

# Types of Supported Decision Making



Type	What does it cover?	Who makes decision?	Role of Person	How to Modify or Terminate	Law
<b>Guardianship– Full</b>	All civil legal matters	Guardian(s)	Guardian's discretion unless order is limited	Petitioning of and approval by probate court	NMAC 9.4.21
<b>Guardianship– Person</b>	All matters relating to physical person - healthcare, education, community living, etc.	Guardian(s)	Guardian's discretion unless order is limited	Petitioning of and approval by probate court	NMAC 9.4.21
<b>Guardianship– Estate</b>	All financial matters - including application for and maintenance of public benefits; also known as conservatorship	Guardian(s)	Guardian's discretion unless order is limited	Petitioning of and approval by probate court	NMAC 9.4.21
<b>Power of Attorney</b>	Depends on drafting – but generally utilized for financial, healthcare, and education matters. Power conferred can spring upon date, event, or incapacity of principal	Principal retains decision-making rights unless incapacitated. If capacity is maintained, POA generally only grants another individual to act on one's behalf	Depends on drafting - but principal generally has ability to continue making decisions in covered area unless incapacitated	Can be modified or revoked at any time so long as principal retains capacity. If principal becomes incapacitated, petitioning and approval of probate court is required	NMAC 7.27.6
<b>Health Care Representative</b>	Healthcare decisions - can be durable or springing	Similar to POA - unless incapacitated, generally only grants another individual right to act on one's behalf	Patient has ability to continue making decisions unless incapacitated	Can be modified or revoked at any time so long as patient retains capacity. If patient is incapacitated, petitioning and approval of probate court is required	NMAC 7.27.6

# Types of Supported Decision Making

*continued*



Type	What does it cover?	Who makes decision?	Role of Person	How to Modify or Terminate	Law
<b>Living Will</b>	Future healthcare decisions	Patient/declarant	Patient makes declaration(s) of types of treatments desired and not desired	Patient may revoke at any time by: 1) a signed, dated writing; 2) physical destruction of the declaration by patient or by another in the patient's presence and at her direction; or 3) an oral expression of intent to revoke	NMAC 7.27.6
<b>Representative Payee</b>	Receipt of Social Security Insurance and expenditures for food, shelter, utilities, medical care, and personal needs	Representative payee (in the individual's best interests)	Discretion of representative payee	Request to and approval of Social Security Administration	42 U.S.C. § 1381-1383f
<b>HIPAA Authorization</b>	Any situation in which protected health information may be disclosed	Signor	Can provide consent to release records; can also revoke consent	Notification to holder of records that consent is revoked	45 C.F.R. 164.500 <i>et seq.</i>
<b>Supported Decision Making</b>	Finances, healthcare, education, community living, employment, etc.	Person makes decisions with consultation and/or assistance of supporters	Person retains all decision-making authority not otherwise delegated	Person has authority to modify or terminate SDMA	