

### Alternatives to Guardianship

Guardianship is considered an extreme measure and should be used only when all other less restrictive means to protect a person have been considered and/or tried. There are other options to guardianship if your family member does not match the qualifications for guardianship. These include:

- **A Health Care Surrogate** – applies when the doctor decides your son or daughter is not able to consent to or refuse treatment, but where a guardian has not been appointed by the court.
- **Mental Health Advance Directive** – In case of a degenerative condition that affects brain function, an individual can sign a document gives you the power to make decisions on psychotropic medications, electroconvulsive therapy, and in-patient hospitalizations once they lose capacity. Need two witnesses present who are not relatives or healthcare providers.

### Powers of Attorney vs. Adult Guardianship

A Power of Attorney (PoA) is a written form signed by an adult that grants decision making power to an “agent” – someone authorized to act on the individual’s behalf. The Individual signing the form **MUST** be competent (i.e. have the capacity to make their own decisions) at time power is given, but the PoA can be written to endure through any disability. Once signed, the individual granting power does not need to be incompetent for the agent to act. Types”

- **Power of Attorney for Health Care** – Gives a designated individual (often a parent) the power to allow or withdraw any type of personal care or medical treatment for the disabled adult.
- **Power of Attorney for Property** -- Gives a designated individual (often a parent) the power to makes decisions about the disabled adult’s financial assets.
- **Power of Attorney for Mental Health Treatment** – Gives a designated individual (often a parent) the power to make decision about mental health treatment.

A Power of Attorney is NOT a surrogate or substitute for adult Guardianship. Powers of Attorney are used when a disabled adult still has the capacity (i.e. can still make decisions for themselves), but may not be able to make decisions for themselves in the future (ex: in case of seizures, progressively worsening illness, etc). For transition youth, emergency or temporary guardianship may be more appropriate in some cases.

### Guardianship Limitations

- A guardian acts as the “hands of the court” and needs court authority to act on ward’s behalf. However, the court retains discretion over the manner in which the guardian makes decision about
  1. Residential placement
  2. Marriage and divorce
  3. Contracts
- For health care decision, guardians must have court approval to force the following types of medical treatment:
  1. Pyschotropic medication
  2. Electric Convulsive Therapy
  3. Mental Health Hospitalization
- A guardian may not consent to involuntary admission of a ward to a psychiatric facility. Mental Health Code, which covers both voluntary and involuntary commitment to a mental health facility, is the exclusive governing law.
- Guardians are limited to making decisions as defined by the type of guardianship granted by the court.