

**23ND ANNUAL CHRONIC ILLNESS AND DISABILITY CONFERENCE:
TRANSITION FROM PEDIATRIC TO ADULT-BASED CARE**

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**SUPPORTED DECISION MAKING
IN ADULT-BASED CARE.©**

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Disclaimer:

This presentation is informational only.
Nothing in this presentation is intended to
be legal advice.

Alternatives to Guardianship.

- Guardianship is intended for individuals who lack capacity.
- There exist several alternatives to guardianship that may be better suited to the particular circumstances of an individual with *reduced* capacity to make decisions for themselves.
- One alternative is Supported Decision Making.

Guardianship is Not Mandatory.

- It is important to note that the Texas law ***does not require*** Guardianship for incapacitated* individuals.
- Guardianship is ***permitted*** for incapacitated individuals, but is not mandatory.
- Texas law specifically:
 - Encourages alternatives to guardianship; and
 - Obligates the court creating a guardianship to impose the least restrictions on personal autonomy and independence.

* “Incapacitated” is the term used in the Texas Guardianship statute.

Guardianship is Appropriate Only if Alternatives Are Not Appropriate.

- First, assess if the individual has an unmet need that the individual is incapable of meeting for him or her self.
- Second, assess if that need can be met by an alternative to Guardianship.
- Third, if no alternative is appropriate, assess if a Guardianship would meet that need and would be appropriate for the limitation.
- Finally, what scope of Guardianship, if any, is appropriate to the actual limitation and need of the individual?

Supported Decision Making is One of Several Alternatives to Guardianship.

- Supported Decision Making is an **agreement** between the individual and a trusted person selected by the individual to assist in making decisions
- The trusted person supporting the individual does **not make decisions** for the individual – which distinguishes it from the nature of a guardian or an agent.
- Trusted person assists the individual in:
 - Understanding options, responsibilities, and consequences;
 - Collecting and understanding information;
 - Communicating decisions and preferences.

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