



## **GUARDIANSHIP ALTERNATIVES For Care of the Person**

### **Legal Choices**

A *Designation of a Health Care Surrogate* allows a specified individual to make medical decisions for an incapacitated person without additional legal intervention.

A *Living Will* allows the individual's primary care physician to withhold or withdraw life support, but only in the event the individual has been diagnosed with a terminal illness and has less than six months to live. This may not succeed in avoiding legal intervention if family members are conflicted over the life-ending decision.

A *Health Care Proxy* can be appointed to make medical decisions during a single episode of incapacity. This is often a stopgap measure, but will not work well for any long-term incapacity or illness or if no one is willing to step forward and make the necessary decision(s).

A *Guardian Advocate* is appointed to make medical decisions for an individual during a Baker Act proceeding. This IS a legal proceeding, but is terminated upon the individual's recovery from the psychiatric episode.

A *Guardian Advocate* is appointed for a Developmentally Disabled individual through an appointment proceeding as fully described in F.S. §393.12. This proceeding is appropriate for higher-functioning individuals, since the individual must lack some, but not all capacity. It IS a legal proceeding that allows a third party to make some decisions for the person with limited capacity, but is not as intrusive or demeaning as a F.S. §744 proceeding, since there is no "adjudication of incapacity."

### **Using Care Management**

If the individual lacks capacity but there is involved (and non-conflicted) family that has access to the property of the individual, perhaps a guardianship may be avoided with the assistance of a manager.

If there is a Trustee and a primary care physician that is comfortable with the healthcare management of the incapacitated individual without legal oversight, then care management may also be an alternative.

If the client has capacity but is unable to navigate the complex and confusing healthcare and social services arena, then implementation of Advance Directives combined with care management is a terrific way to avoid guardianship in the future.