Planning Ahead for Aging Care: Guardianship Alternatives

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What is a guardianship?

- Legal creation when someone cannot make or communicate responsible decisions for themselves
    - Full guardianship: Usually involving housing, level of care, and all financial and medical decisions
    - Limited guardianship: A select approach when someone does not need help making all decisions in their life
- It is the most restrictive support model for decision-making
    - This does not make guardianship inherently bad
    - It means that we need to be very thoughtful about who may or may not need a guardianship established

Can guardianship be avoided?

- Yes – a guardianship is not inevitable!
- Lesser restrictive alternatives
- Options can include:
    - Medical Power of Attorney
    - Financial Power of Attorney
    - Payees (Social Security and Veterans Affairs)
    - Trusts
    - Informal Supports

Estate Planning Options: Medical Power of Attorney

- Medical Power of Attorney
  - Can be customized
  - Does not require Court creation
  - Available for FREE on Nebraska's Supreme Court website
  - Agent to make medical decisions when you cannot
    - In the future only

Estate Planning Options: Financial Power of Attorney

- Financial Power of Attorney
    - Does not require Court creation
    - Can be customized
    - Available for FREE on Nebraska’s Supreme Court website
    - Agent to make financial decisions when you cannot
        - In the future or now

Additional Options: Payees

- Social Security Administration
  - Representative Payee can be appointed when someone needs help managing their benefit
- Veterans Affairs
  - Fiduciary Payee can be appointed when someone needs help managing their pension or benefit

➢ Neither option requires Court creation

Additional Options: Trusts

- Trustees manage assets for a beneficiary
- Does not require Court creation
- Example: Protects assets of an aging or vulnerable adult susceptible to financial mismanagement or undue influence

Additional Options: Informal Supports

- Transportation
- Meal delivery
- Medication management
- In-home companion or aide
- Signer on accounts
- Automatic bill pay

Additional Options: Temporary Guardianship Appointments

- Does require Court creation but is for a limited period of time
- Used to address an emergency
- Lasts for 90 days
- Can be extended if the emergency does not immediately abate

Additional Options: Limited Appointments

- Does require Court creation but the authority of the guardian is limited

- Narrowed to addresses a specific need

    - Housing
    - Medical
    - Financial
    - Other

What is the best place to start when comparing options?

- Isolating the exact need or needs of the aging individual
- Comparing the need or needs to all of the available options in meeting that need
- Attempting the lesser restrictive options first
- Only moving to a more restrictive option if necessary

What is the key to success?

- Congratulations – you’ve already moved toward success by being here and watching today!
- Education, education, and more education
- Partnering with specialized advisors

Questions?