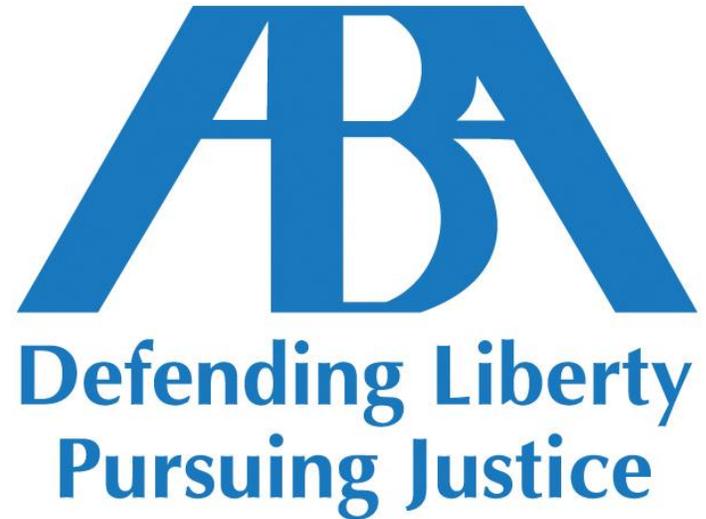


Dari Pogach
Commission on Law and Aging
American Bar Association
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- One of the world's largest voluntary professional organizations
- Over 400,000 members and more than 3,500 entities.
- Committed to serving our members, improving the legal profession, eliminating bias and enhancing diversity, and advancing the rule of law throughout the United States and around the world.

- A collaborative and interdisciplinary entity that works to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of aging persons.
- The Commission accomplishes its work through policy development, advocacy, education, training, and through assistance to lawyers, bar associations, and other groups working on issues of aging.



Our Work

- Elder Abuse
- Healthcare Decision-Making
- Capacity Assessment
- Guardianship Reform
- Supported Decision-Making
 - Practical Tool
 - WINGS Grant
 - Representative Payee

ABA Representative Payee Policy

Before February 2018 ABA policy limited to:

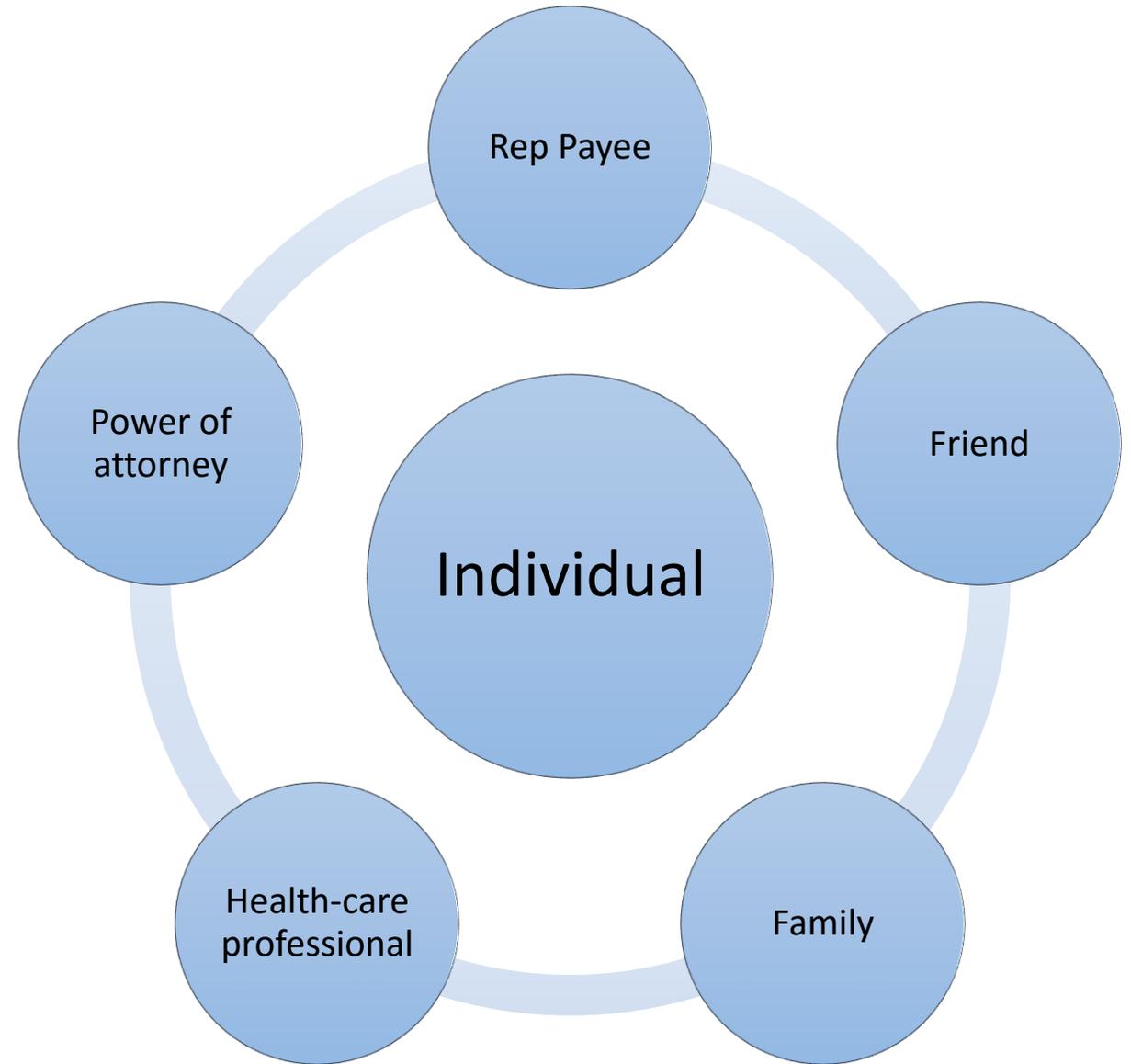
- organizational payees
- coordination between courts and representative payee program.

February 2018, Resolution 104

RESOLVED, That the American Bar Association urges Congress and the Social Security Administration to strengthen the safeguards and protections for all individuals receiving benefits via the representative payee program, including, but not limited to,

appropriate eligibility determinations, improved monitoring and training of payees, access to accounting for beneficiaries, and the appointment of an interim payee when a payee is removed.

Supported Decision- Making



Supported Decision- Making

“Supports and services that help an adult with a disability make his or her own decisions, by using friends, family members, professionals, and other people he or she trusts to:

- Help understand issues and choices
- Ask questions
- Receive explanations in ways can understand
- Communicate decision to others.”

(National Resource Center for Supported Decision-Making)

More on Supported Decision-Making

- Move from *surrogate to support*.
- “*What will it take?*” for person to make decision.
- Everyone needs support – determine what kind.
- Solutions different for each person – “a paradigm” (NRC-SDM).

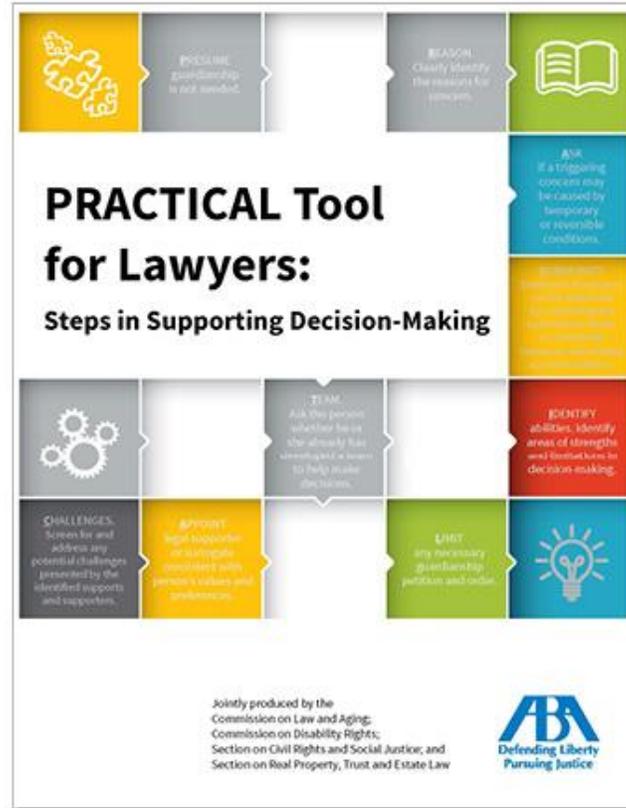
Challenges to Implementation

- Abuse, neglect, exploitation
- Isolation
- Lack of resources – financial and personal
- Legally enforceable?
- Experience and Evidence?

ABA Resolution 113

RESOLVED, That the American Bar Association urges state, territorial, and tribal legislatures to amend their guardianship statutes to require that supported decision-making be identified and fully considered as a less restrictive alternative before guardianship is imposed; and urges courts to consider supported decision-making as a less restrictive alternative to guardianship; and

FURTHER RESOLVED, That the American Bar Association urges state, territorial, and tribal legislatures to amend their guardianship statutes to require that decision-making supports that would meet the individual's needs be identified and fully considered in proceedings for termination of guardianship and restoration of rights; and urges all courts to consider available decision-making supports that would meet the individual's needs as grounds for termination of a guardianship and restoration of rights.



ABA Tool: Steps in Supporting Decision-Making

APPPOINT legal supporter or surrogate consistent with person's values and preferences.

Could any of these appointments meet the needs:

- Agent under health care power of attorney or advance directive
- Health care surrogate under state law
- Agent under financial power of attorney
- Trustee
- Social Security representative payee
- VA fiduciary
- Supporter under representation agreement, legally or informally recognized

Questions?
Comments?

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