SELF-APPOINTED GUARDIANSHIP[1] ("AUTOCURATELA") IN BRAZILIAN CIVIL LAW

Existential Autonomy and the New Publicity Regime Established by CNJ Provision No. 215/2026

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[1] The Brazilian legal institution of *autocuratela* does not have a perfect equivalent in common law systems. The most accurate functional translation is "self-appointed guardianship" (in the sense of a preventive anticipated declaration of will), while *autointerdição* has been rendered as "self-requested interdiction" to preserve the technical distinction between both figures within the Brazilian civil law framework. The terms CENSEC (Central Notarial Registry of Shared Services), CNJ (National Council of Justice), EPD (Statute of the Person with Disabilities), and STF/STJ (Supreme Federal Court/Superior Court of Justice) have been preserved as proper names of Brazilian institutions.

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Introductory Storytelling: The Foresight that Defies Future Silence

Consider the situation of Helena, a 58-year-old university professor, recently diagnosed with the early stage of a progressive neurodegenerative disease. Fully lucid, she understands the prognosis: within a few years, she will lose the discernment necessary to decide on medical treatments, on the administration of her assets, and even on who will care for her. Helena does not want her sister, with whom she has a troubled relationship, to be designated guardian by the court. She prefers to entrust this mission to a longtime friend, who shares her worldview, knows her religious convictions, and respects her refusal of certain invasive treatments. She then seeks out a notary public and executes a public deed containing, in combined form, a will, provisions regarding her stable union, and detailed directives about her future guardianship - which, in practice, constitutes what is known as a "hybrid deed".

Years later, when the guardianship proceeding is filed, the judge consults the **Central Notarial Registry of Shared Services (CENSEC)**, but because the notarial act was classified primarily as a will and declaration of stable union, the guardianship directives contained therein do not appear in the search. Helena's will, expressed when she still possessed full mental capacity, risks being ignored. This systemic "false negative" reveals the central problem that **CNJ Provision No. 215, of March 3, 2026**, sought to address: how to ensure that the preventive autonomy of the individual - the most refined instrument for the realization of human dignity in the existential sphere - is not frustrated by a merely technical limitation of the notarial indexation system? The answer to this question requires understanding, first, what

autocuratela (self-appointed guardianship) is, and then how the new regulatory framework renders it effectively operative in Brazilian law.

1. Self-Appointed Guardianship as an Expression of Existential Autonomy

1.1. Conceptual Delimitation and Distinction from Self-Requested Interdiction

1.1.1. Context

Following the enactment of the Brazilian Statute of the Person with Disabilities (*Estatuto da Pessoa com Deficiência* - EPD, Law No. 13.146/2015), Brazilian legal scholarship began to identify two distinct legal figures under the generic label *autocuratela*. The first, more accurately termed **self-requested interdiction** (*autointerdição*), refers to the procedural standing granted to the interested party to petition, in court, for the establishment of his or her own guardianship. The second, which is the subject of this study, designates the act by which a person, while still legally capable, establishes future guidelines in case he or she should later be affected by a mentally incapacitating illness. In this second sense, it constitutes an anticipated manifestation of will aimed at binding decisions that will only be executed when the declarant can no longer express them (Cf. Tepedino et al., 2026, p. 446).

It is worth noting that, in foreign legal systems, this figure is known as *autotutela*, an expression that equally conveys the central idea of a preventive mandate intended to ensure that measures concerning the exercise of the mandator's capacity continue to respect his or her rights, will, and preferences, even after the onset of a foreseeable or unforeseeable incapacity, such as that resulting from a degenerative illness (Cf. Madaleno, 2026, p. 1391; Garcia, 2012, p. 22-27).

This distinction is relevant because each modality operates in a different temporal moment and mobilizes distinct legal techniques: self-requested interdiction is a procedural act contemporaneous to the progressive loss of discernment; *autocuratela*, in turn, is a preventive existential legal transaction, executed at a moment of full mental capacity, whose effectiveness is contingent upon the future onset of incapacity. Helena, in the opening example, precisely employs this second modality: she anticipates choices she will not be able to make once the disease has progressed.

1.1.2. Self-Requested Interdiction and Self-Appointed Guardianship: Conceptual, Structural, and Functional Distinction

1.1.2.1. The Terminological Problem: Two Figures Under One Name

After the advent of the Statute of the Person with Disabilities and the transformations it brought to the Brazilian regime of legal capacity, scholars began to use the expression *autocuratela* to designate, indistinctly, two quite different legal realities. This terminological ambiguity, although understandable given the novelty of the institution, generated conceptual confusion that must be dispelled to allow the adequate understanding of each figure and their respective functions within the system.

As the leading scholarship warns, the first of these figures - better designated as **self-requested interdiction** - refers to the procedural standing granted to the interested party to petition, in court, for the establishment of his or her own guardianship. The second, properly designated as **self-appointed guardianship**, consists of the act by which a person, while still fully capable, establishes anticipated guidelines for the case of being affected by a mentally incapacitating illness (Cf. Tepedino et al., 2026, p. 446). Although both relate to the individual's protagonism over his or her own legal destiny, they operate on structurally distinct planes: one is a procedural act contemporaneous with the loss of discernment; the other is a preventive legal transaction, executed at an earlier moment.

1.1.2.2. Self-Requested Interdiction: The Procedural Act of the Interested Party

1.1.2.2.1. Concept and Legal Nature

Self-requested interdiction (also called, by some scholars, *"autocuratela* in the procedural sense") consists of the active standing of the interested party to file a guardianship action against himself or herself. This is a figure of procedural nature, not material: it is not a legal transaction, but rather a petitionary act by which the person, perceiving in himself or herself the beginning of a process of impairment of discernment or functionality, seeks judicial protection for the establishment of a regime of support or substitution in his or her favor.

The legal provision for this figure derives from the joint reading of **art. 747, IV, of the Brazilian Code of Civil Procedure** - which includes the person subject to interdiction himself in the list of those with active standing for the guardianship action - with **art. 1.768, IV, of the Brazilian Civil Code** (a provision remaining from the previous regime, still invoked in practice). The novelty brought by these provisions, in relation to the pre-EPD system, is precisely the recognition that the holder of personality rights may, by himself, initiate the process that will result in the restriction of his own transactional autonomy, provided that he still preserves the minimum discernment necessary to understand the scope of this petition.

1.1.2.2.2. Requirements and Moment of Operation

Self-requested interdiction presupposes that the petitioner, although already experiencing some degree of impairment of his faculties, retains sufficient self-awareness to recognize in himself the onset of the loss of discernment and to manifest, in a rational and conscious manner, the desire to be placed under guardianship. It therefore operates within a specific temporal window: that in which the degenerative process is already perceptible to the subject himself, but has not yet fully compromised his capacity for self-determination.

Consider, for example, a patient diagnosed with early-stage Alzheimer's disease, who perceives progressive memory lapses and increasing difficulties in managing his affairs. He himself, accompanied by his attorney, files a guardianship action against himself, requesting that his wife be designated guardian, before his condition worsens to the point of preventing him from performing such procedural act.

1.1.2.2.3. Function and Purpose

The function of self-requested interdiction is to anticipate judicial protection to the moment when it can still be sought by the interested party himself, preventing the establishment of guardianship from depending exclusively on the initiative of third parties (spouse, partner, relatives, Public Prosecutor's Office). This preserves the dignity of the subject by allowing him, while still capable of doing so, to have an active voice in the process that will culminate in the restriction of his autonomy - including by indicating preferences regarding the person of the guardian, the desired support regime, and the acts he understands should be submitted to substitution.

1.1.2.3. Self-Appointed Guardianship: The Preventive Legal Transaction

1.1.2.3.1. Concept and Legal Nature

Self-appointed guardianship (in its proper sense) is an existential legal transaction by which the person, in the full exercise of his capacity, establishes anticipated guidelines that will govern in the event that he is, in the future, affected by an incapacitating illness. It is a manifestation of will with suspended effectiveness until the verification of the condition consisting of the onset of incapacity - hence its classification as an **anticipated declaration of will** (Cf. Tepedino et al., 2026, p. 446).

Unlike self-requested interdiction, self-appointed guardianship is not a procedural act, but a notarial act (preferably executed by public deed, according to scholarly recommendation and the logic of CNJ Provision No. 215/2026). It operates through the technique of voluntary representation (art. 116, Brazilian Civil Code), and not through judicial petition.

1.1.2.3.2. Requirements and Moment of Operation

Self-appointed guardianship requires that the declarant be in full possession of his mental faculties at the time of executing the act. There must be no sign of psychic impairment - which radically distinguishes this figure from self-requested interdiction. It therefore operates within a distinct temporal window: that in which the person is still fully capable, but foresees, for various reasons (family history of neurodegenerative diseases, early diagnosis, simple existential prudence), the possibility of future incapacity.

Returning to the previous example, consider now a 50-year-old person, with no current symptoms, but whose mother and uncles were affected by Alzheimer's in old age. Concerned about the possibility of one day facing the same condition, she executes a public deed of self-appointed guardianship, designating from the outset whom she wishes to be her guardian, which medical treatments she accepts or refuses, and how she intends her assets to be managed.

1.1.2.3.3. Function and Purpose

The function of self-appointed guardianship is to project into the future the autonomy exercised in the present, ensuring that the declarant's convictions, preferences, and values guide his life even when he can no longer express them. It thus materializes the so-called **right**

to preventive self-determination, an expression of the principle of human dignity in the existential sphere (Cf. Tepedino et al., 2026, p. 446).

1.1.2.4. Distinctive Table: Self-Requested Interdiction and Self-Appointed Guardianship

Criterion	Self-Requested Interdiction	Self-Appointed Guardianship
Legal nature	Procedural act (active standing for the guardianship action).	Existential legal transaction (anticipated declaration of will).
Psychic state of the subject at the time of the act	Onset of impairment of discernment, but with preserved self-awareness and standing to petition.	Full mental capacity and ability for acts of civil life.
Temporal moment of operation	Initial or intermediate phase of the process of loss of discernment.	Period prior to any sign of psychic impairment.
Formal instrument	Initial petition of the guardianship action, filed in court.	Public deed (preferably) executed at a notary office.
Normative basis	Art. 747, IV, Brazilian CPC; art. 1.768, IV, Brazilian Civil Code (remaining provision invoked in practice).	Scholarly construction based on arts. 14, 104, 116, 653, 1.542, 1.774, and 1.775 of the Brazilian Civil Code, in systematic reading with the principle of human dignity and the EPD; extrajudicial regulation by CNJ Provisions No. 206/2025 and No. 215/2026.
Effectiveness	Immediate, from the filing and processing of the action, with the constitutive judgment of guardianship.	Suspended, conditional on the onset of future incapacity.
Primary addressee	Judiciary (court with jurisdiction over the guardianship action).	Future guardianship court, through mandatory consultation with CENSEC (Provision No. 206/2025).
Legal technique employed	Judicial petition; active standing recognized to the interested party.	Voluntary representation; unilateral grant of powers, perfected as a

		bilateral transaction with the acceptance of the appointee.
Possible content	Request for establishment of guardianship; indication of preferences regarding the person of the guardian and the support regime.	Choice of guardian, power of attorney for healthcare, medical directives, mode of asset management, among other existential and patrimonial aspects.
Revocability	May be withdrawn while the proceeding is pending, subject to procedural rules; after the judgment, the regime of lifting guardianship applies (art. 756, Brazilian CPC).	Fully revocable by the declarant, at any time, while maintaining capacity, as it is a unilateral legal transaction regarding the grant of powers.
Participation of the Public Prosecutor's Office	Mandatory, as overseer of the legal order (art. 752, § 1, Brazilian CPC).	Unnecessary at the time of execution; mandatory in the future guardianship action in which self-appointed guardianship will be executed.
Publicity and confidentiality	Proceeding, as a rule, is conducted under judicial secrecy (art. 189, II, Brazilian CPC).	Full certificate restricted to the declarant or by judicial order (art. 110-A, CNN/CN/CNJ-Extra); autonomous indexation in CENSEC (Provision No. 215/2026).
Function in the system	To anticipate judicial protection to the moment when the interested party himself can still request it.	To project the autonomy exercised in the present into future phases of possible incapacity.

1.1.2.5. Contrasting Practical Examples

1.1.2.5.1. Example of Self-Requested Interdiction

Carlos, 68 years old, a retired professor, begins to notice memory lapses, difficulties in managing his bank accounts, and occasional episodes of disorientation. After medical consultation, he receives the diagnosis of early-stage Alzheimer's disease. Aware that, in a few years, he will no longer be able to decide for himself, Carlos seeks an attorney and, still with discernment preserved enough to understand the procedural act he is practicing, files a guardianship action against himself, requesting: (i) the judicial recognition of his condition; (ii) the appointment of his daughter, Ana, as guardian; (iii) the delimitation of the acts of civil life that shall be practiced by her on his behalf. The court, after expert examination and hearing

from the Public Prosecutor's Office, issues a constitutive judgment of guardianship. In this scenario, Carlos performed a procedural act contemporaneous with the onset of the loss of discernment - a typical example of self-requested interdiction.

1.1.2.5.2. Example of Self-Appointed Guardianship

Mariana, 45 years old, an architect, perfectly healthy, witnesses the slow cognitive decline of her mother, affected by frontotemporal dementia. Fearful that the same condition may affect her in the future, she seeks a notary office and executes a public deed of self-appointed guardianship, providing: (i) that, should she lose discernment, her friend Beatriz shall be appointed guardian, disregarding the legal order of art. 1.775 of the Brazilian Civil Code; (ii) that she refuses, from now on, extraordinary medical treatments in case of irreversible vegetative state; (iii) that her assets shall be managed conservatively, favoring low-risk investments. The deed is registered in CENSEC with specific classification as self-appointed guardianship. Twenty years later, Mariana comes to be affected by a neurodegenerative disease and, in the guardianship action then filed, the court consults CENSEC, locates the deed, and is bound by the provisions contained therein. In this scenario, Mariana performed a preventive legal transaction, at a moment of full mental capacity - a typical example of self-appointed guardianship.

1.1.2.5.3. Example of Combined Figures

Nothing prevents, in practice, the two figures from operating sequentially in relation to the same person. Imagine that Roberto, at age 40, executes a public deed of self-appointed guardianship designating his brother as future guardian and establishing patrimonial and existential guidelines (self-appointed guardianship). Ten years later, upon receiving a diagnosis of multiple sclerosis with progressive cognitive impairment, Roberto - still with preserved discernment - files a guardianship action against himself, requesting the immediate establishment of the guardianship regime and the appointment of his brother, as previously chosen (self-requested interdiction). In the course of the proceeding, the court consults CENSEC, locates the deed of self-appointed guardianship, and integrates it into the evidentiary body, giving it priority over any divergent indications. This scenario illustrates how both figures may operate in functional complementarity, maximizing the protagonism of the person throughout the different phases of his existential trajectory.

1.1.2.6. Logic of the Topic: Self-Requested Interdiction and Self-Appointed Guardianship

The differentiation between the two figures can be understood around three logical axes. The first axis is **temporal**: self-appointed guardianship operates before any sign of psychic impairment, while self-requested interdiction operates during the initial phase of the loss of discernment. The distinction is chronological and reveals the different existential position of the subject in each figure.

The second axis is **structural**: self-appointed guardianship is a legal transaction (substantive law), executed at a notary office and operationalized by the technique of representation; self-requested interdiction is a procedural act (procedural law), practiced in

court through petition. The figures, therefore, mobilize distinct legal categories and produce effects through different mechanisms.

The third axis is **functional**: both materialize the principle of human dignity and the right to self-determination, but do so through complementary paths. Self-appointed guardianship projects the autonomy exercised in the present into a future in which the subject can no longer manifest it; self-requested interdiction ensures that the interested party himself may, while still capable, actively participate in the process that will restrict his autonomy. One protects preventive autonomy; the other protects twilight autonomy. Together, they design a system in which the protagonism of the person over his own legal destiny is preserved throughout the entire temporal arc of the process of eventual loss of capacity.

- ***Synoptic Table***

Topic	Explanation
Self-requested interdiction - concept	Procedural act by which the interested party himself files a guardianship action against himself, exercising active standing recognized by art. 747, IV, of the Brazilian CPC.
Self-appointed guardianship - concept	Existential legal transaction by which the fully capable person establishes anticipated guidelines for the event of future incapacity, with suspended effectiveness until the verification of the condition.
Distinction as to nature	Self-requested interdiction: procedural act of public law. Self-appointed guardianship: legal transaction of private law.
Distinction as to psychic state	Self-requested interdiction: onset of impairment, but with preserved self-awareness. Self-appointed guardianship: full mental capacity, without any sign of illness.
Distinction as to the moment	Self-requested interdiction: twilight window (onset of loss). Self-appointed guardianship: preventive window (prior to any loss).
Distinction as to the instrument	Self-requested interdiction: initial petition filed in court. Self-appointed guardianship: public deed executed at a notary office.
Distinction as to legal technique	Self-requested interdiction: procedural petition. Self-appointed guardianship: voluntary representation (art. 116, Brazilian Civil Code).
Distinction as to effectiveness	Self-requested interdiction: immediate, from the processing and judgment. Self-appointed guardianship: deferred, conditional on the onset of incapacity.

Distinction as to publicity	Self-requested interdiction: proceeding under judicial secrecy (art. 189, II, Brazilian CPC). Self-appointed guardianship: certificate restricted to the declarant or by judicial order; indexation in CENSEC.
Point of convergence	Both materialize the principle of human dignity and the right to self-determination, allowing the person's protagonism over his own legal destiny.
Possibility of combination	The figures may operate sequentially: self-appointed guardianship executed in the present and, subsequently, self-requested interdiction filed by the subject himself, still with preserved discernment.
Binding effect on the court	Both the preferences manifested in self-requested interdiction and the directives contained in self-appointed guardianship bind the court, prevailing over the list of art. 1.775 of the Brazilian Civil Code.
Normative basis of self-requested interdiction	Art. 747, IV, Brazilian CPC; art. 1.768, IV, Brazilian Civil Code (remaining); art. 752 et seq. of the Brazilian CPC (procedure).
Normative basis of self-appointed guardianship	Arts. 14, 104, 116, 653, 1.542, 1.774, and 1.775 of the Brazilian Civil Code; EPD (Law No. 13.146/2015); CNJ Provisions No. 206/2025 and No. 215/2026.

1.2. Axiological Foundation: Dignity, Autonomy, and Preventive Self-Determination

The backdrop of this figure is the **principle of human dignity** materialized through existential autonomy. Based on the guidelines inaugurated by the EPD, the understanding has consolidated that the person must be the protagonist of decisions about his or her own life in all phases of existence, including those in which he or she subsequently loses the capacity to express himself or herself. Effectiveness is thereby given to previously declared wishes, so that they may produce effects at the moment when their author can no longer express them, configuring a true existential legal transaction (Cf. Tepedino et al., 2026, p. 446).

The recognition of this figure is anchored in what can be called the **right to preventive self-determination**: the legal order protects the will expressed in the past and projected into the future, understanding that it integrates the continuous process of construction of personhood. Such protection ensures the subject's control over his or her existential trajectory before discernment is compromised, even if, at the moment of execution of the act, the declarant is no longer in a position to reiterate or revoke that choice.

1.3. Systematic Anchoring: The Admissibility of Transactions with Post Mortem and Post Capacitatem Effectiveness

The admissibility of self-appointed guardianship finds support in a systematic interpretation of the Brazilian legal order, which traditionally recognizes the validity of legal transactions with deferred effectiveness. The will, on the one hand, and the donation of organs and tissues regulated by Law No. 9.434/1997, on the other, exemplify transactions with *post mortem* effectiveness. In the case of organ donation, a joint reading with art. 14 of the Brazilian Civil Code reveals that the choice belongs primarily to the holder, with the family manifestation reserved for a merely supplementary function when the holder has remained silent (Cf. Tepedino et al., 2026, p. 446).

From these provisions, in the absence of express provision on self-appointed guardianship, one can extract the legislative concern to ensure the prevalence of autonomy in existential matters, especially regarding the definition of guidelines concerning one's own body and intended to produce effects in the future. The absence of a specific rule, therefore, does not preclude the recognition of the figure, which is imposed as a logical consequence of the principle of dignity and of the treatment given to analogous situations by the legislator itself.

1.4. Private Autonomy as an Instrument of Existential Construction

Private autonomy plays a structuring role in the composition of the personal sphere, allowing each individual to establish the parameters within which he or she intends to live, in the present and future, according to the values he or she has chosen as his or her own. Manifestations of will projected into the future must be admitted precisely because they translate a particular way of understanding life and the eventual repercussions of disability on it. These choices reflect the existential project constructed by the declarant and must be respected by the pluralist State, which has the duty to embrace the various moral conceptions, especially those of a self-referential nature (Cf. Tepedino et al., 2026, p. 446).

In practical terms, this means, for example, that the person may choose who will be his future guardian, identifying who will best be able to care for him and for his assets. This is an activity that demands a solid relationship of trust, as the declarant will entrust to the appointee what is dearest to him: care for himself, for his assets, and, eventually, for his own body. Helena, returning to the example, exercises precisely this prerogative by designating her friend, and not her sister, as future guardian.

2. Self-Appointed Guardianship as a Legal Transaction: Structure and Technique of Representation

2.1. The Analogical Application of Testamentary Guardianship

The analogical application of the rules of tutorship to guardianship, authorized by art. 1.774 of the Brazilian Civil Code, reinforces the admissibility of self-appointed guardianship. If the legislator recognizes parents - who best know the needs of the minor - as having the

prerogative to appoint a tutor for their child, then with all the more reason must one admit that the person himself, fully capable, may indicate who will assume his guardianship office in case of future incapacity. The will of the person subject to guardianship must be welcomed within the scope of the guardianship action, valuing his active participation in the proceeding: the choice of guardian must consider the will and preferences of the person subject to interdiction, as well as the aptitude of the chosen one to promote his family, social, and professional insertion (Cf. Tepedino et al., 2026, p. 446).

If this participation is relevant during the proceeding - when psychic impairment and functional deficit can already be identified - with greater reason must it be safeguarded when manifested previously, in a period of full mental capacity.

2.2. Representation as an Operative Technique

Self-appointed guardianship operates through the technique of **representation**, disciplined autonomously in the current Brazilian Civil Code. To represent means to act in the name and interest of another, with the effects of the act performed being attributed directly to the legal sphere of the represented party. In voluntary representation, the grant of powers configures a unilateral manifestation of will - as in a power of attorney - and not an autonomous contractual species (Cf. Tepedino et al., 2026, p. 446).

Art. 116 of the Brazilian Civil Code affirms the binding effect on the represented party of the effects of the act performed by the representative, exactly the purpose pursued by the anticipated declaration of will for the event of future incapacity. Voluntary representation, moreover, is not limited to patrimonial situations - so much so that art. 1.542 of the Brazilian Civil Code admits the celebration of marriage by proxy - and thus lends itself also to the exercise of existential acts.

2.3. Bilateral Nature of the Transaction and Acceptance of the Office

Regarding anticipated declarations of will for the event of future incapacity, this is a bilateral legal transaction concluded by representative. Representation, granted by unilateral manifestation of the declarant, constitutes the technique suited to carrying out the intended functions, with the existential transaction being perfected when the appointee accepts the office. No obligation of acceptance falls upon the person to whom the powers are directed; however, once the office is accepted - expressly or tacitly - the representative is bound to the bilateral existential transaction and is obliged to execute the functions entrusted to him (Cf. Tepedino et al., 2026, p. 446).

For the practice of existential acts, the powers must be clear and delimited, so that the representative knows with precision the scope of his action and the space of his deliberations. This becomes even more relevant when the grantor limits himself to establishing general guidelines, leaving specific decisions to the representative - such as, for example, choices about medical treatment, in case the deed contains a power of attorney for healthcare. This requirement dialogues, moreover, with modern bioethical guidelines, which condition the legitimacy of medical treatment on the free and informed consent of the patient.

This structure leads scholarship to qualify self-appointed guardianship as a true **power of attorney subject to a suspensive condition**, since the granted powers will only produce effects when - and if - the mandator comes to lose the capacity to manage his own person and assets. The technique thus allows for a flexible architecture: it is possible, for example, for the declarant to designate one guardian for personal matters (healthcare) and another for patrimonial matters, distributing the offices according to the aptitude and trust placed in each appointee (Cf. Dias, 2016, p. 676; Coelho, 2016, p. 80, *apud* Madaleno, 2026, p. 1391).

2.4. Binding Effect on the Judge and Priority over the Legal List

Once incapacity is configured and guardianship is established, the prior choice of the declarant binds the magistrate and has priority over the list of those legally entitled provided for in art. 1.775 of the Brazilian Civil Code. This conclusion results from analogy with testamentary tutorship, which prevails over legitimate tutorship, under the premise, already mentioned, that no one better than the interested party himself is able to identify who, according to his convictions, will be able to care for his person and his assets (Cf. Tepedino et al., 2026, p. 446).

It should be noted, however, that this binding effect is not absolute. The declarant's manifestation does not, by itself, prevent the establishment of the guardianship proceeding, nor does it impose on the court the automatic appointment of the indicated person, especially in contentious procedures. It is admitted, therefore, the reasoned denial of the name indicated in the self-appointed guardianship, through motivated decision always oriented to the best interest of the ward - for example, in hypotheses of supervening conflict of interests, incapacity of the appointee himself, or any circumstance that compromises the aptitude of the chosen one for the exercise of the office (Cf. Madaleno, 2026, p. 1391).

2.5. Validity Requirements: The Plane of Art. 104 of the Brazilian Civil Code

On the plane of validity, the requirements of **art. 104 of the Brazilian Civil Code** must be observed. The declarant must be able to understand and manifest his will, comprehending the entirety of the decision, whose effects remain suspended until the verification of the suspensive condition consisting of supervening incapacity. The object of the transaction may encompass both existential and patrimonial aspects: choice of guardian, power of attorney for healthcare, guidelines on admitted or refused medical treatments, mode of asset management, among others (Cf. Tepedino et al., 2026, p. 446).

2.6. Recommended Form: The Public Deed

As for the form, art. 653 of the Brazilian Civil Code does not require specific solemnity for the power of attorney. Even so, for reasons of legal certainty, it is recommended that it be drawn up in writing and, preferably, by **public instrument**. Since the purpose of the act is the production of effects at a future moment - precisely when the declarant will no longer be able to confirm his will - it is advisable to ensure, with maximum evidentiary robustness, the mental capacity and freedom of manifestation at the time of execution. The public faith of the notary, in this context, drastically reduces the risk of invalidation of the act (Cf. Tepedino et al., 2026, p. 446).

3. From CNJ Provision No. 206/2025 to Provision No. 215/2026: The Architecture of Publicity and Indexation

3.1. Provision No. 206/2025: The Duty to Consult CENSEC

With the purpose of granting practical effectiveness to deeds of self-appointed guardianship, the **National Council of Justice (CNJ)** issued Provision No. 206/2025, which inserted into the National Code of Norms of the Extrajudicial Forum the obligation for the magistrate, in interdiction proceedings, to consult the **Central Notarial Registry of Shared Services (CENSEC)** to verify the existence of a deed of self-appointed guardianship. In parallel, it was established that the full certificate of such acts could only be provided to the declarant himself or by judicial order, safeguarding privacy and removing the document from the sphere of public consultation (Cf. Tepedino et al., 2026, p. 446).

3.2. The Problem of "False Negatives" in Hybrid Deeds

The operationalization of Provision No. 206/2025, however, revealed a relevant fragility. According to a manifestation of the Notarial College of Brazil - Federal Council in case records SEI No. 15319/2025, the search in CENSEC limited to exclusive deeds of self-appointed guardianship produced **"false negative"** results: whenever guardianship directives were inserted as clauses in deeds of another principal nature - the so-called **hybrid deeds**, such as wills or declarations of stable union - the judicial research did not locate them, hiding from the magistrate provisions validly expressed by the declarant. Helena's case, narrated in the introduction, illustrates precisely this risk.

3.3. The Solution of Provision No. 215/2026: Autonomous Indexation by Data Replication

To address the problem, **Provision No. 215, of March 3, 2026**, modified Provision No. 206/2025 and the National Code of Norms of the Extrajudicial Forum, instituting a technical mechanism of autonomous indexation. The solution is inspired, by analogy, by the procedure of transportation of annotations provided for in art. 237-A of Law No. 6.015/1973 (Brazilian Public Records Law), transposed to the electronic notarial environment.

Under the new wording of art. 1 of Provision No. 206/2025, the judicial duty of consultation now encompasses not only deeds of self-appointed guardianship and declaratory deeds that convey guardianship directives, but also the indexation records referring to them. In parallel, the new art. 110-B of the National Code of Norms establishes that, when self-appointed guardianship is executed jointly with other transactions - or when it concerns the adaptation of previous acts - the Notary must replicate the essential data of the guardianship directive in CENSEC, promoting autonomous registration, specifically classified as self-appointed guardianship.

3.4. Exclusively Indexing Purpose and Preservation of the Original Regime

A point of special importance is that the autonomous registration has an **exclusively indexing purpose**: it is intended only to ensure the location of information in judicial searches, without altering the principal classification of the original deed or its publicity regime. In other words, replication is a technical instrument, and not an autonomous legal act endowed with its own material effects.

This design preserves a central duality of the system: the confidentiality of self-appointed guardianship provisions executed as autonomous and exclusive acts - whose full certificate can only be provided to the declarant or by judicial order, under art. 110-A, *caput* - must not prejudice the registral publicity of acts that, by force of law, are public and produce effects before third parties, such as the will or the declaration of stable union. For this reason, § 2 of art. 110-A expressly sets aside the confidentiality regime of the *caput* in deeds that address self-appointed guardianship jointly with other transactions, reserving, however, the confidentiality regime possibly applicable to any of the other acts.

3.5. Gratuity, Adaptation of Previous Acts, and Disciplinary Responsibility

The new regime is permeated by important guarantees of accessibility. The replication of data and the autonomous registration are carried out **at no additional cost to the parties** (art. 110-B, § 3), in consonance with the principle of effectiveness and with the public duty to enable the realization of existential autonomy. For acts executed before the effectiveness of the Provision that contain mixed provisions, the adaptation in CENSEC may be carried out by the Notary at any time, *ex officio* or upon request of the interested party (art. 110-B, § 4, I and II). In the case of a request, the Notary has a non-extendable period of 5 business days, under penalty of disciplinary responsibility (art. 110-B, § 5).

Still on the plane of transition, the sole paragraph of art. 1 of Provision No. 206/2025, in its new wording, imposes on the interested party or his attorney the duty to inform the court of the existence of self-appointed guardianship deeds executed before the effectiveness of the new Provision, whenever the adaptation of the registration has not yet been provided. The absence of registration in CENSEC, therefore, does not exempt the duty of information, which reinforces the system's commitment to the effective location of the manifestations of will.

3.6. Preference for the Autonomous Execution of Self-Appointed Guardianship

The *caput* of art. 110-B also indicates a **systemic preference** for the execution of self-appointed guardianship as an autonomous act. Such a guideline is consistent with the general regime of confidentiality established in art. 110-A and with the logic of the indexation system itself: the more the act is executed as an exclusive deed of self-appointed guardianship, the less one depends on replication mechanisms for its location. Joint execution, therefore, is admitted but not encouraged - it is reserved for the hypothesis in which practical reasons justify the option for a deed of mixed content.

4. Final Considerations: The Response to Helena's Case

Returning to the initial case: under the regime prior to Provision No. 215/2026, Helena's hybrid deed, although legally valid, ran a serious risk of remaining invisible to the magistrate of the future guardianship action. A legitimate manifestation of autonomy, expressed at a moment of full mental capacity, could be ignored due to a technical limitation of the indexation system - thus frustrating not only an individual choice, but the very principle of dignity that underlies it.

Under the new regime, the situation changes on three complementary planes. On the plane of **location**, the autonomous replication of data ensures that the guardianship directive is identified in judicial searches, regardless of the principal classification of the deed. On the plane of **privacy**, the confidentiality of exclusive self-appointed guardianship deeds is preserved, while in hybrid deeds, the publicity regime proper to the other acts that compose them is respected. And on the plane of **access**, the gratuity of the adaptation and the provision of mechanisms for previous acts - including with disciplinary responsibility of the Notary in case of non-compliance - consolidate a regulatory environment concretely capable of giving effectiveness to previously executed provisions.

The result is a system in which preventive existential autonomy ceases to be merely a scholarly postulate and comes to rely on a registral infrastructure adequate for its realization. Self-appointed guardianship, thus, consolidates itself as the instrument *par excellence* of the protection of preventive self-determination: it allows the holder of personality rights to express himself legitimately even when he can no longer manifest his will, inserting himself into the continuous process of construction of private life and his own identity, under the vectors of dignity, equality, and solidarity. Helena, in the end, finds in the Brazilian legal order the effective conditions for her choice to be heard - and respected - precisely when she can no longer reiterate it.

- **Logic of the Topic: Self-Appointed Guardianship and CNJ Provision No. 215/2026**

The systematic understanding of the topic can be articulated around three logically interconnected axes. The first axis is **axiological**: self-appointed guardianship derives from the principle of human dignity materialized through existential autonomy, recognizing the right to preventive self-determination as a dimension of the free development of personality. It is about allowing the person, while capable, to shape his future trajectory, including for phases of life in which discernment is compromised.

The second axis is **technical-legal**: self-appointed guardianship is operationalized as a bilateral existential legal transaction, which uses the technique of voluntary representation and has its effectiveness conditioned on the onset of incapacity. Observing the requirements of art. 104 of the Brazilian Civil Code, the declarant's choice binds the judge and prevails over the order of preference of art. 1.775 of the Brazilian Civil Code, by analogy with testamentary

tutorship. The public form, although not required, is advisable to strengthen the legal certainty of the act.

The third axis is **regulatory-operational**: the practical effectiveness of self-appointed guardianship depends on its effective location by the magistrate. Provision No. 206/2025 established the judicial duty to consult CENSEC, and Provision No. 215/2026 improved the system by introducing autonomous indexation through data replication, inspired by art. 237-A of Law No. 6.015/1973, solving the problem of "false negatives" of hybrid deeds, preserving the confidentiality regime of exclusive deeds, ensuring gratuity to the user, and disciplinarily holding the defaulting Notary accountable. The logic of the system, in sum, is to articulate existential autonomy (foundation), negotiating technique of representation (means), and effective registral effectiveness (condition of concrete realization).

- ***Synoptic Table***

Topic	Explanation
Self-appointed guardianship (proper sense)	Existential legal transaction by which the person, fully capable, establishes anticipated guidelines for the event of future incapacity, with suspended effectiveness until the verification of that condition.
Self-requested interdiction	Distinct figure, of procedural nature, consisting of the standing of the interested party himself to judicially request his guardianship.
Axiological foundation	Principle of human dignity; existential autonomy; right to preventive self-determination; equality; solidarity.
Systematic anchoring	Admissibility of legal transactions with *post mortem* effectiveness (will; organ donation - Law No. 9.434/1997 combined with art. 14, Brazilian Civil Code), revealing the prevalence of autonomy in existential matters.
Legal technique	Voluntary representation (art. 116, Brazilian Civil Code); grant by unilateral manifestation of the declarant; perfection of the bilateral transaction with the acceptance, express or tacit, of the appointee.
Validity requirements	Plane of art. 104 of the Brazilian Civil Code: capable agent; lawful, possible, determined, or determinable object; prescribed or not prohibited form; full understanding of the act by the declarant.
Possible object	Choice of guardian; power of attorney for healthcare; guidelines on admitted or refused medical treatments; mode of patrimonial management; other existential and patrimonial aspects.

Form	Absence of specific legal requirement (art. 653, Brazilian Civil Code); scholarly recommendation of public deed, due to notarial public faith and evidentiary robustness of the declarant's mental capacity.
Effectiveness before the court	The prior choice of guardian binds the magistrate and prevails over the list of art. 1.775 of the Brazilian Civil Code, by analogy with testamentary tutorship.
CNJ Provision No. 206/2025	Established the duty of the judge to consult CENSEC, in interdiction proceedings, to verify the existence of a deed of self-appointed guardianship; established the confidentiality of the full certificate (restricted to the declarant or by judicial order).
Identified problem	"False negatives" in CENSEC searches when guardianship directives are inserted into hybrid deeds (will, stable union, etc.), with different principal classification.
CNJ Provision No. 215/2026 - Object	Amended Provision No. 206/2025 and the National Code of Norms of the Extrajudicial Forum to discipline the publicity and indexation of deeds of self-appointed guardianship and guardianship directives.
Central mechanism	Replication of essential data of the guardianship directive in CENSEC, with autonomous registration classified as self-appointed guardianship, by analogy with art. 237-A of Law No. 6.015/1973.
Purpose of replication	Exclusively indexing; does not alter the principal classification of the original deed or its publicity regime.
Confidentiality regime	Art. 110-A, *caput*: confidentiality of the full certificate of exclusive deeds of self-appointed guardianship; § 2: removal of confidentiality in hybrid deeds, reserving the regime applicable to the other acts.
Normative preference	Execution of self-appointed guardianship preferably as an autonomous act (art. 110-B, *caput*).
Gratuity	The replication of data and the autonomous registration are carried out at no additional cost to the parties (art. 110-B, § 3).
Previous acts	Adaptation of the registration may be carried out by the Notary at any time, *ex officio* or upon request; non-extendable period of 5 business days in case of request, under penalty of disciplinary responsibility (art. 110-B, §§ 4 and 5).

Duty of information	Interested party or attorney must communicate to the court the existence of deeds prior to the effectiveness of the Provision, if not yet adapted in CENSEC.
Effectiveness of Provision No. 215/2026	From the date of its publication (DJe/CNJ No. 50/2026, of March 5, 2026).

Glossary of Brazilian Legal Terms[3]: Self-Appointed Guardianship (*Autocuratela*) and Related Institutions

A comprehensive guide for international readers

This glossary provides definitions of key Brazilian legal terms and institutions referenced in the study on *autocuratela* (self-appointed guardianship). Given the specificities of the Brazilian civil law system, certain concepts lack direct equivalents in common law jurisdictions; in such cases, functional translations are accompanied by explanatory notes to preserve the conceptual integrity of each institution.

1. Core Institutions of the Topic

Autocuratela (Self-Appointed Guardianship). A Brazilian civil law institution consisting of an existential legal transaction by which a fully capable person establishes, in advance, directives concerning a possible future incapacity. Its effectiveness is suspended until the onset of the incapacitating condition. It typically includes the designation of a future guardian, healthcare directives, and guidelines for asset management. It operates through the technique of voluntary representation and is preferably executed by public deed at a notary office. The institution concretizes the so-called right to preventive self-determination.

Autointerdição (Self-Requested Interdiction). Procedural institution distinct from *autocuratela*, consisting of the active legal standing recognized to the interested party himself or herself to file a guardianship action against himself or herself. It operates during the initial phase of loss of discernment, when the subject still retains sufficient self-awareness to recognize his or her own cognitive impairment and petition the court. It is provided for in art. 747, IV, of the Brazilian Code of Civil Procedure.

Autotutela. Term used in foreign legal systems (notably Spanish law) as an equivalent to *autocuratela*. It designates the preventive mandate by which a person provides, in advance, for

[3] This glossary is intended as a reference tool for the international reader interested in Brazilian civil law, particularly with regard to the institution of self-appointed guardianship and the recent regulatory developments introduced by the CNJ. The definitions are concise and functional, intended to facilitate the understanding of the main text rather than exhaust the dogmatic complexity of each concept.

the measures that will govern the exercise of his or her capacity in the event of future incapacity. In Brazilian terminology, the preferred term is *autocuratela*.

Curatela (Guardianship of Adults). Legal institution of the Brazilian Civil Code by which the court designates a guardian (*curador*) to represent or assist a person whose discernment is compromised by illness or mental impairment. Following the Statute of the Person with Disabilities (Law No. 13.146/2015), Brazilian guardianship became a measure of exception, proportional to the specific needs of the protected person, with preference for models of supported decision-making over full substitution.

Tutela (Tutorship of Minors). Brazilian institution analogous to guardianship, but applicable to minors whose parents have died, are absent, or have lost parental authority. It is governed by arts. 1.728 et seq. of the Brazilian Civil Code. Its rules apply by analogy to adult guardianship (*curatela*), under art. 1.774 of the Civil Code - which, in turn, supports the recognition of *autocuratela* by analogy with testamentary tutorship (*tutela testamentária*).

Tutela Testamentária (Testamentary Tutorship). Modality of tutorship by which parents designate, by will or authentic document, the person who will care for their minor children in case of their death. This institution serves as a systematic analogical foundation for the recognition of *autocuratela*, since, if parents may choose a tutor for their children, with all the more reason may the capable person choose his or her own future guardian.

2. Brazilian Institutions and Bodies

CNJ (Conselho Nacional de Justiça - National Council of Justice). Administrative body of the Brazilian Judiciary, created by Constitutional Amendment No. 45/2004, responsible for the administrative control and financial oversight of Brazilian courts, as well as for the fulfillment of the functional duties of judges. Through its regulatory provisions (*provimentos*), the CNJ standardizes procedures in the Judiciary and in extrajudicial services (notary offices and registries), such as those discussed in this study.

CENSEC (Central Notarial de Serviços Compartilhados - Central Notarial Registry of Shared Services). National electronic system managed by the Notarial College of Brazil that centralizes information on notarial acts such as wills, powers of attorney, stable unions, and - now - self-appointed guardianship deeds. It allows magistrates and authorized parties to verify the existence of such acts throughout the Brazilian territory, ensuring the effectiveness of provisions executed by the holders of rights.

Colégio Notarial do Brasil - Conselho Federal (Notarial College of Brazil - Federal Council). Professional entity that represents Brazilian notaries and manages the CENSEC. It participated actively, through manifestation in case records SEI No. 15319/2025, in the construction of the solution adopted by Provision No. 215/2026 to address the problem of "false negatives" in hybrid deeds.

Ministério Público (Public Prosecutor's Office). Independent institution provided for in art. 127 of the Brazilian Federal Constitution, responsible for defending the legal order, the democratic regime, and unavailable social and individual interests. In guardianship proceedings, its participation is mandatory as overseer of the legal order (*fiscal da ordem jurídica*), under art. 752, § 1, of the Brazilian Code of Civil Procedure.

STF (Supremo Tribunal Federal - Supreme Federal Court). The highest court of the Brazilian Judiciary, responsible primarily for safeguarding the Federal Constitution. It exercises both concentrated constitutional review (abstract control of norms) and diffuse review (in specific cases), and its decisions on constitutional matters have binding effect on the other bodies of the Judiciary and the Public Administration.

STJ (Superior Tribunal de Justiça - Superior Court of Justice). Court responsible for the uniform interpretation of Brazilian federal infraconstitutional law. It hears, among other matters, special appeals (*recursos especiais*) against decisions of regional and state courts that contradict federal law or diverge from the interpretation of other courts. Its precedents play a central role in the consolidation of civil law interpretation.

Tabelião de Notas (Notary Public). Public official delegated by the State to grant public faith to legal acts and transactions entered into by private parties. In Brazil, the notary does not merely certify signatures: he or she drafts public deeds, advises the parties on the legal consequences of their manifestations, and ensures the validity and effectiveness of the acts executed. His or her public faith (*fé pública*) gives the notarized document high evidentiary value.

3. Normative Concepts and Legal Figures

Capacidade Civil (Civil Capacity). In Brazilian civil law, the general aptitude to acquire rights and personally exercise the acts of civil life. The Brazilian system distinguishes between *capacidade de direito* (right-holding capacity, inherent to every person) and *capacidade de fato* (factual capacity, the aptitude to personally exercise acts). The Statute of the Person with Disabilities profoundly altered the regime of incapacities, eliminating absolute civil incapacity based on mental impairment for adults.

Declaração Antecipada de Vontade (Anticipated Declaration of Will). Generic category that encompasses manifestations of will aimed at producing effects at a future moment, when the declarant may no longer be able to express them. It includes *autocuratela*, advance healthcare directives (*diretivas antecipadas de vontade*), organ donation, and the will itself. Its admissibility is supported by the principle of human dignity and by the right to self-determination.

Diretivas Antecipadas de Vontade (Advance Healthcare Directives). Specific modality of anticipated declaration of will, by which the person establishes in advance which medical treatments he or she accepts or refuses, in case of becoming unable to express his or her will.

It is regulated in Brazil by Resolution No. 1.995/2012 of the Federal Council of Medicine. It may be inserted in a deed of *autocuratela* as one of its possible contents.

Dignidade da Pessoa Humana (Human Dignity). Foundational principle of the Brazilian Federal Constitution (art. 1, III), which recognizes every human being as an end in himself or herself, endowed with intrinsic value. In the context of this study, it constitutes the axiological foundation of existential autonomy and of the right to preventive self-determination, justifying the recognition of *autocuratela* even in the absence of express legal provision.

EPD (Estatuto da Pessoa com Deficiência - Statute of the Person with Disabilities). Law No. 13.146, of July 6, 2015, which internalized the UN Convention on the Rights of Persons with Disabilities in Brazil. It profoundly altered the regime of civil incapacities, eliminating adult absolute incapacity based on mental impairment and establishing new models of supported decision-making. It is the main normative framework for the contemporary recognition of *autocuratela*.

Escritura Pública (Public Deed). Formal notarial instrument drafted by the notary public, endowed with public faith and high evidentiary value. It is the recommended form for the execution of deeds of *autocuratela*, as it robustly attests to the mental capacity and freedom of manifestation of the declarant at the time of its execution - an especially important element when dealing with an act whose effects will be produced in the future.

Escritura Híbrida (Hybrid Deed). Expression used to designate the public deed that contains, in a combined manner, provisions of diverse natures - for example, a will, declaration of stable union, and directives of *autocuratela* in a single instrument. Before Provision No. 215/2026, such deeds generated the problem of "false negatives" in searches on the CENSEC, since the principal classification did not reveal the existence of the guardianship directives inserted therein.

Falso-Negativo (False Negative). Technical term used in the context of Provision No. 215/2026 to designate the failure of judicial searches on the CENSEC when guardianship directives, although validly executed, were inserted into deeds classified with another principal nature (will, stable union, etc.) and, therefore, did not appear in searches targeted at *autocuratela*. The autonomous indexation mechanism was precisely the solution adopted to correct this flaw.

Fé Pública (Public Faith). Attribute of public officials - including notaries - by virtue of which their statements regarding acts performed in the exercise of their function enjoy a presumption of veracity. It confers on notarial documents a high evidentiary value, only removable by express judicial declaration of falsity.

Negócio Jurídico (Legal Transaction). Central category of Brazilian civil law (derived from the Germanic tradition), consisting of the manifestation of will aimed at producing legal effects chosen by the parties. It must observe the requirements of art. 104 of the Brazilian Civil Code: capable agent, lawful, possible, determined or determinable object, and prescribed or non-prohibited form. *Autocuratela* is qualified as an existential legal transaction.

Negócio Jurídico Existencial (Existential Legal Transaction). Species of legal transaction whose object concerns aspects of the personality and private life of the declarant, rather than patrimonial interests. It includes choices about the body, medical treatments, the person of the future guardian, and other dimensions of existence. *Autocuratela* is the paradigmatic example, since it combines existential content (care of the person) with patrimonial effects (asset management).

Post Capacitatem (After Capacity). Latin expression used in the study to designate the effectiveness of legal transactions that operate after the loss of capacity of the declarant. It contrasts with *post mortem* effectiveness (after death). *Autocuratela* is a typical example of *post capacitatem* transaction, since its effects are produced precisely when the declarant can no longer manifest his or her will.

Post Mortem (After Death). Latin expression that designates the effectiveness of legal transactions that produce effects after the death of the declarant. The paradigmatic example is the will. In the study, the systematic anchoring of *autocuratela* is partially based on the admissibility of *post mortem* transactions in the Brazilian legal order.

Procuração (Power of Attorney). Instrument by which one person (mandator) grants powers to another (mandatary) to act in his or her name and interest. It is governed by arts. 653 et seq. of the Brazilian Civil Code. In *autocuratela*, the technique of power of attorney subject to a suspensive condition is employed: the powers granted only take effect if and when the declarant loses the capacity to manage his or her own person and assets.

Representação (Representation). Legal technique by which one person acts in the name and interest of another, with the effects of the act being attributed directly to the legal sphere of the represented party. Brazilian law distinguishes between legal representation (imposed by law, as in the case of parental authority) and voluntary representation (arising from a manifestation of will, as in the power of attorney). *Autocuratela* operates through voluntary representation, under art. 116 of the Brazilian Civil Code.

4. Procedural and Registral Concepts

Ação de Curatela (Guardianship Action). Specific judicial procedure, governed by arts. 747 et seq. of the Brazilian Code of Civil Procedure, aimed at the judicial establishment of guardianship. It requires expert examination, hearing of the Public Prosecutor's Office, and personal interview of the person subject to interdiction. It culminates in a constitutive judgment that declares the need for guardianship and designates the guardian.

Cadastro Autônomo (Autonomous Registration). Specific technical mechanism introduced by Provision No. 215/2026, by which the essential data of a guardianship directive contained in a hybrid deed are replicated and registered separately in the CENSEC, with specific classification as *autocuratela*. Its purpose is exclusively indexing, without altering the principal classification of the original deed or its publicity regime.

Certidão de Inteiro Teor (Full Certificate). Document issued by the notary office that reproduces the entire content of the notarial act. In the case of exclusive deeds of *autocuratela*, art. 110-A, *caput*, of the National Code of Norms restricts the issuance of the full certificate to the declarant himself or herself or upon judicial order, safeguarding the privacy of the dispositions.

Código Nacional de Normas do Foro Extrajudicial (National Code of Norms of the Extrajudicial Forum) - CNN/CN/CNJ-Extra. Set of rules issued by the CNJ that standardize the functioning of Brazilian notary offices and registries. It was altered by Provisions No. 206/2025 and No. 215/2026 to include provisions on self-appointed guardianship and the consultation of the CENSEC.

Condição Suspensiva (Suspensive Condition). Future and uncertain event to which the parties subject the effectiveness of a legal transaction. As long as the condition does not occur, the transaction does not produce its typical effects. In *autocuratela*, the suspensive condition is the onset of future incapacity of the declarant - without which the powers granted to the appointed guardian do not come into force.

Indexação Autônoma por Replicação de Dados (Autonomous Indexation by Data Replication). Central technique of Provision No. 215/2026, inspired by the procedure of transportation of annotations in the Brazilian Public Records Law (art. 237-A of Law No. 6.015/1973). It consists of the replication of essential data of the guardianship directive in a specific registration in the CENSEC, ensuring its location in judicial searches even when the directive is inserted into a deed with different principal classification.

Interdição (Interdiction). Traditional term that designates the judicial procedure of establishment of guardianship for legally incapable adults. After the Statute of the Person with Disabilities, the use of the term fell somewhat into disuse in favor of the more neutral expression "guardianship action", although it remains current in legal practice and in the legal text itself (art. 747 of the Brazilian Code of Civil Procedure).

Provimento (Provision / Regulatory Provision). Administrative normative act issued by the CNJ or by the National Corregedoria of Justice, which standardizes procedures of the Judiciary and of extrajudicial services. Provisions are binding on notary offices, registries, and judges within the scope of their regulatory competence. Provisions No. 206/2025 and No. 215/2026 discussed in this study exemplify this normative modality.

Segredo de Justiça (Judicial Secrecy). Regime of restriction of publicity provided for in art. 189 of the Brazilian Code of Civil Procedure, applicable to proceedings that deal with intimate matters or in which the public interest recommends it. Interdiction proceedings are, as a rule, conducted under judicial secrecy, with access restricted to the parties, their attorneys, and the Public Prosecutor's Office.

5. Principles and Doctrinal Categories

Autonomia Privada (Private Autonomy). Principle that recognizes the power of individuals to regulate their legal relations by manifestations of will, within the limits imposed by law and by the general principles of the legal order. In the context of existential matters, private autonomy acquires a particularly protected dimension, as it concerns the very identity and life project of the person.

Autonomia Existencial (Existential Autonomy). Specific dimension of private autonomy applied to matters concerning the personality, life, health, and body of the person. It is directly connected to the principle of human dignity and constitutes the axiological nucleus of institutions such as *autocuratela*, advance healthcare directives, and organ donation.

Autodeterminação Preventiva (Preventive Self-Determination). Right that guarantees the person the capacity to make decisions about his or her own existential trajectory even for future phases in which he or she may no longer be able to manifest his or her will. It is the dogmatic foundation of *autocuratela*, recognizing that the will manifested in the past, when projected into the future, integrates the continuous process of construction of personhood.

Consentimento Livre e Esclarecido (Free and Informed Consent). Bioethical principle by which the legitimacy of medical treatment depends on the express and informed manifestation of will of the patient. It dialogues closely with *autocuratela*, since the deed may contain specific directives on admitted or refused medical treatments, anticipating the informed consent of the declarant for a moment in which he or she may no longer express it.

Direito à Autodeterminação (Right to Self-Determination). Right that integrates the protective content of human dignity and recognizes the person as a protagonist of decisions about his or her own life. It has several dimensions (informative, bodily, existential, patrimonial), and its preventive dimension is the one that specifically supports the institution of *autocuratela*.

Direitos da Personalidade (Personality Rights). Category of subjective rights that protect the essential attributes of the human person, such as life, bodily integrity, honor, image, name, and privacy. They are characterized, as a rule, by their unavailability, imprescriptibility, and non-patrimoniality. *Autocuratela* relates closely to personality rights, since its object includes decisions about the body and the existence of the declarant.

Estado Pluralista (Pluralist State). Conception of the Democratic State of Law that recognizes the legitimacy of diverse moral, religious, and philosophical conceptions coexisting in society. In this model, the State has the duty to respect the individual life choices of the person, especially those of a self-referential nature - foundation that reinforces the admissibility of *autocuratela* as an expression of the particular life project of the declarant.

6. Normative Framework Cited in the Study

Brazilian Civil Code (Código Civil - Law No. 10.406/2002). Main legislative body of Brazilian private law. The provisions most relevant to the study are: art. 14 (organ donation); art. 104 (validity requirements of the legal transaction); art. 116 (voluntary representation); art. 653 (form of power of attorney); art. 1.542 (marriage by proxy); arts. 1.774 and 1.775 (guardianship and list of legal guardians).

Brazilian Code of Civil Procedure (Código de Processo Civil - Law No. 13.105/2015). Currently in force since March 2016, it governs the civil procedure in Brazil. The provisions most relevant to the study are: art. 189, II (judicial secrecy); arts. 747 et seq. (guardianship action); art. 752 (Public Prosecutor's participation); art. 756 (lifting of guardianship).

Brazilian Public Records Law (Lei de Registros Públicos - Law No. 6.015/1973). Governs public records in Brazil, including birth, marriage, death, and real estate records. Its art. 237-A, which regulates the transportation of annotations between records, served as an analogical inspiration for the mechanism of autonomous indexation of *autocuratela* introduced by Provision No. 215/2026.

Organ Donation Law (Law No. 9.434/1997). Regulates, in Brazil, the removal of organs, tissues, and parts of the human body for transplantation and treatment purposes. It is cited in the study as an example of *post mortem* effective transaction that demonstrates the prevalence of autonomy in existential matters.

Statute of the Person with Disabilities (Law No. 13.146/2015). Brazilian legal framework that internalized the UN Convention on the Rights of Persons with Disabilities. It profoundly altered the civil incapacity regime and constitutes the main normative foundation for the contemporary recognition of *autocuratela* as an expression of the preserved autonomy of the person with disabilities.

7. Latin Expressions Used

Apud. Latin expression meaning "cited by". Used in academic references to indicate that a source was consulted indirectly, that is, through another work that originally cited it. Example: "Dias, 2016, p. 676, *apud* Madaleno, 2026, p. 1391" means that the passage from Dias was consulted through Madaleno's work.

Caput. Latin expression meaning "head". In Brazilian legal terminology, it designates the main introductory part of a legal article, preceding its paragraphs, items, and sub-items. Example: "art. 110-A, *caput*" refers to the initial text of art. 110-A, before its paragraphs.

Cf. (confer). Latin abbreviation of the imperative *confer*, meaning "compare" or "see". Used in academic citations to refer the reader to a source that supports or develops the idea presented in the text.

Ex officio. Latin expression meaning "by office", that is, by virtue of one's function. It designates the acts that the authority (notary, judge, etc.) may perform by his or her own initiative, regardless of the request of the parties. Example: the notary may adapt the registration of previous acts *ex officio*, without requiring a request from the interested party.

Par excellence. French expression (originally Latin) meaning "by excellence". It designates what best represents a certain category. In the study, *autocuratela* is qualified as the instrument *par excellence* of the protection of preventive self-determination.

References

COELHO, Thais Câmara Maia Fernandes. *Autocuratela*. Rio de Janeiro: Lumen Juris, 2016.

CONSELHO NACIONAL DE JUSTIÇA. *Provimento nº 206, de 6 de outubro de 2025*. Institui a obrigatoriedade de consulta à Central Notarial de Serviços Compartilhados (CENSEC) nos processos de interdição. Brasília: CNJ, 2025.

CONSELHO NACIONAL DE JUSTIÇA. *Provimento nº 215, de 3 de março de 2026*. Altera o Provimento nº 206, de 6 de outubro de 2025, e o Código Nacional de Normas da Corregedoria Nacional de Justiça do Conselho Nacional de Justiça - Foro Extrajudicial (CNN/CN/CNJ-Extra), para disciplinar a publicidade e a indexação de escrituras de autocuratela e diretivas de curatela. *Diário da Justiça Eletrônico do CNJ*, Brasília, n. 50, 5 mar. 2026, p. 21-22.

DIAS, Maria Berenice. *Manual de direito das famílias*. 11. ed. São Paulo: Revista dos Tribunais, 2016.

GARCIA, Ignacio Serrano. *Autotutela*. Valencia: Tirant lo Blanch, 2012.

GUTIER, Murillo Sapia. *Curso de Direito Civil: Famílias*. Uberaba: Rule of Law, 2025.

MADALENO, Rolf. *Direito de Família*. 15. ed. Rio de Janeiro: Forense, 2025.

TEPEDINO, Gustavo; TEIXEIRA, Ana Carolina B.; NEVARES, Ana Luiza Maia; et al. *Fundamentos do Direito Civil: Direito de Família e das Sucessões* - v. 6. 7. ed. Rio de Janeiro: Forense, 2026.