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Safe and Legal: Criteria for a Viable Supported Decision-Making Agreement

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Supported decision-making (SDM) is being promoted internationally as an alternative to guardianship. The concept of SDM rests on a philosophy that, with proper supports and services, every person can make his or her own decisions.

Supported decision-making arrangements, and related legal documents such as medical and financial powers of attorney, are being explored by legislators, judges, and professional associations, and discussed at state, national, and international educational conferences. Current literature on the subject generally lacks a sufficient discussion of the risks of SDM, including significant risks in some very sensitive areas of decision-making.

There is a place for private contracts -- which is what SDM agreements and powers of attorney are -- for *some* seniors and *some* people with disabilities . . . **if** they have the capacity to understand the nature and consequences of an agreement when it is signed, **if** there is no undue influence, **if** they have independent legal counsel to review such documents, and **if** implementation of an agreement is effectively monitored by a neutral third party. It is important that any SDM process should aim to minimize the risk of abuse and exploitation.

This presentation explains the components needed for a supported decision-making agreement to be *legal*. It also identifies steps that should be taken to make sure that SDM arrangements are *safe*. When SDM is both *safe* and *legal*, it becomes a potentially viable alternative to guardianship.

For more information on supported decision-making, go to: www.spectruminstitute.org/sdm



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Coleman has been conducting research, writing, and legal services promoting access to justice for people with disabilities involved in adult guardianship proceedings. His most recent project – *Pursuit of Justice* – is a documentary film about guardianship reform advocacy. (www.pursuitofjusticefilm.com)
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