



What's the difference between Guardianship and Supported Decision Making in NH?

1) Who makes the decision?

The guardian has the right to make the final decisions about the wards' life

The person with a disability uses support, but ultimately makes the final choice about their own life.

2) What is the role of the court?

All changes have to go through the court.
If there is a problem with a guardian, or if the guardian dies, the court must approve any changes or appointment of new guardians.
The court can replace a guardian with someone else if they think it best, or grant the guardian more powers than they requested.

The person with a disability can change the supporters they use anytime they want without a court process.
They can easily add supporters and get the insights of many people.

3) What are the protections against abuse?

Typically, only one guardian makes all the decisions for one ward.

The court technically oversees the relationship but rarely does so in practice.

An annual report is submitted to the courts by the Guardian.

There will usually be multiple supporters. They may provide support in different areas (i.e., a parent may help with money, while a friend or staff member may help with social decisions); or they may work together to provide support (i.e., two supporters help the person make medical decisions).

The Guardian is required to notify the courts if there is a significant change to the wards life (severe illness requiring hospitalization, move to a different setting, etc)

Having more than one supporter provides a check against abuse or manipulation by any one supporter.

A monitor can also be appointed to oversee the supporters, and is a good idea when finances are included.

4) How are the person's needs assessed?

The abilities and needs of the person with a disability are determined by a judge based on the information provided to the courts at the time of the filing for guardianship.

The court looks at what the person can do by themselves, without any assistance or support. The court assumes that these needs will remain the same over the course of the person's life.

The strengths and needs of a person are discussed by the person and their supporters. The person's abilities are based on what they can do both alone *and with supports*.

The person can modify the supports they need and the supporters who provide these over the course of their life, as they continue to learn and develop decision-making skills.

Adapted from ACLU Disability Rights Program www.aclu.org/disability