

Guardianship and the COVID-19 Vaccine



How should a guardian decide if the person they support should get a vaccine?

A guardian who has the authority to make health care decisions should aid the person in getting a vaccine if it's in their best interests. It is always in a person's best interest to remain free of COVID-19, a serious and possibly fatal disease.

The COVID-19 vaccine is authorized for use by the Food and Drug Administration and has no serious side effects for most people taking it. It is highly effective in preventing COVID-19 altogether, or lessening the effects of this serious, life-threatening disease.

A guardian must balance risks and benefits when deciding what is in the person's best interest. The guardian should consider, and consult with the ward's doctor, about the following:

- Does the person have allergies? If so, to what extent?
- Has the person ever had an allergic reaction to a vaccine before? If so, what vaccine?
- Is the COVID-19 vaccine similar to the one to which there was a reaction?
- Does the ward have any other medical conditions that might make vaccination a higher risk?
- Will the side effects of the vaccine cause the person some danger?
- Is the person extremely afraid of needles or getting shots that would make the vaccine experience even more difficult than the possible contraction of the disease?

The guardian must balance any identified risk from the vaccine or the vaccine experience against the real risk of serious illness or death should the ward contract COVID-19. If after consideration, the guardian answers NO to the risk factors above, vaccination would be in the ward's best interests. If any of these above issues are present, the guardian should definitely discuss them with the ward's doctor to help decide whether the risks outweigh the vaccine's benefits.

Should the wishes of the person be considered when deciding whether to get the person vaccinated?

According to Wisconsin law, the wishes of a person under guardianship, unless against their own interests, are required to be considered and, when possible, honored. A person's request to receive a vaccine that has been authorized by the FDA and is effective should be honored unless there is a specific medical concern. The law says that the guardian needs to "make diligent efforts to identify and honor the individual's preferences." Helping the person get vaccinated, where it is medically appropriate to do so, is part of the law that says that guardians have to promote the person's right to be integrated into the community. During the pandemic, people with disabilities have been isolated and separated from their communities, with terrible consequences for their mental health and well-being. Getting the COVID-19 vaccine is a way to allow people to return to their community life.

Are there consequences if I do not let the person get vaccinated because it goes against my personal beliefs?

If it is medically appropriate, it is in the person's best interest to be vaccinated. If a guardian does prohibit or block a person from receiving the vaccine, it could cause the guardian's conduct to be reviewed, which could result in the guardian being removed by the court.

If a guardian fails to make arrangements to have the ward vaccinated based on a guardian's personal beliefs, it could be seen as neglecting the person's medical needs. Neglect of the person's medical needs and failing to act in the best interest of the ward are both reasons for a court review of the guardian's conduct. Also, ignoring the person's requests on such an important issue could result in a guardian's conduct being reviewed by a court and could be grounds for removal.

Where in the statute does it talk about a guardian's role in healthcare decisions?

Wisconsin Statute §54.25 outlines the duties and powers of guardian of the person. Specifically, 54.25(2)(d) outlines guardian's authority to exercise certain powers, including powers regarding medical treatment. You can read the statute here:

<https://docs.legis.wisconsin.gov/statutes/statutes/54/iii/25?view=section>

Wis. Stats §54.68 outlines reasons for review and removal of a guardian. Specifically, §54.68(2)(c) and (g) and §54.68(4)(d) outlines review and removal for neglect of medical needs. You can read the statute here:

<https://docs.legis.wisconsin.gov/statutes/statutes/54/v/68>