

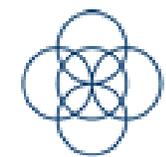
Supported Decision-Making in Wisconsin



Wisconsin
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The Concept of Supported Decision-Making

What it is and how can it be used as a strategy to help people make decisions about their own lives

All of us use Supported Decision-Making

- Throughout our lives, all of us consult a trusted, self-selected network of friends, colleagues, family, neighbors, and professionals when making all sorts of life choices.
- These choices could be about where to live, what to do during the day, how to spend money, or when to see a doctor.
- We confer and consult with others, and then we decide on our own.
- Everyone needs support to make decisions.



Benefits of using Supported Decision-Making

- Supported Decision-Making is a fundamental part of Self-Determination.
- People with greater self-determination are:
 - Healthier
 - More independent
 - More well adjusted
 - Better able to recognize and resist abuse (safer)

(Wehmeyer, Palmer, Rifenbark, & Little 2014; Powers et al., 2012; Khemka, Hickson & Reynolds 2005; Wehmeyer & Palmer, 2003; Shogren, Wehmeyer & Schwartz, 1997 & 1998; Wehmeyer, Kelchner, & Reynolds 1996)



Current formal tools for people who need help with decisions



Release forms

- Person signs release forms authorizing a specific person(s) access to certain kinds of records (health, financial, etc.).
- Some release forms may allow a person to select certain records to be released while retaining privacy over others.
- Some release forms may provide one-time or time-limited access to records, others releases may remain in effect in perpetuity.



Supported Decision Making agreements (Wisconsin)

- Person makes all their own decisions. Person identifies area of the life in which they want support, identifies a Supporter(s) to help them gather information, compare options, and communicate their decisions to others.
- The Supported Decision-Making agreement outlines what types of decisions the Person wants support and the role of the Supporter.
- Agreement can be changed or stopped at any time by the Person or Supporter.



Representative payee

The Social Security Administration (SSA) appoints an individual/organization to receive SSI/SSDI benefits for a person who cannot manage or direct the management of their own benefits.

To change a Representative Payee, the Person must complete an application process with the SSA.



Power of Attorney, medical proxy

- Formal legal arrangements that permit others to act on the Person's behalf.
- Powers of Attorney (POA) designate another (a POA) individual to make certain decisions (generally health care or financial) on the Person's behalf. POAs can be set up in different ways. Some POAs are activated only when a person is incapacitated. Or a POA can be written so an individual other than the Person is always the designated decision maker in certain areas.
- Medical Proxy documents appoint a proxy/agent to express a person's wishes and make health care decisions for the person if the person cannot speak for themselves.



Limited or Full Guardianship

- Transfers some or all decision-making authority from the Person to a court-appointed Guardian.
- Once guardianship is granted by the courts it is difficult (and costly) to modify or reverse the guardianship; any changes must be made through a formal court process.

Less Limiting

More Limiting

- Supported Decision-Making is a valuable tool even when the legal right to make some or all decisions has been transferred to a guardian.
- Wisconsin has a limited guardianship system.
- Guardians are charged with placing the least possible restrictions on the person's ability to make choices, be part of the community, and identify and honor the individual's preferences.
- Using Supported Decision-Making can help guardians understand their ward's wishes



Wisconsin's Supported Decision-Making law

Using Supported Decision-Making agreements

What is Wisconsin's law designed to do?

- Supported Decision-Making agreements are designed to help the Person interact and communicate their decisions with third parties.
- Supported Decision Making agreements allow a person to formally identify Supporter(s) to help them gather information, understand and evaluate options, and communicate their decisions to others.
- The Supported Decision-Making agreement lets teachers, doctors, bankers, and other professionals know that the Person has given the Supporter consent to hear, receive, and discuss information with them, and/or it is ok to release records to the Supporter (provided applicable releases are signed).

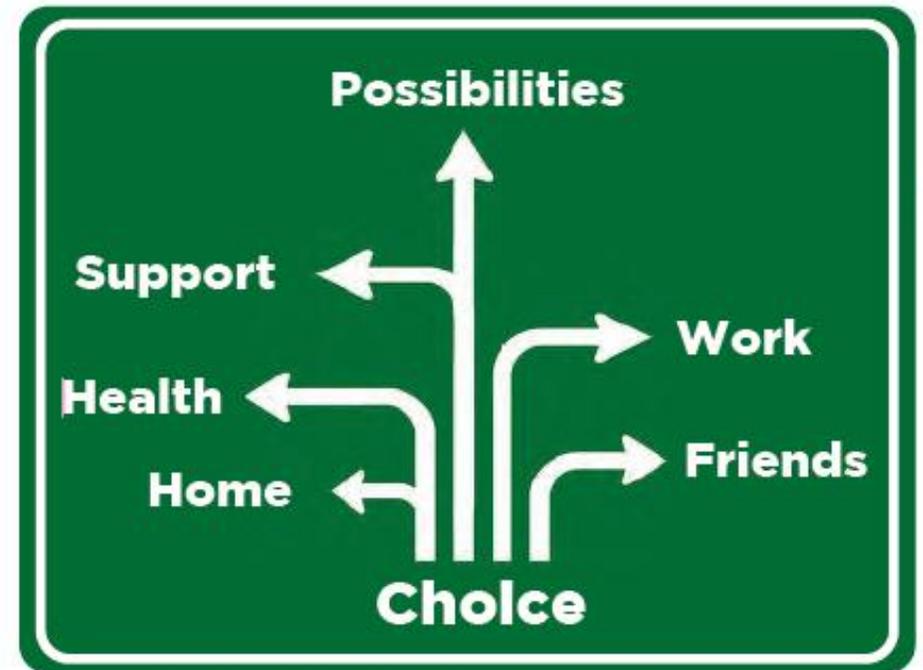


Who in Wisconsin can use Supported Decision-Making agreements?

- While all of us use Supported Decision-Making as strategy in our daily lives, only certain people in Wisconsin can use formal Supported Decision-Making agreements.
- People who can use Supported Decision-Making agreements are defined within Wisconsin's law as people with "functional impairments" and include:
 - People of any age with degenerative diseases
 - People of any age with conditions that substantially interfere with the ability to provide self care
 - People with physical disabilities or conditions that substantially limits one or more of their major life activities
 - People with Intellectual/Developmental Disabilities
 - People with mental health conditions

Supported Decision-Making agreements

- Agreements can be used for any decisions the Person feels they need additional support—such as housing, health care, financial affairs, employment, etc.
- Supported Decision-Making agreements are flexible and can be updated easily as the Person's ability and capacity to make decisions changes over time.



What Supported Decision-Making agreements do NOT do.

They do not restrict a Person's rights to make any decisions.

- Having a supported decision-making agreement does not preclude the Person from acting independently of the agreement or making decisions that the Supporter does not agree with.
- The Person is always in control of their own decisions.

It does not give Supporters any new rights

- The Supporter has no authority to make the person's decisions. The Person makes all their own decisions.
- Supporters cannot sign legal documents for the Person or bind a Person to a legal agreement
- Supporters have only the authority/role granted by the Person under the terms of the supported decision-making agreement.

What is the role of the Supporter?

The possible roles of the Supporter are limited to:

1. Access, collect, or obtain information relevant to a decision area the Person has chosen
2. Helping the person understand that information;
3. Helping the Person understand their options, responsibilities, and consequences of that person's life decisions, without making those decisions on behalf of that person
4. Assisting with communicating the Person's decision to others



What is the role of the Supporter

- The law limits access to personal information. Only information that is relevant to the decision with which a Supporter has been asked to assist is accessible by the Supporter.
 - *Note: A Supporter is allowed to access records that require a release only if the Person has signed a release allowing the Supporter to see the information*
- Supporters are required to ensure all personal information they access in the course of fulfilling a Supported Decision-Making agreement is kept privileged and confidential and is not subject to unauthorized access, use, or disclosure.



Practical Examples

Using Supported Decision-Making agreements in a health care context

Communication: patient to practitioner

- Helps ensure the Person is clearly understood by medical staff.
- People who have challenges with speech, use sign language or communication devices, and/or who are non-verbal communicators might use a Supporter to ensure the other party understands them.



Communication: practitioner to patient

- Supporters can help people understand information and their options in ways that make sense to them.
- A Supporter can help medical professionals more effectively communicate complex information, and understand a patient's questions/concerns.
- Patient centered care relies on patients feeling informed and having control over their own decisions.



Presumes competency and patient centeredness

- Supported decision-making embodies the spirit of the law, which presumes competence.
- By its nature, it orients us to patient centeredness.
- It reminds us that the patient makes their decisions, and reinforces the role we all play in providing the best information possible so they can make decisions.
- It also recognizes people need support to make their own informed choices.



Presumes competency and patient centeredness

- Useful tool to examine assumptions based on disability that may be embedded in the institution's practices or their staff responses to patients.
- Many people with disabilities describe staff discomfort interacting with people with disabilities, assumptions of guardianship, lack of accessibility and accommodations etc.



Using supported decision making helps young patients transition to adulthood

- Even when children are under their parent's guardianship by virtue of age, supported decision making concepts enable:
 - Parents to practice involving their child in increasing amounts of decision-making
 - Practitioners to establish a one on one relationship with their patients



Ensure friends, non-family, or extended family can act as Supporters

- Sometimes the closest relationships are with extended family.
- Family members are not always geographically close, and some people do not have family.
- Many people with functional impairments do have close relationships and social networks with non-family members who want to help.
- Supported Decision-Making agreements ensure that non-family members are recognized as carrying out roles and responsibilities specified by the Person.



Can adjust based on person's support needs

- Can help people experiencing changes in memory and cognition, and other abilities that may decline over a long period of time.
- Many people need a little help for a long time.
- Allows for a transition to more support when needed.



More features of Wisconsin's law

Relevant to health care professionals

How are Supported Decision-Making agreements changed or terminated?

- The Person is always in control of their own decisions and their Supported Decision-Making agreement.
- The Person can include a specific date when the agreement ends.
- Either the Person or the Supporter can revoke a Supported Decision-Making agreement at any time.
- Agreements are automatically revoked if the Supporter has a substantiated allegation of neglect or abuse of the person, the Supporter has been found criminally liable for abuse or neglect, or there is a restraining order against the Supporter.

Can a Person have more than one Supporter or agreement?

- A Person may have multiple Supported Decision-Making agreements.
- The Person can choose different Supporters for different decision types.
- The Person can identify more than one Supporter in the same Supported Decision-Making agreement.



Liability protections for practitioners

- Professionals who receive a Supported Decision-Making agreement are required to rely on that agreement as a legal expression of the Person's wishes.
- Liability protections for professionals and Supporters are included for actions done in the context of a valid Supported Decision-Making agreement



What do I do if I suspect abuse, neglect, or financial exploitation?

- Anyone who suspects that a Supporter is abusing, neglecting, or financially exploiting a person with a functional impairment may report their concerns to the elder or adult at risk agency, or appropriate law enforcement agency.
- Those who are required by law to report abuse, neglect, or financial exploitation (i.e. mandated reporters) must still follow those requirements.

Supported Decision-Making Resources

- Webinars, presentations, information sheets and materials for families: <http://www.wi-bpdd.org/SupportedDecision-Making/>
- Supported Decision Making Agreement form: <https://www.dhs.wisconsin.gov/forms/f02377.pdf>
- Supported Decision Making statute (Wis. Stats. Ch 52, <http://docs.legis.wisconsin.gov/statutes/statutes/52>)

Supported Decision-Making Resources



Supported Decision Making in Health Care & Medical Treatment Decisions
Unlisted

- Supported Decision Making in Health Care & Medical Treatment Decisions (National Disability Rights Network, 2019)
- https://youtu.be/Qi07_WriG60

Questions?