

Limiting Guardianships and Conservatorships

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Range of Decision-Making Ability

- **No decision-making ability (e.g., in coma)**
- **Can provide opinion or preferences**
- **Can make decision with assistance**
- **Can make decision independently**

Alternatives to Guardianship/Conservatorship

Supported Decision Making Agreement

Individual Choice

- Series of social interventions to assist the individual in understanding and implementing decisions
- The Agreement or Plan is individualized to the person, the needs, and the available support system

Financial

Individual Choice

- Joint Account / Trust
- Power of Attorney

No Choice

- Fiduciary / representative-payee
- Protective arrangement / single transaction (NMSA 45-5-405.1)

Medical

Individual Choice (Uniform Health-Care Decisions Act)

- “Individual Instruction”
- Surrogate for Health Care Decisions
- Power of Attorney for Health Care

Mental Health

Individual Choice (Mental Health Care Treatment Decisions Act)

- “Individual Instruction”
- Power of Attorney for Mental Health Treatment (“Psychiatric Advance Directive”)

PRACTICAL Tool - Limit

LIMIT any necessary guardianship petition and order

If a guardian is needed:

- Limit guardianship to what is absolutely necessary, such as:
 - ❖ Only specific property/financial decisions
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 - ❖ Only specific personal/health care decisions
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- State how guardian will engage and involve person in decision-making
- Develop proposed person-centered plan
- Reassess periodically for modification or restoration of rights

Guardianships & conservatorships...

shall be designed to encourage the development of maximum self reliance and independence of the protected person

- 45-5-301.1
- 45-5-402.1(A)

Importance of Independence for Young Adults

- **Development of new skills**
- **Sense of fulfillment with life**
- **Better specific health outcomes**

Importance of Independence for Older Adults

- **Deter memory loss**
- **Help retain abilities and physical health**
- **Maintain sense of purpose**
- **Foster stronger relationships**
- **Honor dignity**