Guardianship Evaluations – An Overview

What is Guardianship?
In Massachusetts, when a person turns eighteen years of age (i.e. the age of majority or emancipation), the individual is presumed to have the capacity to make their own decisions and parents are no longer able to make decisions on their behalf. This means that parents are not entitled to obtain personal, medical or educational information about their children who are 18 or older – even if the children have significant disabilities.

Guardianship is an important option for families to consider if there are concerns that an individual may be incapable of making decisions about their own personal, legal, financial, or medical affairs. To obtain guardianship, a protective legal process must be completed during which a person (or persons) petition the local Probate and Family court to be granted legal authority to make these important decisions on behalf of the individual whom the court has deemed to be incompetent or “incapacitated.” The court will specify the guardian’s decision-making authority to extend to all (or some) areas. The court appoints the guardian to advocate for the individual’s independence and personal rights and to provide essential care and support. It is the duty of the guardian to oversee services to ensure the basic personal, medical and financial needs of the person with the disability are met.

What are the types of guardianships?
There are several types of guardianship: Limited, “General”/full or Plenary, Conservator, or Rogers.

- A limited guardian makes decisions in only some specific areas, such as medical care. Limited guardianship may be appropriate if the person with a disability can make some of their own decisions.
- A general guardian has broad control and decision-making authority. General guardianship may be appropriate if the person has a significant intellectual disability or mental illness and, as a result, is unable to meaningfully participate in important decisions related to self care, financial, educational and medical/health issues.
- A conservator manages only the finances (income and assets) of a person with a disability. A conservator has no authority to make personal decisions (medical, educational, etc.) for the person.
- A Rogers guardian oversees the use of antipsychotic medication for the individual. It requires additional medical documentation and a treatment plan to be updated annually with the court.

What is the process for obtaining guardianship?
To obtain guardianship, the Massachusetts Uniform Probate Code requires the completion of a Clinical Team Report (CTR) for a person who has an intellectual disability (IQ 70 or below). This medical evaluation must be completed by a team of licensed professionals including a licensed psychologist, registered physician, and licensed social worker. Each clinician must either interview and review records and/or evaluate the individual. All clinicians must then agree on the appropriate guardianship level and sign and date the CTR within 180 days of the filing of the petition.

If a person does not have an intellectual disability, then the court requires a registered physician, licensed psychologist or clinical psychiatric nurse specialist to review the records and evaluate the individual within 30 days.
of the actual hearing and complete a Medical Certificate documenting their recommendation of the appropriate level of guardianship.

To obtain a Rogers guardianship, a licensed physician, psychiatrist, or certified psychiatric nurse clinical specialist who either currently treats or has evaluated the individual must complete a Clinician’s Affidavit to submit to the court.

Guardianship Evaluations are a team effort that may include:

Consultation by Psychologist
- Review of records
- Face-to-face interview with patient and family to assess adaptive functioning
- Completion of required report based on interview
- Psychologist recommendation
- Note: State law requires the psychologist to review cognitive and adaptive testing. If this testing has not previously been completed, a neuropsychological evaluation may be required and is considered a separate service from the Guardianship Evaluation.

Assessment by Physician
- Completion of physical examination
- Physician review of psychologist report
- Physician recommendation.

Consultation with licensed social worker
- Face-to-face interview with patient and family to assess adaptive functioning
- Review of records
- Social worker recommendation based on interview.

Consultation
- A consultation between the psychologist, physician, and social worker is conducted after completion of all three separate assessments

Recommendation
- The team will complete all reports and forms required by Massachusetts state law
- The social worker will meet with the family if there are additional questions.
- Note: There may be additional fees if court testimony is required.

Lurie Center Guardianship Evaluations
- We provide guardianship evaluations only for Lurie Center patients.
- Guardianship fees are self-pay only; insurance does not cover this service.
- Additional fees for the physician or psychologist visits will be submitted for insurance approval but are the responsibility of the patient if denied.

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<th>Description</th>
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<tr>
<td>Guardianship evaluation with Clinical Team Report (without neuropsych testing)</td>
<td>$375</td>
<td>Guardianship Evaluation with Medical Certificate</td>
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<tr>
<td>Guardianship evaluation with Clinical Team Report or Medical Certificate with neuropsych testing required</td>
<td>$275 plus neuropsychological testing fee</td>
<td>Rogers Guardianship Follow-up Rogers (in addition to clinical visit charge)</td>
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<td>Consultation as needed with psychologist</td>
<td>$75 per 15 minutes</td>
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