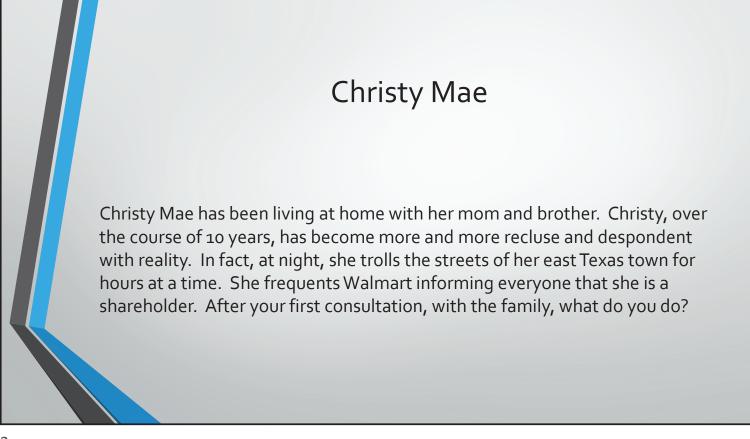
Did I Do That? Understanding Supports and Services and Alternatives to Guardianship

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Harold

Harold has been under guardianship for a period of at least 4 years. He placed under guardianship because he would completely neglect himself and failed to maintain her person and her property. He would stay at home and eat steak and cake while the world around him went on. However, since his stay at an assisted living facility, he has received medication management and feels as though he should be restored to capacity. After your appointed as attorney ad litem, interview your client, and review the request for restoration letter submitted by the guardian, what do you do?

Goals of the Presentation

- Understand legislative history
- Review the statutory provisions that incorporate supports and services and alternatives to guardianship
- Discuss recent cases
- Provide a decision tree for considering and determining feasibility of supports and services and alternatives to guardianship
- Explore example scenarios to engage in decision tree analysis

Policy and Purpose of Guardianship

"A court may appoint a guardian with either full or limited authority over an incapacitated person as indicated by the incapacitated person's <u>actual</u> (emphasis added) mental or physical limitations and only as necessary to promote and protect the well being of the incapacitated person." TEX. EST. CODE § 1101.001(a).

Policy and Purpose of Guardianship (cont.)

"In creating a guardianship that gives a guardian limited authority over an incapacitated person, the court <u>shall</u> design the guardianship <u>to encourage the</u> <u>development or maintenance of maximum self-reliance and independence</u> in the incapacitated person, <u>including by presuming that the incapacitated</u> <u>person retains capacity to make personal decisions regarding the person's residence.</u>"TEX. EST. CODE § 1101.001(b).

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Also available as part of the eCourse <u>Answer Bar: Elder Law and Medicaid Essentials</u>

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