

Questions and Answers from *Supported Decision-Making & Supported Decision-Making Agreements: An Overview* Trainings June 2022

Questions & Answers

Q1. Will the slide deck be posted along with the recording of the training?

A1. Yes, a copy of the PowerPoint slides, a recording of the training, and a Q&A document will be posted on DBHDS's website.

Q2. Is this similar to a Next Friend?

A2. Yes, but there are key differences. A Supporter is someone selected by the Decision Maker (the individual with a disability who has a supported decision-making agreement) to help them in different ways when they are making decisions for themselves. People serving in the role of Supporters are not paid to do this. They are serving as a natural support to the Decision Maker, and their role and responsibilities are outlined in the supported decision-making agreement. Unlike a Next Friend, there are no regulations stating who can and cannot be a Supporter at this time. Another key difference is that the Rights Regulations authorize a Next Friend to make decisions for an individual and they are appointed to this role and responsibility by the Local Human Rights Committee (per [12VAC35-115-146](#)).

Q3. Would Power of Attorney be a supported decision maker?

A3. The person serving as the Power of Attorney could be selected as a Supported by the Decision Maker.

Q4. So what about people who have a guardian but it was just entered in to because that's what has always been done? Is it very expensive to get out of it? This training feels more like a cautionary tale to stop doing what we've always been doing. But I feel so sad about the ones who have guardianship but shouldn't...

A4. At this time, someone must petition the court in order to reverse their guardianship, similar to when legal guardianship was put in place. The same court fees and costs associated with obtaining a lawyer and guardian ad litem would be associated with this process. Discussions are ongoing regarding how to address individuals who currently have legal guardians, but could use supported decision-making and supported decision-making agreements to restore their legal competency and rights.

Q5. Have there been discussions about SDM agreements for individuals who are older, such as those living with mild cognitive impairments?

A5. Virginia will consider the use of supported decision-making agreements for individuals with significant mental health needs and individuals who are considered elderly at a later time.

Q6. Will there be trainings on how to do Supported decision making correctly?

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A6. The act of supported decision-making is a part of person centered practice. Please consider registering for Person Centered Thinking training using the link provided under the “Additional Training Options” below. Additionally, slides were added to this training following the 6/1/2022 session to assist with this question. Please see the attached PowerPoint slides and recorded training for more information.

Q7. Is there any guidance for DBHDS licensed providers around who should or should not serve as a supporter or facilitator?

A7. At this time there are no rules or regulations regarding who can and cannot be a Supporter. Individual providers will need to determine their own policies around how employees can address this matter if asked to be a Supporter.

Q8. Where do you find facilitators? Are they a licensed service?

A8. Supported Decision-Making Agreement Facilitators can be any of the Supporters or someone else that the Decision Maker trusts. This is not a licensed service.

Q9. Is there some type of certificate? We can get credit for the training if there is a certificate.

A9. No certificates are provided for these trainings. Please email the presenter if additional information is needed.

Q10. Will the VA informed choice language change to remove SD?

A10. No, the VA Informed Choice language will not change as “SDM” is referring to a substitute decision-maker.

Q11. If someone is not recommended for guardianship why would we be offering a supported decision maker?

A11. If individuals do not need a legal guardian, but might still need help with making decisions or choices about different parts of their life, then supported decision-making and supported decision-making agreements could be appropriate for them. With supported decision-making and supported decision-making agreements, the Decision Maker makes all decisions for themselves.

Q12. Will we be required to get the supporter to attend all meetings, assess satisfaction with them, sign off on things...?

A12. No, Supporters only attend meetings as indicated in the supported decision-making agreement. Because Supporters do not have any legal responsibility over the Decision Maker, their satisfaction does not need to be assessed and they cannot sign forms or make decisions for the Decision Maker.

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Q13. Are there legal ramifications for the supporter if they don't do a good job?

A13. No, not at this time as a supported decision-making agreement is not a legal document.

Q14. To clarify, supported decision makers are for those who have capacity to make their own decisions?

A14. Individuals must have legal competency (i.e. not be deemed legally incapacitated by a court) in order to be a Decision Maker and have a supported decision-making agreement. As long as someone has legal competency they have a legal right to make decisions on their own.

Q15. As SC/CM are we required to have a SDM form signed at each ISP meeting?

A15. Supported decision-making agreements are not created and/or signed annually, however it is the expectation that Support Coordinators/ Case Managers ask an individual if they have a supported decision-making agreement during their annual ISP meeting, as this is a question on the ISP. If someone has a supported decision-making agreement, then the Support Coordinators/ Case Managers should have a copy of it on file and follow it, as it pertains to their services.

Q16. Can the links & resources be emailed to us?

A16. A list of the resources provided during the training and their links is at the bottom of this document.

Q17. If an individual has an authorized representative and supported decision-making is used, what happens if the individual and the AR disagree on the decision (about treatment or authorization for disclosure of information, etc)? Who makes the final decision in this case?

A17. Per Virginia Code 12VAC35-115-70(A)(3)(a), "If an individual who has an authorized representative who is not his legal guardian objects to the disclosure of specific information or a specific proposed treatment or service, the director or his designee shall immediately notify the human rights advocate and authorized representative. A petition for LHRC review of the objection may be filed under [12VAC35-115-200](#)."

Q18. If the individual had an AR, it doesn't sound like they could have a supporter because they lack capacity which is why they have an AR?

A18. Capacity is time and task specific. A capacity evaluation does not determine if someone is legally incompetent, therefore the individual retains their legal rights, including their ability to make decisions and have a supported decision-making agreement. Per Virginia Code 12VAC35-115-145(4) "Capacity evaluations shall . . . indicate the specific type of decision for which the individual's capacity is being evaluated (e.g., medical) and shall indicate what specific type of decision the individual has or does not have the capacity to make. Capacity evaluations shall address the type of supports that might be used to increase the individual's decision-making

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capabilities.” Additionally 12VAC35-115-146(A) states, “. . .the provider shall recognize and obtain consent or authorization for those decisions for which the individual lacks capacity.” This means they may have an AR for certain decisions and a SDMA and Supporter(s) for other decisions.

Q19. Do you know of any good resource for material in Spanish on supported decision-making? Would you please share it with me?

A19. Parent Educational Advocacy Training Center (PEATC) has many resources translated into Spanish. At link to their website is in the “Online Resources” section below. The forms created by DBHDS related to supported decision-making have not been translated into Spanish at this time.

Q20. How does supported decision-making work for someone that is not able to make an informed decision?

A20. An individual can use supported decision-making to help them make an informed choice by talking to people they trust and who are knowledgeable about the question at hand. These people can help the individual understand their options, the risks and benefits of each option, and the long term implications of each option before the individual makes their final decision.

Q21. Do supported decision-making supporters have the same guidelines as authorized representatives?

A21. No, people serving as Supporters in a supported decision-making agreement have a different role than those serving as authorized representatives. Supporters do not have the right or authority to sign forms for the Decision Maker or to make decisions for them. Supporters are also no limited to helping the Decision Maker with only decisions pertaining to the designating DBHDS provider, as an authorized representative is.

Q22. Can they have one if they were deemed incompetent in another state but not Virginia courts?

A22. No. Per [Virginia Code § 64.2-2115](#), “In granting a petition under this section, the court shall recognize a guardianship or conservatorship order from the other state, including the determination of the incapacitated or protected person's incapacity and the appointment of the guardian or conservator.”

Q23. I'm sorry but, I'm still a little confused about the Authorized Representative's role in comparison to the Legal Guardian based on historic/ongoing experiences with ARs who are also a family member and view themselves as the SAME AS a legal guardian/final decision maker for the individual and Providers who also treat them as such.

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A23. A legal guardian is someone appointed by the court to make decisions for an individual after the court has found the individual to be legally incompetent. A full legal guardian has authority to make decisions for the individual with any and all agencies/providers. A court appointed guardian is often referred to as a Legally Authorized Representative. A DBHDS authorized representative is appointed by a specific agency/provider, in agreement with the individual rather than by a court. An individual can have a DBHDS authorized representative and still be legally competent. A DBHDS authorized representative only has authority to make decisions and consent to services for that specific agency/provider. For DBHDS licensed providers, each agency/provider must go through the process of determining capacity for their specific services and appointing an authorized representative. See Virginia Code [12VAC35-115-145](#) and [12VAC35-115-146](#) for more details.

Q24. How does the provider respond when an individual who has demonstrated capacity to make informed decisions expresses a choice that their AR/LG disagrees with/disapproves of for personal reasons or fear of the risks, and therefore denies/vetoes the choice made by the individual?

A24. Per Human Rights Regulations [12VAC35-115-146\(G\)](#) “Conditions for removal of an authorized representative: Whenever an individual has regained capacity to consent as indicated by a capacity evaluation or clinical determination, the director shall immediately remove any authorized representative designated [by the provider], notify the individual and the authorized representative, and ensure that the services record reflects that the individual is capable of making his own decisions. Whenever an individual with an authorized representative who is his legal guardian has regained his capacity to give informed consent, the director may use the applicable statutory provisions to remove the authorized representative. (See § [64.2-2012](#) of the Code of Virginia.)” A Legal Guardian has the weight of the court behind them and for individuals who truly are legally incompetent, the decision of the legal guardian does override the decision of the individual. However, a provider is fundamentally bound by the Human Rights Regulations to respect the dignity rights of individuals by considering and honoring the individual’s preferences to the extent possible per [12VAC35-115-50\(A\)](#). The provider should engage in conversation with the Guardian to ensure they are doing the same.

Q25. Are the supported decision makers required to sign all ISP documentation, consent forms, etc?

A25. Please see the answer to Q12 above.

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Q26. With so many options it can get very confusing to determine which is the best option. Who should be the person to explain all these options? Is there, or can one be developed, a pamphlet outlining these options?

A26. Both support coordinators at the CSB and transition coordinators at your child's school should be discussing these options with you and your child. PEATC and the disAbility Law Center of Virginia have excellent pamphlets and tools for individuals and parents. Links to their websites are in the "Online Resources" section below. You can also utilize the information from this training to help with understanding the different options.

Q27. This might be detailed in the public comment documentation which I have printed to review. But once this is approved, is it DBHDS' request that Support Coordinators will be reviewing Supportive Decision Making with individuals so they are aware of this as an option?

A27. There are no regulations stating who is required to discuss the option of supported decision-making agreements with individuals at this time. However, Support Coordinators and all waiver providers should be aware of this option and provide assistance and education, as appropriate or as the individual inquires about it. The individual support plan (ISP) for individuals with DD Waivers now has a question asking whether or not the individual has a supported decision-making agreement. This should be asked at least annually and would be a good opportunity to have further discussion.

Q28. Can't that be taken advantage of? Lead the person to make a decision they want versus the individual?

A28. It is important that the Decision Maker select people that they trust as their Supporters. A protocol has been created and additional training and education will be provided to Decision Makers, Supporters, and Facilitators about how to prevent, identify, and address abuse and exploitation. If a provider has concerns that a Supporter is taking advantage of the Decision Maker then they need to follow their agency protocols related to abuse and exploitation.

Q29. Can an AR sign all the documents for the person if person is unable to sign them? I know they are not court appointed person.

A29. It is best practice for the AR to sign along with the individual in order to ensure that CSBs and providers honor the dignity and participation in treatment rights of individuals; however, the AR is designated with this specific authority and the individual's signature is not required, unless specifically indicated.

Q30. Would the SDMA follow the person from one CSB to another in case of a transfer?

A30. Yes, because a Supported Decision-Making Agreement is a form created by the Decision Maker and his/her Supporters. It is not specific to a CSB.

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Q31. Is there any way a letter could be created, maybe including DBHDS letterhead, and sent out to the CSBs so that we can then make copies to provide that AR explanation you just gave to providers and ARs?

A31. PEATC and the disAbility Law Center of Virginia have excellent pamphlets and tools for individuals and parents. Links to their websites are in the "Online Resources" section below. You can also utilize the slides from this training or contact your [Regional Human Rights Advocate](#). Your local CSB can provide access to the DBHDS created supported decision-making agreement materials once they become available.

Q32. What if they are asking for something that is restrictive or results in a potential Human Rights Violation should the provider carry out the AR/LG's decision?

A32. If an AR (including an AR that is a legal guardian) is asking for something that would be considered a restriction, the provider is still required to follow the processes for implementing a restriction as outlined in [12VAC35-115-50](#) and [12VAC35-115-100](#). A provider should not take or condone actions that are known or potential human rights violations.

Q33. What is the difference between a LG and power of attorney? They seem to be the same.

A33. A legal guardian is someone appointed by the court to make decisions for an individual after the court has found the individual to be legally incompetent. A full legal guardian has authority to make decisions for the individual with all agencies/providers. A Power of Attorney is appointed by the individual, not the court, and the individual retains legal capacity and the right to make their own decisions.

Q34. Again the question about difference between Supported and Substitute?

A34. Supported decision-making is when someone uses information they receive from people they trust to help them make their final decision. In substitute decision-making someone else makes the final decision on behalf of the individual.

Q35. If they say no they don't have a SDMA and ask how to get a SDMA, who is appropriate to refer to facilitate/create it since it's not the SC responsibility?

A35. Please see the answer to Q27 above.

Q36. Is there a formal document that we will use for the SDMA?

A36. The Virginia Supported Decision-Making Agreement template will be provided online as a Word document, as well as a fillable PDF, once finalized. However, individuals are not required to use this form for their own agreement, if they do not want to. Please see Q75 for the minimum requirements for all supported decision-making agreements in Virginia.

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Q37. What if an individual lives with parents who historically makes their decisions and now they want supported decision making agreement? I see a lively discussion! Any thoughts?

A37. If the individual is of legal age and the parents are not the legal guardians, then the individual has the legal right to make a supported decision-making agreement and to make decisions for themselves.

Q38. This feels like the 2nd step in the process. Education about tools to determine capacity would be helpful to know whether a person could utilize supported decision-making or needs something else.

A38. Per Virginia Code, all individuals 18 years and older are presumed to have capacity, therefore they have the right to make their own decisions and enter into supported decision-making agreements. Additionally, the process of supported decision-making can increase/improve an individual's capacity. Virginia Department of Social Services provides trainings on capacity that providers can request access to through the Virginia Learning Center.

Q39. For #4, I realize it can but prefer to think it's "False" only because I would hope the selected supporters are people they have long established & trusting relationships with. (Referring to Pre/Post- Training Quiz question: "Supported Decision-Making Agreements increase a person's chances of being abused or exploited by others.")

A39. Supported decision-making is proven to increase self-determination, which is proven to reduce the risk of someone being abused or exploited.

Q40. The use of SDM acronym is very concerning

A40. The acronym SDM for supported decision-making is internationally recognized. DBHDS does not have the ability to change this. It is recommended that providers do not use acronyms, as they are not common language and can lead to misunderstanding.

Q41. So Supported Decision Maker cannot sign the forms for the person if person is unable to sign?

A41. Correct, the Supporter does not have the right to sign forms on behalf of the Decision Maker. If the Decision Maker is not physically about to sign forms, alternative options for obtaining the individual's signature will need to be explored.

Q42. If an individual had a legal guardian & they died does this mean they are able to make decisions?

A42. No, in this situation the individual does not have the legal ability to make decisions and there is now no one legally appointed to make decisions for them. A new legal guardian would need to be appointed through the court or the individual could petition the court to have their competency and rights restored.

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Q43. Is a capacity examination covered under Medicaid?

A43. Stand alone capacity evaluations are not covered, as there is no billing code for them. Capacity evaluations conducted as part of another evaluation, such as a psychological evaluation or certain mental health status evaluations could be billed under those specific evaluation codes. The Magellan CPT codes for psychological and neuropsychological evaluations can be found [here](#).

Q44. Who will be primarily responsible for presenting this information to our individuals and who will complete the agreements?

A44. Please see the answer to Q27 above.

Q45. If one has Authorized Representation does that mean they have final say or the individual?

EX: regarding employment

A45. Please see the answer to Q17 above.

Q46. Is it our role to write the agreement? If in the ISP the family/client says they do want to have a SDM?

A46. Please see the answer to Q27 above.

Q47. Also, how much does it cost to have a legal guardian? All of the legal fees?

A47. The cost will vary based on where someone lives and the fees of the lawyers. Typically this can range anywhere from several hundred dollars to several thousand dollars.

Q48. May want to mention DARS public guardian option for CSB referrals.

A48. For individuals with developmental disabilities who receive services through their local CSB, the CSB be refer them for DARS' public guardianship program. However this is only an option if an individual truly needs a legal guardian and there are no known natural supports who could serve in this role. <https://www.vda.virginia.gov/publicguardianship.htm>

Q49. Is a lawyer needed to become medical power of attorney?

A49. No, anyone can create a Medical Power of Attorney. The disAbility Law Center of Virginia has guides on their website for how to do this. Please see the links below in "On-line Resources" for more information.

Q50. The template is currently not required, correct?

A50. Correct, individuals are not required to use the Virginia Supported Decision-Making Agreement template for their own agreement, if they do not want to. Please see Q75 for the minimum requirements for all supported decision-making agreements in Virginia.

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Q51. Do you need all 3 or the Power of Attorney can do all these?

A51. The types of support someone needs varies from person to person. There are different types of Power of Attorneys. Advanced Medical Directives and Representative Payees also have different roles. The resources listed in the answer Q26 above will provide more details on these options and have tools for helping families decide what options are best for their individual situation and needs.

Q52. Is there a fillable/Editable document for the SDM agreement on the VA website?

A52. Please see answer for Q36 above.

Q53. I am a member of the Virginia State Bar and this process make sense to me. Are you formally consulting with any of the committees of the Bar?

A53. Lawyers from the disAbility Law Center of Virginia and DARS are on the Supported Decision-Making Workgroup.

Q54. My daughter has the mental capacity of a 3 year old. I want her to be able to make decisions on her own but there are so many things she does not know. I don't know if I should apply for guardianship or supported decision making. What are your thoughts?

A54. Everyone's needs are different. Please see the resources listed in the answer to Q26.

Q55. Is there a standard editable form?

A55. Please see answer for Q36 above.

Q56. Can a legal guardian/AR/SDM revoke a DDNR (durable do not resuscitate order) decision made by the person themselves?

A56. No. Per Virginia Code [§ 54.1-2987.1 \(B, D\)](#), a DDNR is an order “ issued by a physician for his patient with whom he has a bona fide physician/patient relationship as defined in the guidelines of the Board of Medicine, and only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf... In no case shall any person other than the patient have authority to revoke a Durable Do Not Resuscitate Order executed upon the request of and with the consent of the patient himself.”

Q57. Is there a resource for us to get an attorney to help with guardianship?

A57. [The Special Needs Alliance](#) and [National Academy of Elder Law Attorneys](#) have search engines to help people find lawyers who specialize in disability law.

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Q58. If a person is their own guardian but demonstrates an inability to make rational decisions but refuses but they have “capacity” and are deemed “competent,” how would one go about addressing it?

A58. If an individual has legal capacity and has not been deemed incompetent by a court, then they have the right to make decisions on their own, even if they are not decisions that others agree with, as this is part of having dignity of risk. If there are concerns about their capacity, then the provider should take the necessary steps to assess capacity and determine if an authorized representative is needed. See Virginia Code [12VAC35-115-145](#) for more details.

Q59. Does this in any way affect the Authorized Representative process?

A59. Someone could use a supported decision-making agreement in order to increase/gain capacity, therefore not needing an authorized representative. For those with authorized representatives, they could utilize supported decision-making to establish that an authorized representative is not needed. It is best practice to try least restrictive options before exploring more restrictive, substitute decision-making options.

Q60. I think using something other than SDM would be helpful...perhaps even SpDM.... using Sp referring to Supported could help someone recognize that it is not substitute decision maker.

A60. Please see the answer to Q40 above.

Q61. In an ideal world, shouldn't guardians fully support self-determination?

A61. Yes, Per [Virginia Code § 64.2-2019](#), “E. A guardian shall, to the extent feasible, encourage the incapacitated person to participate in decisions, to act on his own behalf, and to develop or regain the capacity to manage personal affairs. A guardian, in making decisions, shall consider the expressed desires and personal values of the incapacitated person to the extent known and shall otherwise act in the incapacitated person's best interest and exercise reasonable care, diligence, and prudence. A guardian shall not unreasonably restrict an incapacitated person's ability to communicate with, visit, or interact with other persons with whom the incapacitated person has an established relationship.”

Q62. All families should support self-determination BUT their first priority should be the individual's health and safety and ability.

A62. Studies show that increased self-determination increased an individual's health and safety by reducing the risk of them being abused or exploited.

Q63. Wouldn't it be a conflict of interest for a provider to become an individual's legal guardian?

A63. Per Virginia Code [12VAC35-115-146\(C\)](#) “No director, employee, or agent of a provider may serve as an authorized representative for any individual receiving services delivered by

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that provider unless the authorized representative is a relative or the legal guardian. When a provider, or the director, an employee, or agent of the provider is also the individual's guardian, the provider shall assure that the individual's preferences are included in the services plan and that the individual can make complaints about any aspect of the services he receives.”

Q64. Do you mind sending me the regs? There are individuals that moved into a provider's home and after the fact the provider became legal guardian.

A64. Please see the answer to Q63 above.

Q65. I struggle with situations where individuals have health risks that they still ignore such as limitations of diet and the guardian tries to get them to follow doctor recommendations.

A65. Everyone has free will and even guardianships have their limitations. An individual cannot be forced to do or not do something, even with a legal guardianship in place. Assisting the individual in understanding their specific health risks and the importance of following a specific diet, in a manner that the individual understands, can aid in the individual possibly deciding to go along with medical recommendations. For example, a person with diabetes who enjoys walking around the mall to shop might not have considered the potential of losing the ability to walk. Discussing the benefits and risks can help a person make an informed decision about the choices they make.

Q66. How does one obtain a supported decision maker if the only natural support is their legal guardian, who the individual disagrees with?

A66. If an individual has a legal guardian they cannot enter into a supported decision-making agreement at this time.

Q67. Sorry can you go back to the question of guardians not being paid. You stated that a guardian cannot be a paid person.

A67. Please see the answer to Q63 above.

Q68. Can you expand on #4? (Related to the 4 Principles of Supported- Decision Making.)

A68. “4. Decisions made with support are generally legally enforceable.” Individuals who create supported decision-making agreements have legal capacity, therefore the decisions they make should be followed by others, even if people do not agree with them, as this is part of having dignity of risk.

Q69. Can you send me information on HCBS Waiver?

A69. Within broad Federal guidelines, States can develop home and community-based services waivers (HCBS Waivers) to meet the needs of people who prefer to get long-term care services

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and supports in their home or community, rather than in an institutional setting. In Virginia, this refers to the three DD Waivers. More information about these waivers can be found on the [My Life My Community website](#).

Q70. Beside Arc of VA what self-advocacy group did you reach out to? I do a lot of stuff with Arc of VA but also involved with my local people first group in Chesterfield, but soon merging with South of the James with Arc of VA.

A70. There are representatives from The Arc of Virginia, The Arc of Northern Virginia, Virginia Board for People with Disabilities, and the IFSP State Council on the Supported Decision-Making Workgroup.

Q71. For people in Waiver services, does someone have the assignment to inform waiver users about the option of SDMA?

A71. Please see the answer for Q27 above.

Q72. DBHDS sent out a Q&A stating the following: DBDHS is working with a stakeholder group to develop templates, guidelines, and training. The workgroup is considering two templates for the Supported Decision-Making Agreement: 1 for individuals without legal guardians and 1 for individuals with legal guardians. See Q1...However, I understood in this training that if someone has a guardian, then they do not qualify for a SDMA, please advise.

A72. At the time of that document, the Supported Decision-Making Workgroup was still processing whether or not supported decision-making agreements could be utilized by individuals with legal guardianships. It was determined that at this time, those with legal guardianships will not be able to enter into supported decision-making agreements, however this continues to be explored by the workgroup.

Q73. Does a medical power of attorney have to follow a living will that was written ahead of time?

A73. Per [Virginia Code § 54.1-2981](#), which outlines the Health Care Decisions Act, “An advance directive may authorize an agent to take any lawful actions necessary to carry out the declarant's decisions, including, but not limited to, granting releases of liability to medical providers, releasing medical records, and making decisions regarding who may visit the patient.” It is the responsibility of the agent (person identified to support the individual with medical decisions in the advanced directive) to act on the decisions as outlined in the advanced directive. Additionally, [Virginia Code § 64.2-1612](#) states that the duties of the Power of Attorney are to “1. Act in accordance with the principal's reasonable expectations to the extent actually known by the agent and, otherwise, in the principal's best interest...5. Cooperate with a person that has authority to make health care decisions for the principal to carry out the

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principal's reasonable expectations to the extent actually known by the agent and otherwise act in the principal's best interest..."

Q74. Informed consent – When you make decisions about things that involve some risk (you have to have capacity or competency to make informed decisions, please clarify was it capacity or competency?

A74. People show that they have capacity when they provide informed consent. If you have capacity from a medical perspective, then you would also have competency from a legal perspective.

Q75. What are the 4 parts that all SDMAs should include?

A75. 1. Who the Decision Maker wants as their Supporter(s), 2. When the Decision Maker wants help, 3. How the Decision Maker wants to receive help, 4. Indication that the Decision Maker and Supporter(s) agree to the information documented.

Q76. I understand SDMA is not required for Medicaid provider, but is it a requirement to offer it (and document the offer)?

A76. It is not required to offer a supported decision-making agreement. The option will be discussed with the planning team at every annual meeting when a person has a waiver. If an individual who receives Medicaid services has a supported decision-making agreement and wants the provider to have a copy of their agreement, then the provider should have a copy of it on file and follow the terms, as it pertains to their specific service.

Q77. As Legal Guardian, I am involved my son in decisions even though I don't have to be. Is this ok?

A77. Yes. Please see the answer to Q61 above.

Q78. Will this recording go out to folks registered and/or via list serve?

A78. A recording of the training will be sent out over the Provider Listserv and the IFSP Listserv, as well as posted on DBHDS's website.

Public Comment

Virginia's Supported Decision-Making Agreement template draft-

<https://townhall.virginia.gov/I/GDocForum.cfm?GDocForumID=1861>

Online Resources

ACLU- <https://www.aclu.org/issues/disability-rights/integration-and-autonomy-people-disabilities/supported-decision-making>

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The Arc of Northern Virginia- <https://thearcofnova.org/programs-services/sdm-resource-library/>

disAbility Law Center of Virginia- <https://www.dlcv.org/supported-decision-making>

PEATC- <https://peatc.org/services/transition-to-adulthood/>

Supported Decision Making- <http://www.supporteddecisionmaking.org/>

Virginia WINGS booklet-

https://www.vacourts.gov/courts/circuit/resources/guardian_options_pamphlet.pdf

DBHDS ListServ Links

Provider ListServ- <https://lp.constantcontactpages.com/su/Z8Uy2i7/providernetwork>

IFSP ListServ- https://visitor.r20.constantcontact.com/manage/optin?v=001NS8xgn0k-e1BuXO55PsJubloM38XQzLESzaljV7GR7HZXTvUu3YNaADZjNA7pQGuCodps1dgeyllxPz6rSO6bnJ_hIPS_cw8qcVa0rz7ZeMZrEdNfnnCMG5sOGpaCzzCPUKE4ZHhMS1_NfhXfxd_zW6RrduzeSX

Additional Training Options (not provided by DBHDS)

Health Advocacy Training CHAT- <https://cdl.partnership.vcu.edu/health-advocacy-training-chat/>

Healthy Relationships LEAP- <https://cdl.partnership.vcu.edu/healthy-relationships-leap/>

Person Centered Thinking- <https://partnership.vcu.edu/PCT/trainingschedule.html>