforced. There is no law against having a Supported Decision Making Agreement either. If you have questions about your legal rights, please talk with an attorney.

WHAT IS SUPPORTED DECISION MAKING?

Everyone relies on help and guidance from family, friends, co-workers, and others in the community when making big decisions, such as which car to buy or where to live. Supported Decision Making is not something specific to those with disabilities. Supported Decision Making is a concept that recognizes none of us exist in a vacuum! We all need advice from time to time in order to make decisions.

Some legal scholars and advocates have defined Supported Decision Making as *“a less-restrictive alternative to guardianship that empowers people with limitations in decision-making to express their own preferences, make their own decisions, and direct their own lives without the need for a guardian.”* (Quality Trust for Individuals with Disabilities et al., 2015).

A similar definition holds that this process is *“a recognized alternative to guardianship through which people with disabilities use friends, family members, and professionals to help them understand the situations and choices they face, so they may make their own decisions without the need for a guardian.”* (Quality Trust for Individuals with Disabilities et al., 2015).

Supported Decision Making emphasizes the importance of letting the person with a disability decide, to the extent she is able, what her life should look like, and who should help her reach those goals.

Methods of support can be informal (asking a relative for help making financial decisions) or formal (signing a HIPAA release so a parent can help make medical decisions). The individual decides who will support her and how much support they will offer. The supporters and individual may sign a Supported Decision Making Agreement. Typically, a Supported Decision Making Agreement is a document that lists the areas in which an individual would like to be supported, along with the extent that this support should occur, and who should provide support. An example can be found in the appendix of this manual.

HOW DOES

Supported Decision Making

WORK?



choose

The individual decides who will be involved in supporting him or her. The supporters must also agree to be involved.



discuss

The individual and supporters talk about how the individual will be supported, which can include finance, healthcare, education, employment, and others. The individual can choose to have support in some areas but not others.



make a plan

The individual and supporters create a document that outlines how the individual will be supported. This is the Supported Decision Making agreement.



sign

The individual and supporters sign the Supported Decision Making agreement. The agreement can be revised if necessary in the future. Everyone receives a copy of the agreement.



For a complete copy of a Supported Decision Making Agreement, please see the appendix.

BENEFITS OF SUPPORTED DECISION MAKING

Supported Decision Making is an extension of *self-determination*, meaning an individual directs the plan for his life. He decides what is important to him, sets goals, and, with the support of those around him, he works to achieve those goals in order to live the most fulfilling life possible. Ask people with disabilities what they want for their lives, and most will tell you they desire independence, gainful employment, friendships, and romantic relationships. This is not different from what anyone else would want. And, as is true for anyone else, life is full of risks. An individual with a disability must learn to manage and avoid risks, as opposed to never being allowed to make any decisions for themselves.

Several studies have found that people who exercise more self-determination were more likely to live independently, have greater financial independence, be employed at higher paying jobs, and make greater advances in their employment (Wehymeyer & Palmer, 2003). In addition, self-determination has been shown as a predictor of post-high school success in employment and independent living (Test et al., 2009).

IMPLICATIONS OF GUARDIANSHIP

While many families seek guardianship out of a desire to protect their loved ones, what they fail to realize is that a person under full guardianship cannot make any decisions for him or herself. In fact, it has been said that a prisoner has more rights than a person under guardianship (House Select Committee on Aging, H.R. Rpt. 100-641). A guardian may remove a person's right to vote, sign contracts, receive money or pay bills, or get married. The process to obtain guardianship can be expensive, time-consuming, and may damage relationships. It also represents a profound responsibility on behalf of the guardian. If this person is unable to or unwilling to serve as a guardian in the future (due to illness or death, for example) additional legal hurdles will need to be addressed.

In some cases guardianship may be used as a last resort when no other measure sufficiently protects a person with a disability. However, overly restrictive measures can limit the development of important independent living skills (Quality Trust for Individuals with Disabilities et al., 2015).

WHAT TO CONSIDER WHEN PLANNING FOR THE FUTURE

Planning for the future, particularly when a loved one has a disability, can be a daunting task, and many families avoid such planning until after there is a problem or crisis. Families worry who will care for their child or loved one, often fearing that outsiders will take advantage of, or otherwise harm, the person with a disability.

Beginning in elementary or middle school, and sometimes even earlier, families are encouraged to seek guardianship for their child with a disability once the person turns 18. They are told if they do not seek guardianship, they will not be able to participate in their loved one's medical care or financial and educational decision-making. Families also worry the individual will be susceptible to sexual or emotional abuse. Guardianship may be seen as a solution to ease a family's worries, but on its own it may do little to adequately address those concerns.

HAVE CONVERSATIONS

It's never too early to begin having conversations with a loved one. Perhaps asking her where and with whom she'd like to live, or what kind of job she would like, can help set the tone for Supported Decision Making in the future. Practice the idea of consent by allowing the person to make decisions for themselves (this can be as simple as asking him which color shirt he would like to wear). As a child grows, a family should assess whether he or she is able to make sound decisions that reflect primary values that remain consistent across time, and is able to explain his or her reasoning and understanding of consequences. This should be coupled with an appropriate amount of responsibility and freedom; oftentimes, those with disabilities are "excused" from behaving in socially acceptable ways or are shielded from rules, responsibility, and expectations. **Note that because an individual makes a *poor* decision does not mean he or she is unfit to make decisions altogether.** People with *and* without disabilities should have opportunities to learn from failure, and sound decision-making is a skill that must be learned and practiced over time, like many other skills that are necessary for independence.

START WITH THE LEAST RESTRICTIVE MEASURES

Instead of focusing on what a person is unable to do, pay attention to their strengths. Allow an individual with a disability to experience responsibility instead of shielding them from decision-making, and you may be pleasantly surprised at what they can accomplish! Put informal supports in place and seek assistance from disability agencies that may offer skill building and technical assistance. Medicaid waiver services and case managers can help connect you and your loved one with supported employment services, independent living skills training, and other resources.

When considering the barriers to independence a person faces, ask yourself if they can be lessened by measures like assistive technology, training, opportunities to socialize, role-playing, and other means. Consider the person’s mental state, nutrition, access to stimulating environments, and side effects from medication before determining that an individual is unable to make decisions.

CONSIDER ALTERNATIVES

Below is a more comprehensive list of ways to promote independence within the Supported Decision Making framework. Some measures are formal, legal processes while others are informal. Note that this table does not include all possible alternatives.

Need	Tasks	Can this be accomplished by:
Money Management	<ul style="list-style-type: none"> ● Managing accounts, assets, and benefits ● Learning to recognizing and prevent exploitation 	<ul style="list-style-type: none"> ● Conservatorship or trust ● Seeking financial counseling ● Representative Payee Program ● Money-managing app on phone
Health Care	<ul style="list-style-type: none"> ● Making decisions about medical treatment ● Taking medications as needed ● Maintaining hygiene and diet ● Avoiding high-risk behaviors 	<ul style="list-style-type: none"> ● Obtaining Health Care Power of Attorney or Living Will ● Having individual sign HIPAA release ● Using Adult Health Care Consent Act for areas of health care beyond the person’s ability to understand (<i>read more about this in the “Alternatives to Guardianship” section</i>) ● Using apps to help remember to take medication and perform hygiene tasks ● Visiting a healthcare professional to discuss information regarding prevention and safety

		<ul style="list-style-type: none"> ● Allowing a home health aide to assist in daily living tasks ● Getting advice from professionals
Employment	<ul style="list-style-type: none"> ● Looking for, gaining, and retaining employment 	<ul style="list-style-type: none"> ● Enrolling in job coaching services, such as supported employment programs ● Using Vocational Rehabilitation, Medicaid waiver services, or other employment providers to become job-ready
Relationships	<ul style="list-style-type: none"> ● Behaving appropriately with friends, family, and co-workers ● Making decisions about sexual relationships 	<ul style="list-style-type: none"> ● Role-playing and practicing appropriate behavior ● Visiting a health center to learn more about contraception ● Speaking with loved ones about healthy relationships
Community Living	<ul style="list-style-type: none"> ● Living independently ● Maintaining habitable conditions ● Accessing community resources 	<ul style="list-style-type: none"> ● Incorporating adaptive and assistive technology ● Setting reminders to complete home maintenance tasks ● Making a list of community resources, such as transportation
Personal Decision Making	<ul style="list-style-type: none"> ● Understanding legal documents (contracts, leases, powers of attorney) ● Communicating wishes ● Understanding legal consequences of behavior 	<ul style="list-style-type: none"> ● Allowing supporters to help explain contracts and other legal documents ● Having the individual demonstrate understanding of consequences, such as through role-playing

		<ul style="list-style-type: none"> ● Seeking advice from professionals
Personal Safety	<ul style="list-style-type: none"> ● Avoiding common dangers ● Recognizing and avoiding abuse ● Knowing what to do in an emergency 	<ul style="list-style-type: none"> ● Role-playing scenarios, such as what to do in case of fire ● Discussing signs of healthy and unhealthy relationships and abusive behaviors ● Writing down emergency numbers

Adapted from: American Bar Association, 2016

With a Supported Decision Making Agreement, the person, along with his or her circle of support, will decide which tools can be used in order to retain the highest level of independence while still providing appropriate levels of guidance.

Example: Johnny has autism and is about to turn 18. He is excited to begin classes at a community college next year. He, his family, and those close to him sit down together to form a Supported Decision Making Agreement. Even though he will be 18, Johnny still wants his parents to attend doctor’s appointments with him, and to be able to discuss any medical issues with his doctors. Together, they decide to sign a HIPAA release form to allow communication between Johnny’s parents and his medical providers. Johnny is also nervous about dating, making new friends, and adjusting to the changes that college will bring. Johnny’s pastor agrees to support Johnny by talking to him about approaching girls he is interested in, as well as what a healthy relationship and friendships should look like. Johnny’s aunt and uncle agree to check in with him regularly once he starts college to make sure he is spending time studying and completing assignments.

LEGAL ALTERNATIVES TO GUARDIANSHIP

In some cases, an individual may want supporters to help him or her with finances, medical treatment, or other areas, and he or she may want formal means for obtaining this support. Below are common legal alternatives to guardianship that preserve an individual's civil rights while allowing supporters to assist in making important decisions.

This is by no means an exhaustive list of all legal alternatives to guardianship, and is not intended to be legal advice. If you have further questions be sure to contact an attorney or Disability Rights SC (information is located in the appendix).

POWER OF ATTORNEY AND LIVING WILL¹

A Power of Attorney allows one person to make decisions on behalf of another person (called a principal). Decisions can be about medical treatment (Health Care Power of Attorney), finances (Financial Power of Attorney), real estate, and other matters. The agent does not need to be an attorney to be authorized to make such decisions. Health Care Power of Attorney and other documents such as a living will (where an individual makes end-of-life decisions and documents those decisions in case they become incapacitated) are some of the most common examples of an *advance directive*.

HIPAA RELEASE

An individual can choose a family member, friend, or other trusted person with whom health care providers may discuss the individual's medical condition and treatment plan. This can allow a parent to enter an examination room with an adult child, for example, without needing Health Care Power of Attorney. Typically, each medical provider provides a HIPAA release to the patient. It can be changed or revoked at any time by letting the provider know.

ADULT HEALTH CARE CONSENT ACT

Many family members may worry about what happens in a medical emergency if a person with a disability uses a Supported Decision Making Agreement. First, if an individual has the ability to consent to medical care, they will do so. However, in an emergency where the person cannot communicate due to the emergency or a situation where the proposed health care and the decision to be made is so complicated that the person is not competent to make the decision, the Adult Health Care Consent Act might apply if two doctors find that the person is unable to

¹ In South Carolina, a living will is called a "Declaration of Desire for Natural Death," but is still commonly referred to as a "living will."

consent to health care. In those situations, the Act would identify a surrogate decision maker for the person, usually the next of kin.

ADULT STUDENTS WITH DISABILITIES EDUCATIONAL RIGHTS CONSENT ACT

Like the Health Care Consent Act operates for health care decisions, the Adult Students with Disabilities Educational Rights Consent Act provides alternative processes to ensure a student with a disability's education is not side-railed by the lack of having someone to consent to the education process. First option, the student can manage education decisions independently; second option, the student can use a supporter to assist with their decisions about their education; third option, the student can appoint a decision maker through a power of attorney; and fourth option, if the student cannot communicate, a decision maker can be appointed for that student.

TRUST

Trusts allow a third party to hold money and assets on behalf of someone else (usually called a beneficiary). There are many different ways to set up a trust, and some are tailored specifically for those with disabilities so as not to impact other benefits. Because of the many different ways a trust may be arranged, it is best to speak with a financial manager who can more accurately assess your needs.

REPRESENTATIVE PAYEE PROGRAM

Offered through the Social Security Administration, this program allows a representative to manage a beneficiary's Social Security or SSI payments. A representative may be responsible for using benefits to pay an individual's expenses and keeping track of expenditures. Typically a family member or other trusted adult is chosen to act in this role; however one may be appointed through the Administration.

LAWS PROTECTING VULNERABLE ADULTS

In South Carolina, the Omnibus Adult Protection Act (the Act), is designed to protect vulnerable adults from abuse, neglect, and exploitation. S.C. Code § 43-35-5 et seq. The Act provides both criminal and civil remedies for individuals who have been or who are at risk of abuse, neglect, or exploitation, including self-neglect. *Id.* Adult Protective Services is available to assist individuals and families with finding ways to protect the health and welfare of adults with disabilities.

FOR INDIVIDUALS

WHY IS IT IMPORTANT TO MAKE MY OWN DECISIONS?

Making your own decisions is important because you know your interests, likes and dislikes, and goals for your future better than anyone else. You are the most qualified person to make decisions about your life! Making decisions can be tough and it takes practice. The more decisions you make, the easier it gets to tell others what you want. Practicing decision-making can help you become more independent so that you rely less on others.

Some decisions are tougher than others. For tough decisions, people with and without disabilities talk to others and get advice before making that decision. You should not be afraid or embarrassed to ask for help or for more information when making a decision. Asking for help when needed actually means you are a smart decision-maker! Just remember, it's okay to disagree with the advice others give you. You make the final decision.



YOU ARE THE BEST EXPERT
ABOUT YOU!

ADVOCATING FOR YOURSELF

KNOW YOUR RIGHTS

Advocating for yourself means letting others know what you want and need. People with disabilities have civil rights just like everyone else. You have the right to make decisions about your life, including where you work, live, and with whom you spend time. You have the right to vote and get married if you choose. You have the right to make decisions about medical treatment and medication.



YOU HAVE RIGHTS!

In the past, and still sometimes today, the rights of people with disabilities are not always respected. You may have been in situations where others were talking about you without asking what you think. You may have had people decide what classes you should take or what type of job you should do or what type of help or support you need. These are the times when it is important to speak up and let others know how you feel. It is up to you to make sure people know what you want.

MAKE SURE PEOPLE KNOW WHAT YOU WANT.

Most of us need help making decisions, so we turn to those we trust to guide us. For example, you might want your parents to be able to come into the exam room with you at the doctor so they can ask any questions you may forget to ask. Or you may want a family friend to help you with finances because paying the bills and keeping track of how your money is spent can be complicated. You don't have to have a written agreement for people to assist you in decision-making, but it may be helpful so everyone is clear on how you want to receive this support. The next session will discuss how to use a Supported Decision Making Agreement to let others know who will help you and what areas you need support. ***Remember, just because you may need help in some areas does not mean you are unable to make decisions for yourself!*** Like any skill, decision-making takes practice.

IT'S OKAY TO HAVE SUPPORT IN MAKING DECISIONS

WHAT KIND OF SUPPORT DO I NEED?

- People can support you in many different ways:
- Changing complicated information to words that are easier to understand
- Making a pros and cons list to weigh the good and bad sides for each possible choice
- Using pictures or videos to help explain
- Researching to compare different options
- Teaching how to use technology (apps, communication devices, phones, computers) to increase independence
- Making a calendar to remind about important appointments
- Working together to create a list of questions to prepare for meetings
- Helping advocate and making sure your wishes are respected by everyone
- Role-playing to practice the best way to communicate your choices

Use this information to help you fill out the first part of the Supported Decision Making Agreement. You can fill it out on your own, ask someone for help, or contact Able South Carolina at 1.800.681.6805 to schedule a time for a staff member to assist you.

WHEN DO I NEED SUPPORT?

There are many areas of life where a person may need help with making decisions. Some examples are below:

FINANCES

Do you need help understanding your bills (cell phone, electricity, rent, internet, etc.)?
Do you need help with buying items (understanding which deals are good, which products are going to work best for your needs, knowing if you can afford the item)?
Do you need help setting up a checking or savings account?

HEALTHCARE

Do you need help scheduling and remembering doctor's appointments?
Do you know what medicines you take, how to find out the dosage amount, and understanding what the side effects may be?
Do you understand how your health care costs are covered (Medicaid, private insurance) and what your co-pays are?

EDUCATION

Do you know what accommodations are in your IEP at school?
Do you need help deciding what college you should attend?

WORK

Do you know what accommodations you need at work and how to request them?
Do you need help understanding your employee handbook or work policies?

LIFE PLAN

Do you know where you want to live and what you should know before choosing a home?
Do you know how to find transportation to places in your community?
Do you know the difference between healthy and unhealthy relationships?
Do you know how to plan for an emergency?

LEGAL MATTERS

Do you need help understanding your rights?
Do you know what to do if you think someone is violating your rights?

These are just some examples. You may think of other times you need support in these areas, or you may think of new areas not listed above.

CHOOSING SUPPORTERS

The most important part of any Supported Decision Making Agreement is the people involved. You are at the center of the Supported Decision Making Agreement; you are the **decider**. You choose people to support you that you trust to help you make the best decisions possible. They are called your **supporters**.

You should know your supporters well. They can be family members, friends, neighbors, service coordinators, advocates, church members, or professionals in the community. It is good to have more than one supporter in each area in case something happens to one of your supporters. You can fire your supporter at any time, and they have the option to quit as well. No one should force you into choosing him or her as a supporter. A supporter should not help make decisions in areas that you did not agree to, and they should not make decisions FOR you. ***You are at the center of the Supported Decision Making Agreement at all times!***

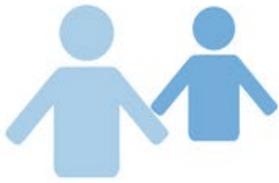
TALKING TO YOUR SUPPORTERS

Once you decide who you would like to be your supporter, you need to talk with them one-on-one to see if they will agree to help. Bring a copy of the sample Supported Decision Making Agreement (starting on page 27) with you. Let them know what areas you would like their support in and talk through what that support might look like. Don't worry or get upset if they say no to being a supporter—you only want supporters who have the time and want to help! If they say yes, then have a longer discussion about the specific support you will need. Take notes so you both can remember what you decided. Then set up a time that the two of you can fill out a Network Supporter page in the Agreement with a Notary Public. The supporter will also need to sign the Supporter's Statement at the end of the Agreement.

WHO NEEDS A COPY OF THE SUPPORTED DECISION MAKING AGREEMENT?

All of your supporters and your service providers (school, doctor's office, local DSN Board, VR office, etc.) should have a copy of this Agreement. Store the original document in a safe place for your records. You can make changes or add things to the Supported Decision Making Agreement to make it work better for you. Note that you may also change the Agreement in the future if you need to. Just make sure everyone gets a copy of the updated Agreement.

1



I think about the people I trust. I ask them to support me. They have to agree to support me.

2



I think about how I want them to support me. I think about the areas that I want support in, like healthcare, education, money, getting a job, or relationships. I can ask for support in other areas too.

3



My supporters and I discuss how they will support me. We all agree in the ways I will be supported. I might have to ask for other professionals to help me too.

4

My supporters and I sign the agreement. I can change my mind at any time. My supporters can change their minds too.



Supported Decision-Making Guide

for

Individuals

Remember



You are always at the center of your Supported Decision Making agreement!

APPENDIX

WHO CAN I CONTACT FOR MORE INFORMATION?

SOUTH CAROLINA SUPPORTED DECISION MAKING PROJECT

For more information on the SC Supported Decision Making Project and resources, including a downloadable copy of this manual, visit www.scsupporteddecisionmaking.org

ABLE SOUTH CAROLINA

803-779-5121

Toll-free: 800-681-6805

TTY: 803-779-0949

www.able-sc.org/SDM

FAMILY CONNECTION OF SOUTH CAROLINA

803-252-0914

www.familyconnections.org

THE ARC OF SOUTH CAROLINA

803-748-5020

www.arcsc.org

DISABILITY RIGHTS SC

803-782-0639

Toll-free: 866-275-7273

TTY: 866-232-4525

www.disabilityrightssc.org

SOUTH CAROLINA DEVELOPMENTAL DISABILITIES COUNCIL

803-734-0465

TTY: 803-734-1147

www.scdcd.state.sc.us

FREQUENTLY ASKED QUESTIONS

- 1. I, or my loved one, would like to begin the process of creating a Supported Decision Making Agreement. How can I get started?**

If you or a loved one are interested in learning more about the Supported Decision Making process, please contact Able South Carolina at 803-779-5121, or visit www.scsupporteddecisionmaking.org.

- 2. I have been told that if I don't obtain guardianship, I won't be able to help my child make medical, financial, educational, or other decisions. Is this true?**

No. Many families are told that the only way to protect their children is to pursue guardianship. However, guardianship severely restricts a person's civil rights and can create unforeseen complications when a guardian is unable or unwilling to serve in this capacity (for example, if the guardian passes away). Many alternatives to guardianship exist that allow a person with a disability to receive support while still maintaining freedom, civil rights and self-determination. See *Legal Alternatives to Guardianship* for more details.

- 3. Is a Supported Decision Making Agreement legally enforceable?**

At this time, courts in South Carolina have not addressed Supported Decision Making Agreements. However, if an individual has not been deemed incompetent or incapacitated, providers should be obligated to respect the individual's wishes in how services are delivered. It is also important to note that at age 18, a person, regardless of disability, is presumed to have decision-making capacity. Going through the Supported Decision Making process also allows individuals and families to have important discussions about an individual's goals, dreams, and priorities. As you review the sample Supported Decision Making Agreement in the appendix, note that either party can end the Agreement at any time.

- 4. How can I stop my loved one from being taken advantage of?**

In life, some risk is inherent. Unfortunately, many of us "had to learn the hard way" when it came to money, relationships, and other areas of our lives (and some of us are still learning!). It is no different for a person with a disability. Depending on the disability, he or she may have a harder time discerning someone's true intent, understanding the content of a contract fully, or budgeting money for the month. However, this does *not* mean a person with a disability should not be given opportunities to make decisions for herself. Sometimes, financial management training, or repeated discussions about what an abusive relationship looks like, can be enough to adequately support the individual.

Other times, more formal means, such as a Health Care Power of Attorney or Representative Payee Program is more appropriate. It is important to understand that sheltering a person to the extent they never exercise any freedom can cause them to feel depressed, unfulfilled, and unequipped to handle responsibility.

5. My child has a profound disability, and I do not think he has the capacity to make sound decisions or communicate his wishes. How can Supported Decision Making help me?

Guardianship should always be a measure of last resort, when no other less restrictive measures can adequately ensure the safety of an individual. If your child has trouble communicating, consider assistive technology that may enable him or her to do so. Complex topics can often be broken down into simple yes or no questions, or even by pointing at pictures of different scenarios. Consider medications your child may be taking that interfere with cognition as well as mental health status. A Supported Decision Making Agreement allows for a network of trusted supporters to help the individual make decisions, including formal and informal methods, while preserving civil rights and freedoms.

6. If my adult child signs a Supported Decision Making Agreement, can I still seek guardianship later?

Yes. Signing a Supported Decision Making Agreement and attempting to allow a person with disabilities to make their own decisions and retain all of their rights will not prevent or restrict the ability of anyone to later file a petition for guardianship. However, if the person with a disability can show that they were successful at using supports to accommodate their disability, the person may use that as evidence to demonstrate that they have capacity and do not need a guardianship.

WHEN DO I WANT SUPPORT?

Check the boxes to say if you need support in each area, though not every category may be applicable to you. When you check the “I can do this with support” box, you should think about who you might want to support you, and write what kind of support you need under the corresponding box. You can use the information in this form to help you fill out a Supported Decision Making Agreement.

	I can do this alone	I need some support	What kind of support do I need?
<i>Finances</i>			
<i>Paying the rent and bills on time (for example, cell phone, electricity, internet)</i>			
<i>Keeping a budget so I know how much money I can spend</i>			
<i>Making big decisions about money (for example, opening a bank account, signing a lease)</i>			
<i>Making sure no one is taking my money or using it for themselves</i>			
<i>Health Care</i>			
<i>Choosing when to go to the doctor or the dentist</i>			
<i>Making medical choices in everyday situations (for example, check-up, medicine from the drug store)</i>			

<i>Making medical choices in serious situations (for example, surgery, big injury)</i>			
<i>Making medical choices in an emergency</i>			
<i>Understanding how health care costs are covered (for example, Medicaid, private insurance, etc.)</i>			
<i>Making choices about birth control or pregnancy</i>			
<i>Remembering to take medicine</i>			
Legal Matters			
<i>Talking to an attorney if I need one</i>			
<i>Help understanding my rights</i>			
<i>Signing contracts and formal agreements</i>			
Education			
<i>What classes I will take</i>			

<i>What accommodations I need at school</i>			
<i>Deciding what college to attend or what to do after high school</i>			
Work			
<i>Choosing if I want to work</i>			
<i>Understanding my work choices</i>			
<i>Choosing classes or training I need to get a job I want, and taking these classes</i>			
<i>Applying for a job</i>			
<i>Going to my job every work day</i>			
<i>Knowing what accommodations I need at work and how to request them</i>			
<i>Understanding the employee handbook or work policies</i>			
Life Plan			
<i>Choosing where I live</i>			

<i>Choosing who I live with</i>			
<i>Choosing what to do and who to see in my free time</i>			
<i>Keeping my room or home clean</i>			
<i>Finding support services and hiring and firing support staff</i>			
<i>How to plan for an emergency</i>			
Other			
<i>Telling people what I want and don't want</i>			
<i>Telling people how I make choices</i>			
<i>Making sure people understand what I am saying</i>			
<i>Choosing what I wear</i>			
<i>Getting dressed</i>			

Taking care of my personal hygiene (for example, showering, bathing, brushing teeth)

Choosing what to eat, and when to eat

Making safe choices around the house (for example, turning off the stove, having fire alarms)

Understanding and getting help if I am being treated badly (abused or neglected)

Making choices about alcohol and drugs

Choosing if I want to date, and who I want to date

Making choices about sex

Making choices about marriage

Traveling to places I go often (for example, getting to work, stores, friends' homes)

Traveling to places I do not go often (for example, doctor's appointments, special events)

Choosing who to vote for and voting

Adapted from the ACLU, *How to Make A Supported Decision Making Agreement*

SUPPORTED Decision Making

SUPPORTED DECISION MAKING AGREEMENT

READ THIS: This agreement is a sample of a Supported Decision Making Agreement. Having this sample is not a substitute for seeking legal advice from an attorney. In South Carolina there is no law that specifically says that a Supported Decision Making Agreement can be enforced. There is no law against having a Supported Decision Making Agreement either. If you have questions about your legal rights, please talk with an attorney.

This is the Supported Decision Making Agreement of

Name: _____ Date of birth: _____

Address: _____

Telephone: _____ Email: _____

A. I understand:

- I can talk to an attorney before I sign this agreement.
- This agreement is because I want supporters to help me make decisions.
- My supporter cannot make decisions for me.
- I can end this agreement when I want it to.

- I can change this agreement when I want to.
- I can change my list of supporters when I want to.
- My supporter(s) can quit if they want to.
- If I end this agreement or change this agreement, I must let my supporters know about the change. Anyone with a copy of the agreement needs to get a copy of the change in writing.

B. I need supporter(s) to help me make decisions about:

- Taking care of my financial affairs, like banking (Finances)
- My health care, including big and small health care decisions (Health Care)
- Talking to an attorney if I need one and working with the lawyer (Legal Matters)
- My education, including what classes I will take and what accommodations I will have (Education)
- My employment, including what work I will do and what accommodations I need to do it (Work)
- Where I live, what I do, the services I receive, and who helps me day to day (Life Plan)
- Other matters: _____

C. I expect my supporter(s) to help me in the following ways:

- Giving me information in a way I can understand
- Discussing the good things and bad things (pros and cons) that could happen if I make one decision or another

Telling other people my wishes

D. I express myself and show what I want in the following ways:

Telling people my likes and dislikes.

Telling people what I do and do not want to do.

E. I designate the following individual(s) to be part of my Supported Decision Making Network to assist me in making decisions.

Network Supporter #1

Name: _____ Date of birth: _____

Address: _____

Telephone: _____ Email: _____

Relationship: _____

I want this supporter to help me with:

Finances

Health Care

___ with a form to let this supporter see my private health information

___ without a form to let this supporter see my private health information

Legal Matters

Education

___ with a form to let this supporter see my private education information

___ without a form to let this supporter see my private education information

Work

Life Plan

Other (*please specify*):

Areas I don't want Supporter #1 to assist me with:

Network Supporter #2

Name: _____ Date of birth: _____

Address: _____

Telephone: _____ Email: _____

Relationship: _____

I want this supporter to help me with:

Finances

Health Care

___ with a form to let this supporter see my private health information

___ without a form to let this supporter see my private health information

Legal Matters

Education

___ with a form to let this supporter see my private education information

___ without a form to let this supporter see my private education information

Work

Life Plan

Other (*please specify*):

Areas I don't want Supporter #2 to assist me with:

Network Supporter #3

Name: _____ Date of birth: _____

Address: _____

Telephone: _____ Email: _____

Relationship: _____

I want this supporter to help me with:

Finances

Health Care

___ with a form to let this supporter see my private health information

___ without a form to let this supporter see my private health information

Legal Matters

Education

___ with a form to let this supporter see my private education information

___ without a form to let this supporter see my private education information

Work

Life Plan

Other (*please specify*):

Areas I don't want Supporter #3 to assist me with:

F. If I have more than one Supporter (Optional, but if you do not fill out this section, your Supporters will act "Successively".)

My Supporters will act (*choose one*)

Jointly (work together to help me)

OR

Successively (For example: Supporter #2 helps me if Supporter #1 is not available)

Signature

Date

G. Notary Certification

State of South Carolina

County of _____

On this _____ day of _____, 20____, before me, the undersigned notary public, personally appeared _____ proved to me through satisfactory evidence of identification, which were _____, to be the person whose name is signed on the preceding or attached document in my presence.

(seal)

Notary Public Signature

H. Network Supporters' Statements

Network Supporter #1

I _____ consent to act as _____'s supporter. I understand that my job as supporter is to honor and express his/her wishes. My support might include giving him/her information in a way he/she can understand; discussing pros and cons of decisions; and helping him/her communicate his/her choice. I know that I may NOT make decisions for him/her. I agree to support his/her decisions to the best of my ability, honestly, and in good faith.

Signature

Date

Network Supporter #2

I _____ consent to act as _____'s supporter. I understand that my job as supporter is to honor and express his/her wishes. My support might include giving him/her information in a way he/she can understand; discussing pros and cons of decisions; and helping him/her communicate his/her choice. I know that I may NOT make decisions for him/her. I agree to support his/her decisions to the best of my ability, honestly, and in good faith.

Signature

Date

Network Supporter #3

I _____ consent to act as _____'s supporter. I understand that my job as supporter is to honor and express his/her wishes. My support might include giving him/her information in a way he/she can understand; discussing pros and cons of decisions; and helping him/her communicate his/her choice. I know that I may NOT make decisions for him/her. I agree to support his/her decisions to the best of my ability, honestly, and in good faith.

Signature

Date

ADDITIONAL RESOURCES

Center for Disability Resources

Provides resources, programs, and self-advocacy opportunities for people with intellectual and developmental disabilities.

<http://uscm.med.sc.edu/cdrhome/index.asp>

803-935-5231

I'm Determined Project

Focuses on providing direct instruction, models, and opportunities to practice skills associated with self-determined behavior. Look under the "resources" tab for activities and worksheets.

www.imdetermined.org

National Resource Center for Supported Decision-Making

National and local resources and information about supported decision-making.

<http://supporteddecisionmaking.org>

202-448-1448

PRACTICAL Tool for Lawyers: Steps in Supported Decision-Making

Helps lawyers identify and implement decision-making options for persons with disabilities that are less restrictive than guardianship.

www.ambar.org/practicaltool

South Carolina Assistive Technology Program

Provides access to assistive technology and devices, including device lending programs, training, and demonstrations.

<http://scatp.med.sc.edu>

803-935-5263; Toll-free: 800-915-4522

South Carolina Department of Disabilities and Special Needs (SC DDSN)

The state agency that plans, develops, oversees and funds services for South Carolinians with severe, lifelong disabilities of intellectual disability, autism, traumatic brain injury and spinal cord injury.

www.ddsn.sc.gov

803-898-9600; Toll-free: 1-888-DSN-INFO (376-4636); TTY: 803-898-9600

South Carolina Vocational Rehabilitation

Provides job training and readiness skills to those who qualify, including some individuals with disabilities. May also provide workplace adaptations and assistive technology.

www.scvrd.net

Toll-free: 800-832-7526; TTY: 803-896-6533

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