



Celebrating 75 Years of Brilliance

Honoring Our Legacy &
Embracing Our Future

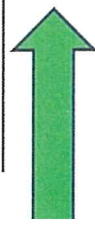
The Arc of Illinois 75th Annual Convention
April 22 - 23, 2025

Marriott Hotel in Bloomington-Normal, 201 Broadway Ave. Normal, IL 61761 . Parking garage across the street,

TUESDAY, APRIL 22, 2025 □ 4:15 – 5:00 p.m. □ Breakout Session #12

Attorneys & Fellow Family Members, Brian Rubin & Benji Rubin
“Special Needs Trusts, ABLE Accounts, Letters of Intent, and Related Topics”

Attorney Brian Rubin, a parent, and Attorney Benji Rubin, a sibling, of Mitchell Rubin who has Autism, will explain the basics of special needs’ planning, including special needs trusts, ABLE accounts, selecting the future team of trustees and guardians, impact of divorce and law-suit settlements, educating the extended family, letters of intent, and many related topics.



WEDNESDAY, APRIL 23, 2025 □ 10:30 – 11:15 a.m. □ Breakout Session #17

Attorneys & Fellow Family Members, Brian Rubin & Benji Rubin
“Guardianship & the Many Alternatives to Guardianship”

Attorney Brian Rubin, a parent, and Attorney Benji Rubin, a sibling, of Mitchell Rubin who has Autism, will present, will explain Guardianship (Limited and Plenary), and the alternatives, including Supported Decision Making, Powers of Attorney, and related matters.

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Corporation

Special Needs Legal & Future Planning

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866.TO.RUBIN

"Legal and future planning for our fellow families of individuals with special needs, including intellectual disabilities, developmental disabilities, and/or mental illness, is not one thing we do, it's the only thing we do; it's not one area of our practice, it's our only area of practice."



Benji Rubin

Past-President

S.I.B.S.

Supporting **I**llinois **B**rothers & **S**isters
Illinois Chapter of the national Sibling
Leadership Network

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OPTION #1

Do nothing?

Actually...

If NO "CAPACITY"

FOR MEDICAL DECISIONS...

THEN 

GENERA
SNA
Produced 2017/2018

RUBIN
LAW
A Connecticut
Attorney at Law
in Stamford, CT

22

Illinois
Health Care
Surrogate Act
(IF NO decisional capacity)

RUBIN
LAW, P.C.
Illinois Health Care Surrogate Act

23

[illegible]

24

OPTION #2
IF **DO HAVE**
“Decisional Capacity”
then...



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Associates

25

Supported Decision Making

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SUPPORTED DECISION MAKING?
ILLINOIS PUBLIC ACT 102-0614 - EFFECTIVE 2/27/2022 (755 ILCS 9/1)

1. Authorizes the creation of supported decision-making agreements
2. Allows a "supporter" to assist a "principal"....
3. **WHO HAS AN INTELLECTUAL OR DEVELOPMENTAL DISABILITY**....
4. **WHO HAS DECISIONAL CAPACITY**: "in assessing, collecting, or obtaining information that is relevant to a decision authorized under the supported decision-making agreement." I know, "CLEAR AS MUD!"
3. Provides a form.
4. Principal may revoke at any time.
5. **CANNOT MAKE DECISIONS** for principal.
6. **IF NO** decisional capacity then **guardianship is what is needed.**

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OPTION #3
AGAIN, IF *DO HAVE*
Decisional Capacity
then... 

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Powers of Attorney
(IF have decisional capacity)

29

\$ FINANCIAL \$
1987
Print? Mark? Stamp?
Direct others to sign?

30

Example **additional Powers**, when appropriate... **1987 to 2025**

- IRS
- Residential
- Employment matters
- Funding/establishing self settled (d44/C)
- SNTs & ABLE Accounts
- HIPAA release
- UID/PW
- Copies
- **AND MUCH MORE...**

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1987, 2011 & several revisions thereafter...
HEALTH CARE
Print? Mark? Stamp?
Direct others to sign?
1987 was 1 page
2025 Now 7 pages

32

This is the SSA Form 1632-ED (Special ED-2007), titled "DELEGATION OF RIGHTS TO MAKE EDUCATIONAL DECISIONS Illinois Statute 105 ILCS 5/14-6.10". It includes fields for the individual's name, date of birth, and signature. The form is designed for individuals with intellectual disabilities to authorize a representative to make educational decisions on their behalf. It features the SSA logo and the text "Print? Mark? Stamp? Direct others to sign?".

33

This is a form titled "MENTAL HEALTH" with the subtitle "Print? Mark? Stamp? Direct others to sign? 5 PAGE FORM". It includes fields for the individual's name, date of birth, and signature. The form is designed for individuals with mental health conditions to authorize a representative to make decisions on their behalf. It features the SSA logo and the text "Print? Mark? Stamp? Direct others to sign?".

34

This is the SSA Form 1632-ED (Special ED-2007), titled "DELEGATION OF RIGHTS TO MAKE EDUCATIONAL DECISIONS Illinois Statute 105 ILCS 5/14-6.10". It includes fields for the individual's name, date of birth, and signature. The form is designed for individuals with intellectual disabilities to authorize a representative to make educational decisions on their behalf. It features the SSA logo and the text "Print? Mark? Stamp? Direct others to sign?".

35

This is a form titled "THE STATE DHS/HFS" with the subtitle "Print? Mark? Stamp? Direct others to sign?". It includes fields for the individual's name, date of birth, and signature. The form is designed for individuals to authorize a representative to make decisions on their behalf. It features the SSA logo and the text "Print? Mark? Stamp? Direct others to sign?".

36

This is a form titled "What if he/she:" with the subtitle "Print? Mark? Stamp? Direct others to sign?". It includes fields for the individual's name, date of birth, and signature. The form is designed for individuals to authorize a representative to make decisions on their behalf. It features the SSA logo and the text "Print? Mark? Stamp? Direct others to sign?".

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This is a form titled "AND WHAT IF he/she DOES HAVE CAPACITY to 'sign' BUT He/She terminates/voids the PA as soon as... when...? AND... Doesn't prohibit him/her from... Remains vulnerable?". It includes fields for the individual's name, date of birth, and signature. The form is designed for individuals to authorize a representative to make decisions on their behalf. It features the SSA logo and the text "Print? Mark? Stamp? Direct others to sign?".

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That is, will Powers be enough?

- What if he/she is on computer buying things with mom's credit card.
- What if he/she refuses to have parents at IEP/504/ISP meeting, or is "tricked".
- What if he/she is being asked to sign ___ ?

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If he/she can't, or **WON'T SIGN** DPAs... **AND/OR** if you determined that SDM, DPAs, or HCSA, are simply **NOT ENOUGH** to assist and/or protect him/her...

THEN, MAYBE... JUST MAYBE, "some form" of GUARDIANSHIP would be appropriate to help, and to protect him/her, from himself/herself, and from others...

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40

OPTION # 4

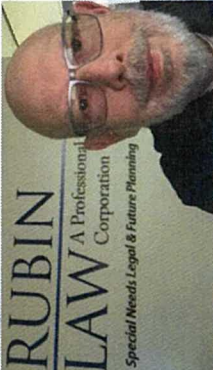
Guardianship...

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BACK TO DAD

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The Guardianship Law!

755 ILCS 5/11a

Going to court to take away someone's rights

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GUARDIANSHIP

- Independence vs. Protection?
- **Guardian Liability Concern? Stay tuned @...**
- Court... Law Suit... Venue - County where individual resides (Not where petitioners reside)...
- Report - Illinois M.D., **IF IDD can be a clinical psychologist licensed under the Clinical Psychologist Licensing Act.**
- Summons (14 days)
- Who can be appointed (U.S. Resident)
- Required notices

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GUARDIANSHIP

- When can do it ?
- Person vs. Estate \$\$\$\$?
- Residential Placement ?
- Sterilization
- Annual Reports ? On Line... E-File!

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**NO MORE MAILING
ANNUAL REPORTS**
or even hand delivering!
**MUST NOW
E-FILE AS OF 1/1/18**

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GUARDIANSHIP

- Move out of State
- Move out of County
- Why some parents/siblings decline due to possible liability or?
- Then what?
- State (vs County) Guardian/Private?
- DayOne Pact...

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Co-Guardians ?

- Law ?
- Agencies ?
- M.D.s/Hospitals?

STANLEY SNA
SNA
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"When considering appointing co-guardians, the court shall consider the proposed co-guardians' history of cooperating and working together on behalf of the person with a disability. The court shall appoint only co-guardians who agree to serve together."

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NO DRIVER'S LICENSE IF PLEINARY GUARDIANSHIP

Illinois State Law (755 ILCS 5/1a-25) requires the probate court to notify the Secretary of State's Driver Services Department when a person is adjudicated to be a person with a disability and a plenary guardian is appointed, no later than 7 days after the entry of the probate court order.

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When the Secretary of State receives the required notification from the probate court, this office is **not** required to issue a new Code to the Secretary of State. **Section 5** of that law, which provides that the Secretary of State shall not issue, renew, or allow the retention of any driver's license, **does not** issue any permit under this Code to any person, as a driver, who has previously been adjudged to be afflicted with or suffering from any mental disability.

Beware, the law!

Even if DMV, will **NOT** IF PL **needed!**

REQUEST FORM # 8

51

Why/When Limited Guardianship?

- ✓ Needs Guardian, **but** won't cooperate? Consider "**limited**" ...
- ✓ Liability concerns of Guardian candidates? Consider "**limited**" ...
- ✓ He/she will be "driving"? **MUST** only have "**limited**", **NOT** plenary!

52

- Use Short Term Guardian Declaration to delegate to Co... or Cos to a 3rd party?

53

(755 ILCS 5/11a-18.3)

Duties of short-term Guardian of a disabled person

(a) ... The short-term guardian of the person shall have authority to act on behalf of the person for the **90 days in any 12 month period for all short-term guardians appointed by the guardian.**

(b) ... **not have any authority to act as guardian of the estate ...**

(Source: P. A. 90-796, eff. 12-15-98.)

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REQUIRED TRAINING!

ILLINOIS LAW - Public Act 100-483

Effective September 8, 2018

REQUIRED TRAINING FOR GUARDIANS... even for parents

- Required Training
- outlines the duties and responsibilities of guardians...
- at no cost, and **MUST**
- File with courts certificate of completion within one year

The court, may, for "good cause", require, upon application...

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SAC - Office of State Guardian

Guardianship Training

Click here to take the Guardianship training that will provide you with a certificate that you can file with the court; to obtain the certificate and take the training you will need to register with an email address: <https://enrnet.illinois.gov/guardship>

Click here if you would like to view the training without registering; you will not be provided a certificate: <https://enrnet.illinois.gov/page.aspx?item=115288&review=1>

Click here for a list of disability related resources: <https://enrnet.illinois.gov/page.aspx?item=116089>

Guardianship Training Link:

<https://www2.illinois.gov/sites/jac/JOSGPages/Guardianship-Training.aspx>

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[illegible]

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You need to write it ALL down!

Guidance & Instructions For
Future Guardians, Agents,
Trustees, & Care Providers

AKA Letter of Intent...



MEMBER
SNA
SOCIETY OF NARRATIVE ARTISTS

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**Request
Form
Item # 2**

**Fillable PDF Form
& Articles on Topic**

ALSO ON RUBIN LAW WEB SITE:

<https://www.rubinlaw.com/wp-content/uploads/2018/10/Letter-of-Intent.pdf>

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In EP Magazine
February 2001
Brain Rubs

In EP Magazine
Special Needs
Jan/Feb 2004
Brain Rubs

In Parenting
Special Needs
Jan/Feb 2004
Brain Rubs

In Meet Life
Agent/Braker
Newsletters
Edithan 4 2003
Brain Rubs

Running START
A 10-Week Program for Parents
of Children with Special Needs

From The Center
Magilla

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BRUNER
NSA
The National Security Agency

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[illegible]

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QUESTIONS

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**NO travel needed...
consultations and
document signing,
ALL virtual, via
zoom, now
permitted in
accordance with
new Illinois laws...**

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**LEGAL AND FUTURE PLANNING FOR OUR FELLOW DISABLED FAMILIES OF IN-
DIVIDUALS WITH SPECIAL NEEDS, INCLUDING INTELLECTUAL DISABILITIES,
DEVELOPMENTAL DISABILITIES, PHYSICAL DISABILITIES, AND/OR MENTAL
ILLNESS, IS OUR TOP PRIORITY. IT'S THE ONLY THING WE DO. IT'S
THE ONLY AREA OF OUR PRACTICE. IT'S OUR ONLY AREA OF EXPERTISE.**

Robert M. Rubin - President of Rubin & Associates, P.C.
Robert M. Rubin - President of Rubin & Associates, P.C.

Rubenstein & Rubin, P.C.

WHAT WE DO....

- * Special Needs Trusts
- * Government Benefits
- * Guardianships
- * Supported Decision Making & Powers of Attorney
- * Estate/Estate Tax Planning
- * Wills & Trusts
- * Estate Administration
- * Letters of Intent
- * Navigating the Illinois “MAZE” of Services
- * Consulting on Litigation Settlements
- * Consulting on Special Needs Family Divorces

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& document
signing, ALL
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“Legal and future planning for our fellow families of individuals with special needs, including intellectual disabilities, developmental disabilities, and/or mental illness, is not one thing we do, it is the only thing we do; it is not one area of our law practice, it is our only area of practice.”

**Brian Rubin, parent and attorney
Benjamin Rubin, sibling and attorney**

Brian N. Rubin

Attorney Brian Rubin, the founder of Rubin Law, a former IRS Agent, and former IRS Attorney, is the parent of three children, one of whom, Mitchell, has Autism. Brian's law practice, for more than four decades, since 1982, when Mitchell was one year old, has been dedicated to serving the legal and future planning needs of his fellow Illinois families of children and adults with intellectual disabilities, developmental disabilities, and/or mental illness. Brian is Past President of the Special Needs Alliance, the national, non-profit, association of experienced special needs planning attorneys (membership is by invitation only), served on the Special Needs Law Section Steering Committee of the National Academy of Elder Law Attorneys, was a Charter Member of the Academy of Special Needs Planners, and is a Faculty Member and Text Book Author for the Illinois Institute for Continuing Legal Education (IICLE) on the topic of special needs legal and future planning, as well as a Speaker for the American Bar Association and the Illinois State Bar Association on those topics. Brian has been elected as a Fellow of the American College of Trust and Estate Counsel (ACTEC) and has received the highest attorney rating from Martindale-Hubbell, AV® Preeminent™, and AVVO's highest attorney rating of Top Attorney. Brian is Past President of The Arc of Illinois, served on The Arc of Illinois Board for 15 years, is a Past Chairman of the State of Illinois Statewide Advisory Council on Developmental Disabilities, served as Chairman of the State of Illinois Autism Task Force, served as a member of the State of Illinois Guardianship & Advocacy Commission, and served on the State of Illinois Department of Human Services Office of Inspector General Quality Care Board, among many other State of Illinois Committees and Commissions. Brian has been a member of the Board of Directors of Clearbrook (an organization serving more than 8,000 individuals with intellectual and/or developmental disabilities, including his son, Mitchell) since 1989, is a member of the Board of Trustees of Life's Plan, Inc. which serves as Trustee of both Pooled Special Needs Trust and individual Special Needs Trusts, served as Chairman of the Board of the Special Leisure Services Foundation, the foundation supporting the Northwest Suburban Special Recreation Association, served as the founding Chairman of the Board of the Foundation of The Special Education District of Lake County (SEDOL Foundation), served on the Board of KESHET, served on the Advisory Council of Encompass, served on the Board of DayOne Pact, Inc., which serves as Trustee of Special Needs Trusts as well as Guardian for individuals with intellectual disabilities, developmental disabilities and/or mental illness, and served on the Board of Northpointe Resources.

Benjamin A. Rubin

Attorney Benjamin (Benji) Rubin is President of Rubin Law, A Professional Corporation. He first joined in 2010 upon graduation from Law School. Benji graduated from the University of Illinois College of Law, Magna Cum Laude, received his undergraduate degree from Northwestern University, and his Graduate Law Degree, an LLM (Tax), with honors, also from Northwestern University. Benji has been elected as a Fellow of ACTEC (The American College of Trust and Estate Counsel). Benji is a member of the national Board of Directors of the Special Needs Alliance, the national, non-profit, association of experienced special needs planning attorneys (membership is by invitation only), is Vice-Chair of the American Bar Association Elder Law and Special Needs Planning Group, a past chair of the American Bar Association Special Needs Planning Committee, is immediate past president of SIBS (Supporting Illinois Brothers and Sisters), the Illinois chapter of the national Sibling Leadership Network , an organization of adult siblings of individuals with intellectual disabilities, developmental disabilities and/or mental illness. Benji served as a member of the Board of Directors of The Arc of Illinois for 9 years. He also serves on the Board of Directors NSSRA Foundation (Northern Suburban Special Recreation Association) which facilitates and provides year-round recreation programs and services to individuals in Deerfield, Glencoe, Glenview, Highland Park, Kenilworth, Lake Bluff, Northbrook, Northfield, Wilmette, and Winnetka; Highwood and Lake Forest, and Riverwoods. In addition, Benji serves on the Board of Directors of DayOne Pact, which serves as Trustee of Special Needs Trusts as well as Guardian for individuals with intellectual disabilities, developmental disabilities and/or mental illness, serves on the Board of Directors of the Foundation of The Special Education District of Lake County (SEDOL Foundation), served previously on the Advisory Council of Encompass (Encompass in partnership with Jewish Child & Family Services, Jewish United Fund, JVS Chicago, JCC Chicago, Keshet, and The Center for Enriched Living and Center for Independent Futures). Benji is also a Faculty Member for the Illinois Institute for Continuing Legal Education (IICLE) on the topic of special needs planning, as well as a frequent speaker for the American Bar Association and the Illinois State Bar Association on those topics. Benji lives with his wife and four children in Northbrook, Illinois.

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