

# MENTAL COMMITMENT VS. GUARDIANSHIP

## - ONE IS NOT LIKE THE OTHER

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## SCENARIO # 1

- **Problem:**
  - The person is mentally ill.
  - They have been in and out of mental facilities on an involuntary basis for years.  
The family has been advised to seek guardianship during this commitment.
- **Goal:**
  - The family wants to cut costs and seek an independent mental exam and required letter so that they can move forward.

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## SCENARIO # 1

- **Issues:**
  - The psychiatrist may not be willing;
  - The psychiatrist may not have the form;
  - The psychiatrist may know that the person will fight this, and he will become a witness; and/or
  - The family does not ever have access to the physician because the mentally ill person sees the family as the enemy.

SLIDE 3

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## SCENARIO # 1

- **Possible solution:**
  - Get the doctor's letter and contact the ad litem for the proposed ward; now committed.
  - Ask if they will present the letter to the psychiatrist and find out if they will present it.
  - Ask the social worker or patient liaison if they will present it to the psychiatrist.
  - If no, then you will be facing a motion for the independent mental exam after filing the guardianship.

SLIDE 4

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## SCENARIO #2

- **Problem:**
  - You decide to become guardian of a mentally ill person so that you can decide that they will be compliant with their medication and commitments may subside.
- **Goal:**
  - You will instruct the personal care home, caregiver, or facility to administer the medication regardless of the wishes of the person. HSC 574.103

## SCENARIO #2

- **Issues:**
  - Medical Care is a right you may be given, but there are few if any places that will apply restraints and inject an unwilling person; or trick them by hiding the medications in food, etc.

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