

GUIDELINES *for* **TITLE 18** **GUARDIANSHIP** **EVALUATION**

V.S.A. Title 18, Chapter 215

Guardianship Services
for People with
Developmental
Disabilities



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A. OVERVIEW

The appointment of a guardian for an adult is a legal proceeding that restricts an individual's rights to make decisions and practice self-determination. The appointment is made when the court determines that (a) the individual's decision-making capacity is impaired and (b) the need to protect the individual's personal and/or financial safety and well-being outweighs his or her fundamental right to autonomy in exercising choices and making critical life decisions. The guardian becomes a substitute decision-maker charged with making decisions that protect the individual's personal and/or financial well-being while affording as much self-determination as is feasible.

Because the appointment of a guardian involves the restriction or removal of legal rights, the initiation of a guardianship procedure must be carefully and thoughtfully considered. Alternatives to guardianship that address the individual's safety and well-being while maintaining his or her fundamental civil rights should be thoroughly explored before the guardianship process is initiated. Guardianship should always be a last resort, considered only if less restrictive means are not sufficient to support the individual. If a guardian is appointed, every effort should be made to support the individual in developing decision-making capacity and increasing his or her circle of support so that the need for continued guardianship may be reduced or eliminated.

A professional assessment of decision-making capacity is critical. Capacity should always be presumed when beginning an evaluation. The individual's underlying diagnosis—such as a developmental disability or a psychiatric disorder—should never be considered sufficient reason for finding an individual without decision-making capacity. Importantly, the assessor is not necessarily evaluating whether an individual's choices seem sound to others, but whether the choices are reasoned and, as such, consistent with the individual's belief system, values, and practices. The emphasis is on an appraisal of the individual's decision-making process, not necessarily on the quality of the decisions being made.

An individual may be found to have decision-making capacity in some areas but not in others. For instance, an individual may be able to make reasoned decisions concerning choice of residence but not be able to make reasoned decisions in the areas of legal or contracts. A guardianship should be limited to those areas in which the individual is deemed to lack both decision-making capacity and adequate decision-making support.

Many young people, as well as some older individuals, may not have been given the opportunity to learn to make reasoned and informed decisions. While the individual may be in need of guardianship at the present time, he or she may learn decision-making skills that could eliminate the need for a guardian in the future. When assessing the individual, consideration should be given to whether the individual has the potential to acquire the skills necessary to make reasoned and informed decisions.

Finally, guardianship is intended to assist individuals in a way that minimizes vulnerability to exploitation and supports quality of life that is consistent with the individual's values and preferences. A guardianship is not intended as a measure to control an individual who is making what are considered to be bad or dangerous decisions, particularly if the individual is freely and willfully making those decisions and expresses no desire to change his or her actions. Guardianship can be largely ineffective in these circumstances.

B. COMPONENTS OF DECISION-MAKING

When assessing decision-making capacity, the following components of decision-making should be considered:

- The individual should have the ability to gather and understand information necessary for making reasoned decisions. This means that the individual should be able to obtain the requisite base of knowledge and understand options and risks necessary to formulate an informed choice or plan of action. For instance, if an individual is making a decision about whether or not to pursue medical treatment, the individual should be able to communicate a basic understanding of the stated medical need and the risks and benefits that have been conveyed.
- The individual should be able to appreciate the consequences of the decision, meaning that he or she should be able to realistically appraise the outcomes of a decision and justify his or her choice. For instance, if an individual decides not to pursue recommended medical treatment, the individual's reasoning for doing so should be assessed to consider whether he or she evidences appreciation for the consequences of the decision, understands the possible outcomes, and conveys reasoning that aligns with his or her values and preferences.
- The individual should be able to express his or her decision and do so in a way that is consistent and aligns with his or her values and preferences. Some individuals require assistance with communication, and this assistance should never be considered a sufficient reason to determine incapacity.

- The individual should evidence the capacity to identify the actions to achieve stated goals when making a decision. Some decisions will require the support and assistance of others to execute a plan of action, such as an individual's decision to learn to drive a car, and the individual should be able to describe a plan of action that includes the support of others when necessary. It should be kept in mind that some individuals are very adept at responding to decision-making scenarios in a clinical setting but in real-life settings have serious challenges in executing decisions.

There will be instances when an individual is found to have poor decision-making capacity, as evidenced by deficits both in the ability to understand factual information and in the ability to fully appreciate the consequences of decisions. However, alternatives to legal guardianship may still be adequate to minimize the risk of personal or financial harm. If the individual has a stable and involved supported decision-making team and consistently seeks out the team's assistance and advice, the individual may not require the appointment of a legal guardian.

Some individuals may not have the supports and resources necessary for assistance in making reasoned and informed decisions, and thus a guardian is determined to be necessary. In such a case the guardian should make every effort to develop community supports and resources that will provide a mechanism for the promotion of safe and reasoned decision-making and eliminate the need for guardianship.

C. ALTERNATIVES TO GUARDIANSHIP

There are alternatives to full guardianship that the evaluator can and should consider and describe in the evaluation report. If it is determined that alternatives to guardianship may be feasible, the evaluator should explain the alternatives to the individual.

Guardianship can be limited to a specific area of need. For example, an individual may have substantial medical needs and may require a guardian in the area of medical decisions. But the same person may be quite capable of choosing where to live and may not require a guardian in the area of general supervision.

Guardianship orders can be time-limited and include a predetermined "sundown" date on which the guardianship ends. This gives the individual time to increase his or her skills and expand the support network while working toward a natural end date.

Direct deposit, automatic bill payment, joint bank accounts, financial power of attorney, or representative payee may meet the financial support needs of an individual. The individual could grant power of attorney to someone entrusted to provide assistance negotiating contracts. An adult who is receiving educational services can issue a consent to authorize advocacy and release of information so that parents or other supporters can continue to be informed and involved in educational decision-making without needing to become the guardian.

Finally, the individual could enter into a supported decision-making agreement. This is an alternative to guardianship that allows the individual to make his or her own life choices with the help of others designated by the individual to be part of a support network. As part of the guardianship evaluation, the evaluator should interview either the existing or potential support person(s) to determine whether they are willing, able, and appropriate to assist the individual in accordance with a mutually agreed-upon supported decision-making agreement.

PART 2 | Legal Components of Title 18 Guardianships

(Public Guardianship for Adults with Developmental Disabilities)

A. PREREQUISITES

There are four legal prerequisites to a court order of Title 18 guardianship. An individual must meet all of these criteria in order to be considered for public guardianship. The individual must:

1. Be at least 18 years of age;
2. Have a developmental disability (*refer to Section 2B, Determination of Developmental Disability*);
3. Be unable to exercise personally some or all of the powers and responsibilities listed in the Guardianship Services Law (V.S.A. Title 18 Chapter 215); and
4. Lack the assistance of a responsible adult to carry out the powers and responsibilities outlined in V.S.A. Title 18 Chapter 215.

The means by which each of these prerequisites is met should be documented in the guardianship evaluation.

B. DETERMINATION OF DEVELOPMENTAL DISABILITY

An individual must be verified to meet criteria for diagnosis of developmental Disability in order to receive Title 18 guardianship. According to the Regulations Implementing the Developmental Disabilities Services Act of 1996, an individual with a developmental disability:

1. Has been diagnosed with one of the following based on a formal, professional evaluation:
 - intellectual disability (an IQ of 70 or less) or
 - autism spectrum disorder (ASD);and
2. Evidences both of the following:
 - significant deficits in adaptive behavior function (such as social/emotional development, daily living skills, communication, and motor development) as measured using standardized instruments,
 - onset of disability prior to age 18.

The diagnosis of intellectual disability must be made by a licensed psychologist. The diagnosis of autism spectrum disorder can be made by a licensed psychologist or a physician with special training and expertise in its diagnosis.

Intellectual testing performed previously would need to be updated for purposes of a guardianship evaluation only if the individual has not already been determined to meet eligibility criteria for adult developmental services. An assessment of adaptive behavior may need to be updated if there is reason to think the individual's adaptive behavior function may have changed. Reports of any standardized tests of cognitive functioning or adaptive behavior relied upon as evidence of a determination of a developmental disability should be referenced in the evaluation and attached to the report.

For more information on the clinical criteria for determining if someone has a developmental disability, please talk with the developmental service provider in your area, or see Part 2 of the Regulations Implementing the Developmental Disabilities Services Act of 1996.

C. POWERS OF GUARDIANSHIP

Vermont law defines four guardianship powers under Title 18 (*see box below*). The court may order the Commissioner of Disabilities, Aging, and Independent Living (DAIL) to have all, some, or part of any one of these powers for an individual. While the court appoints the Commissioner as guardian, the duties are carried out by professional guardians through the Office of Public Guardian. It should be noted that there is no financial power in Title 18 guardianship.

1. **General supervision.** *The power to choose or change the residence, care, habitation, education and employment of the individual, and the power to approve or withhold approval of the individual's sale or encumbrance or his or her real property.*
2. **Contracts.** *The power to approve or withhold approval of any contract by or in the name of the individual.*
3. **Legal.** *The power to obtain legal advice and to commence or defend against judicial actions in the name of the individual.*
4. **Medical and dental.** *The power to seek, obtain, and give consent to initiation and continuation of medical and dental treatment that best promotes the health, comfort, and well-being of the individual, or to withhold consent for initiation or continuation of treatment that does not promote the well-being of the individual.*

18 V.S.A. Section 9310

Limitations of Power

The Commissioner has the following limitations in his or her power as guardian:

In exercising this power, the Commissioner shall be guided by the wishes and preferences of the individual. Any decision to withhold or abate medical treatment for an irreversible or terminal condition shall be reviewed by the Department's ethics committee. Nothing in this chapter shall be interpreted as giving the Commissioner authority to consent to sterilization, lobotomy, involuntary administration of psychotropic medications, surgery of the brain for the purpose of modifying behavior, or electroconvulsive therapy for the respondent.

18 V.S.A. Section 9310 (4)

Nothing in this chapter shall give the Commissioner authority to place a person with developmental disabilities in a state hospital except pursuant to chapter 181 of this title.

18 V.S.A. Section 9310 (4)(b)

PART 3 | Performing a Title 18 Guardianship Evaluation

A. EVALUATOR QUALIFICATION

The Guardianship Evaluation shall be prepared by a “Qualified Developmental Disabilities Professional” (QDDP) who has specific training and demonstrated competence to evaluate individuals with developmental disabilities regarding their need for guardianship. A QDDP is generally a psychologist, physician, registered nurse, educator, social worker, or human services professional with specialized training or at least one year of experience in working with individuals with developmental disabilities. A QDDP may either work for a designated or specialized agency, or may act independently, but must meet the definitions described on the Department of Disabilities, Aging and Independent Living website.

In addition to having the necessary credentials, the evaluator must possess certain qualities that are essential to conducting and presenting a thorough evaluation, including a fundamental respect for individuals with developmental and intellectual differences, a strength-based approach, proficiency with interviewing, discernment, good writing skills, and familiarity with the V.S.A. Title 18, Chapter 215 Guardianship Statute.

The evaluator must be able to establish rapport with individuals whose communication method, style, and ability vary widely, and must believe that individuals with developmental and intellectual differences may have capacity that is not always evident because of communication differences. During the interview every effort must be made to provide adaptations and resources that optimize the individual’s communication ability.

The evaluator must use *discernment*, the quality of being able to grasp and comprehend what is obscure. The evaluator must understand when it may be appropriate and necessary to elicit additional information to clarify a response. It may be that the superficial nature of the individual’s apparent understanding of a topic is revealed only once more probing questions are asked. It is up to the evaluator to know when further information should be pursued or when the initial response will suffice.

It is imperative that the evaluator be able to construct the written evaluation in a way that not only accurately conveys the individual’s story but also provides support for drawing a conclusion about whether or not the individual is in need of a guardian. The evaluator must have clear, concise, and effective writing skills so the judge will be prepared to make an informed decision.

B. SOURCES OF INFORMATION

In completing a Title 18 guardianship evaluation, the sources of information should be identified and may include records reviewed, tests performed, and individuals interviewed. It is required that the evaluator personally interview and assess the individual. It is recommended that the evaluator also interview the petitioner, either in person or by phone. When appropriate, support professionals (i.e., case manager, community support worker, home provider), family members, medical personnel, and/or other people knowledgeable of the individual's decision-making capacity should also be interviewed.

C. TIMEFRAME FOR EVALUATION COMPLETION

Evaluators have a timeframe in which to complete the evaluation. In the case of Title 18 guardianship, the evaluation must be completed 45 days after the court has ordered the evaluation. The evaluator is notified by the Office of Public Guardian (OPG) of the date the evaluation needs to be completed. If absolutely necessary, extensions may be requested of the court through the OPG. Reasons for extension include lack of evidence for eligibility, or lack of availability of either the individual or the evaluator.

D. AVAILABILITY OF ADEQUATE SUPPORT AND ASSISTANCE FROM ONE OR MORE RESPONSIBLE ADULTS

This section of the evaluation presents information about key people in the individual's life who may be able to provide adequate support and assistance to the individual, thus avoiding the need for public guardianship. The evaluator should address the following factors.

- Will the individual actually contact and consult with the key person(s) when faced with a difficult situation or decision?
- Is the individual willing to accept advice and assistance from the key person(s)?
- Will the key person(s) be available when the individual needs advice or assistance?
- Is the key person(s) able to give responsible and unbiased advice and assistance?
- Are there potential conflicts of interest between the key person(s) and the individual?

E. RECOMMENDATIONS FOR SERVICES AND BENEFITS

The guardianship law authorizes the court to order the guardian to secure any benefits or assistance required by the individual—such as educational, residential, nutrition, medical, dental, vocational, and/or therapeutic services.

Since courts and potential guardians are not always cognizant of which services would benefit the individual, the evaluator should make specific recommendations, giving special attention to those supports or services that could help the individual become more independent.

F. EVALUATION PROCESS

The evaluator should address the capacities of the individual by reference to past and recent experiences and current abilities and supports. The evaluation should be limited to information relevant to the individual's need for guardianship.

The evaluator relies on a number of resources to come to a recommendation about the individual's need for guardianship. The clinical interview with the individual is the foundation of the evaluation process. This interview is supplemented by information gathered from one or more persons who have knowledge of the individual, such as a family member, case manager, or home provider. The gathering of information usually consists of the following:

1. Referral Information and Informant Interviews

The person petitioning for guardianship is typically the first person to contact when beginning the evaluation process. This person should provide the relevant background information that prompted the filing of the petition. Questions asked of this person may include:

- What evidence suggests the individual lacks capacity to make decisions in any of the four areas of guardianship that have been requested: General Supervision, Contracts, Legal, and Medical and Dental?
- What problem(s) have been described that could be resolved through an alternative to guardianship?
- How long has the problem(s) existed and how often does it occur?
- Why is the petition being filed at this time? What did the individual do or not do that is resulting in the need to petition for guardianship? Is the request for guardianship caused by the individual's refusal of services?
- What reasons for the individual's inability to make decisions in the four areas of guardianship were stated in the petition?

- How does the petitioner think that the appointment of a guardian will resolve the problem(s) that led to the filing of the petition?
- Has the individual been informed that a guardianship petition has been filed? If so, do they object to the guardianship?

2. *Guardianship Evaluation Interview*

The evaluator begins the interview with the individual by establishing rapport and explaining the purpose of the evaluation. It is important that the evaluator carefully explain his or her role in the guardianship process and, specifically, that he or she has been asked by the court to make recommendations regarding the individual's need for legal guardianship. The evaluator should ask questions to determine whether the individual has a basic understanding of the role and responsibilities of a guardian, clarifying these as necessary. The evaluator should ascertain whether the individual feels that he or she wants or needs a guardian.

The evaluator then poses a series of questions to assess the individual's level of ability to make reasoned and informed decisions in each of the four areas of legal guardianship. The evaluator may offer hypothetical scenarios that are intended to determine the process the individual uses to solve problems and make decisions. The evaluator should ask open-ended questions in a manner the individual understands. Considerations and accommodations may be made to promote communication and understanding—including attention to the setting (Is the individual comfortable and at ease?) and choice of language and vocabulary (Does the person need extra processing time, repetition of questions, augmented/facilitated communication?).

At the end of the clinical interview, the powers of guardianship should be reviewed with the individual, and their understanding of the powers and need for guardianship in each area should be queried.

There may be times when an interview with the individual is not possible due to deficits in communication, or because the interview itself would cause a detrimental level of anxiety. In such cases the evaluator should document his or her own detailed observations of the individual but must rely on other resources to provide information relevant to the individual's need for guardianship supports. These resources may include educational, medical, and/or professional support service records and information gathered from collateral informants.

Historically, evaluators relied on clinical tools, including a mini mental assessment and Model Clinical Evaluation. This is no longer recommended, as the emphasis has shifted to decision-making capacity.

Sample questions to ask during the interview are provided in Appendix A.

3. Records Review

The evaluator must review available records to determine whether the individual does or does not meet the criteria for a developmental disability according to the Regulations Implementing the Developmental Disabilities Services Act of 1996.

The evaluator should refer to records to determine if there is evidence that either supports or challenges the need for the appointment of a legal guardian. At times, the information offered during the clinical interview may be inconsistent with information obtained from collateral informants or through the records review. It may be that the individual does not have good insight into his or her own abilities and weaknesses and may be underestimating his or her need for supports. However, it is always critical for the evaluator to consider the source of discrepant views to ensure there is no inherent bias.

The evaluator should review records for relevant diagnostic and health information and include this information in the report.

4. Summary of Findings/Recommendations

After completing interviews, making observations, and reviewing records, the evaluator has the challenging task of making a determination as to whether full or limited guardianship will or will not be recommended in one or more of the four powers of guardianship. In reaching this decision the evaluator should consider the components of informed decision-making outlined under Section 1B of this Guideline. These are:

1. Does the individual understand the need for—and have the ability to obtain—requisite knowledge to make reasoned decisions?
2. Does the individual appreciate the consequences of making decisions? Is he or she able to appraise *realistically* the outcome of a decision and justify his or her choice?
3. Does the individual express his or her decisions in a way that is consistent and aligns with his or her values and preferences?
4. Does the individual evidence the capacity to identify the actions that are necessary to achieve his or her goals when making a decision?

It is important to remember that an individual who does not currently show capacity may gain skills through maturity, opportunity, and experience. A person may also have a potentially reversible condition, such as that caused by a significant medical event, or a condition that may improve over time. If guardianship is recommended, the individual's potential for developing or

redeveloping skills that would lead to increased independence in decision-making should be recognized and documented.

The evaluator should keep in mind that a guardianship is not intended as a measure to control an individual who is making what are considered to be bad or dangerous decisions, particularly if the individual is freely and willfully making those decisions and expresses no desire to change his or her actions. There will be no benefit to the appointment of a guardian if the individual does not choose to avail himself/herself of the assistance provided through guardianship. Guardianship will be largely ineffective in these circumstances. In such a case, the evaluator should describe the evidence that leads them to the conclusion that the guardianship would be ineffective.

G. COMPLETION OF REPORT

The evaluator must prepare a guardianship evaluation report for submission to the Office of Public Guardian within the specified timeframe. The report format is provided in Appendix B.

APPENDIX A: SAMPLE INTERVIEW QUESTIONS

When conducting the interview with the individual, it is very helpful to provide and discuss realistic scenarios to assess his or her problem-solving skills. Below are a number of sample questions to ask the individual to further explore his or her capacity within each of the four powers. It is important to adapt the interview questions as necessary based on the individual's needs and abilities. The evaluator needs to use clinical judgment to decide which questions are appropriate for the particular evaluation.

General Supervision

General Goals and Support Needs

- *What makes life most meaningful to you?*
- *What are your most valued relationships? Activities?*
- *What are your goals for the future?*
- *Will you need help to meet your goals?*
- *What kind of help?*
- *Who could help you?*

Residence

- *Where do you live? Are you happy there? How much do you pay for rent/mortgage?*
- *If you ever wanted to move somewhere else, how would you go about doing so?*
- *What do you think is important when you are looking for a new place to live?*
- *If you found an apartment that you really liked, and it had a cracked window and a bathtub that wasn't working, would you take the apartment?*

Employment

- *Do you now have, or have you ever had, a job? What do/did you do for work?*
- *How did you find your job?*
- *Are you paid for your job? If yes, do you know how much you are paid?*
- *Do you require support on the job? If you need help on the job, whom do you ask for help?*
- *If you needed assistance to find a job, where could you find help?*

- *If you are not working currently, or would like to find a different job, what would you like your job to be?*
- *How would you go about getting a different job?*
- *What are the skills/experience necessary for the job you want?*
- *What is the requisite education and experience to have such a job? Do you have it? If not, how would you go about getting the needed training and/or assistance?*

Learning and Supportive Services

- *If you needed support to learn or do something or to seek help with something, to whom would you turn? (or, From whom do you accept advice and assistance?)*
- *If you did not like the services you were receiving, what would you do?*

Internet Security and Privacy

- *When you use social media, such as Facebook or Instagram, do you give people your address, date of birth, or social security number?*
- *Do you think people are always honest with the information they share on social media sites?*

Buying and Selling Property

- *Have you ever tried to sell anything? If so, how did you determine a price for your item?*
- *If you wanted to sell your television (or other possession if the individual does not own a television), how would you do so? Do you think \$10 would be a fair price for your television?*
- *Have you ever given one of your possessions away to someone because they said they wanted it? If so, do you regret giving the item away?*
- *Do you ask someone for advice or assistance when you want to sell something or give something away? If so, whom do you ask?*
- *Have you ever bought an expensive item for yourself or for someone else? If so, how did you make the decision to buy the item? How did you know if it was a good deal? Did you ask anybody to help you in making the purchase?*
- *Have you ever been “ripped off” (taken advantage of financially)?*

Contracts

- Explain what a contract is.
- Are there different types of contracts?
- Have you signed a contract in the past, or agreed to a contract over the internet?
- What would you do if someone asked you to sign a document and you did not understand what was written on it? To whom would you turn for help?
- What might happen if you signed a contract and then you or the other party did not follow its terms?
- If you had signed a lease to live in an apartment for a year, and the landlord told you to leave after 3 months, what would you do?
- Let's say you want to buy a television that costs \$100 and the salesperson says that he can give you a really good deal and you will only have to pay \$25 a month for the next year. Is this a good deal? Would you agree to the deal?

Although "Finance" is not one of the powers addressed in a public guardianship, the issues assessed may expose vulnerabilities in the individual's capacity.

- Do you earn any money, receive an allowance, or receive a check?
- What benefits do you receive (e.g., Social Security, SNAP, etc.)?
- How would a person apply for the types of benefits you receive?
- Do you manage your money? If not, who helps you?
- Do you have a bank account? (or know what a bank account is?) What is the name of your bank?
- Do you keep track of how much money is in your bank account? If so, how do you keep track?
- Do you know how to open a bank account? How would you do that?
- Do you use a debit card? How does it work?
- If a classmate asked to use your debit card, what would you say?
- If something cost \$5.50, and you gave the cashier \$10.00, how much money would you receive in change?
- What would you do if you wanted something that cost \$50 and you had \$25? Would you have enough money? If not, how much more would you need?

- Identify something that the individual likes—video games, for example— and ask *how much does it cost to purchase one?*
- *What are some of the things you want but do without because you don't have enough money? (to identify luxury versus need)*
- *What kind of bills do you currently have? Who pays your bills?*

Legal

- *Have you ever engaged a lawyer (or attorney)? What have you used an attorney for?*
- *What is the role of a lawyer (or attorney)?*
- *When might you want the assistance of a lawyer?*
- *How would you find a lawyer if you needed one?*
- *Why might a person be taken to court?*
- *Do you know what it means to be sued?*
- *What would you do if you received a letter in the mail telling you that you were being sued?*
- *If you wanted to sue someone, what would you do?*
- *If a friend of yours was arrested for something he or she did not do, what advice would you give your friend?*
- *If a person you did not know asked for your help carrying a package to someone else because they said the package contained important medication, what would you do?*
- *Have you ever had to talk to the police?*
- *In what situations can you talk to the police by yourself?*
- *In what situations should you seek assistance before speaking with the police?*
- *If a friend of yours was accused of a crime, should your friend talk to the police without help? Why? Or, why not?*
- *What would you do if your boyfriend/girlfriend/friend was hurting you— physically, sexually, or emotionally?*

Medical and Dental

- *Do you have any health problems? If so, please describe them.*
- *Have you had any major surgeries in the past?*
- *What is the treatment for those problems?*
- *Do you take pills or any other medication? If so, what are the names of the medications? Do you have a list of your medications? How often do you take them? What are they for? Do you take them yourself or does someone help you?*
- *Do you know the names of your doctor(s) and dentist?*
- *Do you make your own medical appointments?*
- *How often should you have a regular checkup with your doctor/dentist?*
- *When you go to a medical or dental appointment, do you understand what the provider is saying to you? What do you do if you do not understand what you are being told?*
- *If you fell and hurt your knee, went to the doctor, and the doctor told you that you needed an operation, what would you do?*
- *Do you know what a second opinion is? Have you ever needed to get a second opinion?*
- *What would you do if you asked for a second opinion about treatment for your knee and the second doctor told you that physical therapy would be better: Would you go to physical therapy or have the operation? How did you make your choice?*
- *Have you ever been told by a doctor to take a medicine or undergo treatment and refused? If so, how did you make the decision to refuse?*
- *What would you do if you had a serious health problem and needed medical help?*

APPENDIX B: RECOMMENDED FORMAT FOR A TITLE 18 GUARDIANSHIP EVALUATION REPORT

SECTION TITLE	CONTENT
1. Identification Information	Provide the individual's name/date of birth/address/age at evaluation/date(s) of evaluation/date of report
2. Purpose of Evaluation	Identify the person/agency requesting the evaluation, the court where the petition has been filed, and the reason that the petition is being filed at this time.
3. Sources of Information	Identify sources of information, including records reviewed, tests performed, and individuals interviewed. <i>Note: The evaluator must personally interview and assess the individual.</i>
4. Diagnostic Information	Diagnostic information should include all current developmental, mental health, and medical diagnoses. <i>Note: If the evaluator determines that the individual does not have a developmental disability, the evaluator should complete the evaluation but note that the individual is not eligible for Title 18 Guardianship.</i>
5. Background Information	Provide relevant developmental, educational, medical, social, employment, and service history. This information may be obtained through a review of records, clinical interview, and interviews with informants.

SECTION TITLE	CONTENT
6. Interview with the Individual	The primary purpose of this section is to present the individual’s understanding of guardianship and summarize the individual’s responses to the interview questions and sample scenarios.
7. Availability of Adequate Support and Assistance from One or More Responsible Adult(s)	Identify key adult(s) who are willing and able to provide assistance and support with decision-making.
8. Summary and Recommendations	<p>This section should summarize the information gathered and present conclusions for each of the four powers with respect to:</p> <ul style="list-style-type: none"> — The individual’s ability to exercise the power independently; — What training or support might assist the individual to become independent in the specific area; and — Whether the need for guardianship is long-term or short-term. (If the need is short-term, the evaluator should suggest a time period for reviewing the individual’s need for guardianship.)
9. Signature of Evaluator	