

PHYSICIAN'S CERTIFICATE OF MEDICAL EXAMINATION

[Revision June 1, 2012]

In the Matter of the Guardianship of _____,
an Alleged Incapacitated Person

For Court Use Only
Court Assigned: _____

The purpose of this certificate is to enable the Court to determine whether the individual identified above is incapacitated according to the legal definition, and whether a guardian should be appointed to care for him or her.

LEGAL DEFINITION OF INCAPACITY

For purposes of this certificate, an "Incapacitated Person" is "an adult individual who, because of a physical or mental condition, is substantially unable to provide food, clothing or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs." Texas Probate Code § 601(14).

GENERAL INFORMATION

Proposed Ward's Name _____

Date of Birth _____ Age _____ Gender M F

Current Location of Ward: _____

Physician's Name _____ Phone: (_____) _____

Office Address _____

YES NO -- I am a physician currently licensed to practice in the State of Texas.

I have been the doctor for the Proposed Ward since _____

I last examined the Proposed Ward on _____, 20____ at:

a Medical facility the Proposed Ward's residence

Other: _____

YES NO -- The Proposed Ward is under my continuing treatment.

YES NO -- Prior to the examination, I informed the Proposed Ward that communications with me would not be privileged.

YES NO -- A mini-mental status exam was given. If "YES," please attach a copy.
=====

Based upon my last examination of the Proposed Ward, I provide the following information:

1. EVALUATION OF THE PROPOSED WARD'S PHYSICAL CONDITION

Physical Diagnosis: _____

Conditions underlying diagnosis: _____

a. Prognosis: _____

b. Severity: Mild Moderate Severe

c. Treatment: _____

2. EVALUATION OF THE PROPOSED WARD'S MENTAL FUNCTION

Mental Diagnosis: _____

Conditions underlying diagnosis: _____

a. Prognosis: _____

b. Severity: Mild Moderate Severe

c. Treatment: _____

YES NO --- A summary of Proposed Ward's medical history is attached (if reasonably available).

YES NO --- Would the Proposed Ward benefit from supports and services that would allow the individual to live in the least restrictive setting?

YES NO --- Does this mental diagnosis include dementia?

2. EVALUATION OF THE PROPOSED WARD'S MENTAL FUNCTION, continued

YES NO --- Would the Proposed Ward benefit from placement in a secured facility for the elderly or a secured nursing facility that specializes in the care and treatment of people with dementia?

YES NO --- Would the Proposed Ward benefit from medications appropriate for the care and treatment of dementia?

YES NO --- Does the Proposed Ward have sufficient capacity to give informed consent to the administration of dementia medications?

3. DECISION MAKING

Alertness, Attention, and Deficits

Alertness: Alert Lethargic Stupor

Proposed Ward is oriented to the following (check all that apply):

Person Time Place Situation

In my opinion, the ability of the Proposed Ward to make or communicate responsible decisions concerning himself or herself is affected by the Proposed Ward's deficits and abilities as indicated:

Deficit(s) (check all that apply): Short-term memory Long-term memory Immediate recall

YES NO --- Able to understand or communicate (verbally or otherwise)

YES NO --- Able to recognize familiar objects and persons

YES NO --- Able to perform simple calculations

YES NO --- Able to reason logically

YES NO --- Able to grasp abstract aspects of his or her situation or to interpret idiomatic expressions or proverbs

YES NO --- Able to break complex tasks down into simple steps and carry them out

YES NO --- The Proposed Ward's periods of impairment from the deficits indicated above (if any) vary substantially in frequency, severity, or duration

In my opinion, the Proposed Ward is able to make or communicate responsible decisions concerning himself or herself regarding the following:

A. Business and Managerial Matters; Financial Matters

YES NO --- Contract and incur obligations; handle a bank account; apply for, consent to and receive governmental benefits and services; accept employment; hire employees; sue and defend on lawsuits; make gifts of real or personal property?

YES NO --- If "YES," should amount deposited in any such bank account be limited?

YES NO --- Execute a Durable Power of Attorney?

YES NO --- Execute a Health Care Power of Attorney?

B. Personal Living Decisions

YES NO --- Determine own residence?

YES NO --- Safely operate a motor vehicle?

YES NO --- Vote in a public election?

YES NO --- Make decisions regarding marriage?

C. Medical Decision-Making

YES NO --- Consent to medical, dental, psychological, and psychiatric treatment?

YES NO --- Administer own medications on a daily basis?

D. Daily Life Activities

Administer daily life activities (e.g., bathing, grooming, dressing, walking, toileting):

YES, independently YES, with assistance NO, requires total care

4. DEVELOPMENTAL DISABILITY

YES NO --- Does the Proposed Ward have developmental disability?

If "NO," skip to number 5 on the next page.

If "YES," is the disability a result of the following? (Check all that apply)

YES NO --- Autism?

YES NO --- Static Encephalopathy?

YES NO --- Cerebral Palsy?

YES NO --- Down Syndrome?

YES NO --- Intellectual Disability (MR) **?

YES NO --- Other? Please Explain _____

**If "the basis of a proposed ward's alleged incapacity is mental retardation"¹, please answer the questions in the box below only if you are making a "Determination of Mental Retardation" in accordance with Section 593.005, Texas Health & Safety Code. If you are not making such a determination, please skip to number 5 on the next page.

"DETERMINATION OF MENTAL RETARDATION" (It is not required that you complete this box; see ** above.)

A "Determination of Mental Retardation" made in accordance of § 593.005 of the Texas Health & Safety Code requires that the determination be based on an interview with the Proposed Ward and on a professional assessment that, at a minimum, must include:

- 1) a measure of the Proposed Ward's intellectual functioning;
- 2) a determination of the Proposed Ward's adaptive behavior level; and
- 3) evidence of origination during the Proposed Ward's developmental period.

As a physician, you may use a previous assessment, social history, or relevant record from a school district, another physician, a psychologist, a public agency, or a private agency if you determine that the previous assessment, social history, or record is valid.

By checking the boxes below, you are representing that you have made a "Determination of Mental Retardation" in accordance with § 593.005 of the Texas Health & Safety Code.

1. What is your assessment of the Proposed Ward's level of intellectual functioning and adaptive behavior?
 Mild (IQ of 50-55 to approx. 70) Moderate (IQ of 35-40 to 50-55)
 Severe (IQ of 20-25 to 35-40) Profound (IQ below 20-25)
2. Yes No - Is there evidence that the intellectual disability originated during the Proposed Ward's developmental period?

Note to attorneys: If a physician makes a "Determination of Mental Retardation" in accordance with Texas Health & Safety Code § 593.005 – see box above – a Court may grant a guardianship application if the "Determination of Mental Retardation" is based on an examination made not earlier than 24 months before the date of the hearing. But if a physician's diagnosis of intellectual disability is not made in accordance with Texas Health & Safety Code § 593.005 – and the above box is not filled out – the court may grant a guardianship application only if the Physician's Certificate of Medical Examination is based on an examination the physician performed within 120 days of the date the application for guardianship was filed. See Texas Probate Code § 687(c)(A) & (a).

¹ In H.B. 1481, the 2011 Legislature directed the Legislature and Texas Legislative Council to avoid using the term "mental retardation" in new statutes and to change that term as existing statutes are otherwise amended. Because the Probate Code still refers to "mental retardation" as a basis for a guardianship, and Health & Safety Code still requires a "determination of mental retardation" (§ 593.001 et seq.), this form quotes that phrase from the statutes when necessary.

5. EVALUATION OF CAPACITY

YES NO --- Based on the information above, it is my opinion that the Proposed Ward is incapacitated according to the legal definition given at the top of page 1.

If "YES," please indicate the level of incapacity

PARTIAL* TOTAL

*If you answered "NO" to all of the questions regarding decision-making in Section 3 (on page 2) and believe the Proposed Ward is partially incapacitated, please explain: _____

If you answered "YES" to any of the questions regarding decision-making in Section 3 (on page 2) and believe the Proposed Ward is totally incapacitated, please explain: _____

6. ABILITY TO ATTEND COURT HEARING

If a hearing on an application for the appointment of a guardian is scheduled in court:

YES NO --- The Proposed Ward would be able to attend, understand, and participate in the hearing.

YES NO --- Because of his or her incapacities, it would not be advisable for the Proposed Ward to appear at a Court hearing because the Proposed Ward would not be able to understand or participate in the hearing.

YES NO --- Does any current medication taken by the Proposed Ward affect the demeanor of the Proposed Ward or his or her ability to participate fully in a court proceeding

7. ADDITIONAL INFORMATION OF BENEFIT TO THE COURT

If you have additional information concerning the Proposed Ward that you believe the Court should be aware of or other concerns about the Proposed Ward that are not included above, please explain:

Physician's Signature

Date

Physician's Name Printed

CAUSE NUMBER _____

IN THE MATTER OF THE GUARDIANSHIP OF:

§
§
§

**IN THE COUNTY COURT
AT LAW NO. 3 OF
CAMERON COUNTY, TEXAS**

Court Instruction for the Guardian of the Person & Estate of an Incapacitated Person or Minor

Before you leave the court today, you must:

- (1) File your Oath,
- (2) File your Initial Report on the Condition and Well-Being of the Ward,
- (3) Give the Court Investigator your completed Personal Representative General Information for the Court's files,
- (4) Sign two originals of these Court Instructions, keeping one signed original and giving the other to the Court Coordinator for the Court's records.
- (5) **Within 20 days**, you must file your bond. Your qualification date is the date when the Court signs your bond or when you sign your oath, whichever is later.

Time-sensitive requirements for you as the duly appointed Guardian of this person & estate:

1. **Within 30 days of your qualification date**, you must file your Inventory, Appraisement, and List of Claims. Your attorney must review and sign this inventory.
2. **Within 30 days of your qualification date**, you must file an application requesting a monthly or annual allowance to be expended from Guardianship funds for the education and maintenance of the Ward and the maintenance of the Ward's property *unless an allowance was ordered at the time you were appointed Guardian or such an allowance is inappropriate.*
3. **Within 180 days of your qualification date**, you must file a written application for approval of an investment plan for estate assets unless you invest those funds according to the Investment Plan in Section 855(b) of the Probate Code.
4. **Claims Procedures.** In Section 783-809, The Probate Code outlines time-sensitive requirements for various notices and other actions that are part of the statutory process for Claims Procedures. These Court-Order Instructions do not address any of these requirements. Your attorney will lead you through the statutory process for Claims Procedures.
5. **Each year within 60 days of the anniversary date of qualification as Guardian**, you must file both an Annual Account and an Annual Report. Failure to file either Report may result in your removal as Guardian and may result in the assessment of fees against you individually and on your bond and not from Guardianship funds.
6. **When the Guardianship is ready to be closed**, you must file a Final Account and Final Report. A guardianship is ready to be closed :
 - (1) When the Ward regains competency,
 - (2) When the Ward dies; or
 - (3) When the Ward reaches 18 years of age (for guardianships based solely on minority).

General Information

Change of Address. You must notify your attorney of any change in the mailing address of either you or the Ward, and your attorney should notify the Court. You may not move to another state or be absent for this state for more than three months without Court permission. If the Ward moves from this County, Consult with you attorney about whether the guardianship should be transferred.

For parents who are Guardians of the estate of their minor child: Note that the natural parents of a minor are obligated to support that child and **may not spend any guardianship funds – corpus or income – without a Court order.**

For the Guardian of any estate: If you have a Court – ordered allowance, you do not need to get further Court approval before spending those funds. **But never spend any other Guardianship funds unless you first obtain, through your attorney, a written order of this Court authorizing such expenditures.** Consult your attorney about the few instances when the law allows such expenditure without Court Order.

Place all Guardianship funds in insured accounts in the name of the Guardianship. Retain in a checking account only such funds as are reasonably necessary for the current support and maintenance of the Ward. Place all additional funds in interest-bearing accounts at the highest interest rate then available, unless you have an approved Investment Plan that allows another investment.

Maintain an accurate record of all Guardianship income and all expenditures of Guardianship funds. Keep and organize all receipts and bank records.

Preserve, protect, and insure (if insurable) all non-cash assets of this Guardianship.

Obtain a written order of this court before attempting to sell, transfer, lease for more than one year, or otherwise dispose of any non-cash asset of this Guardianship.

Consult with your attorney on any matter regarding this Guardianship that you do not understand. Failure to follow any of the statutory procedures may lead to your removal as Guardian and you may be held personally liable.

David Gonzales, III, Presiding Judge
County Court at Law #3
Cameron County, Texas

I, the Guardian of this person and estate, attest that I have read the above and understand its contents.

Guardian

Date

CAUSE NUMBER _____

IN THE MATTER OF THE GUARDIANSHIP OF: § IN THE COUNTY COURT
§ AT LAW NO. 3 OF
§ CAMERON COUNTY, TEXAS

INSTRUCCION DEL JUZGADO PARA EL TUTOR DE LA PERSONA (PUPILO) TAMBIÉN DE LA PROPIEDAD DE LA PERSONA INCAPACITADA O DEL MENOR (PUPILO).

Antes de partir (irse) de este Juzgado, usted deberá cumplir con lo siguiente:

- (1)Registre su Juramento (protesta)
- (2)Registre su informe sobre la Condicion y el bienestar del pupilo (custodiado).
- (3) Entregue al investigador del Juzgado, su Informacion completa personal general-representativa para los expedientes del Juzgado.
- (4) Firme dos documentos originales de las Instrucciones del Juzgado; usted quedese con un documento original firmado y entregue el otro documento original al Coordinador del Juzgado para que permanezca en los archivos del Juzgado.
- (5) Usted deberá registrar su fianza **dentro de un plazo de 20 dias**. La fecha que se le autorizara será aprobada el dia que la Corte firme su fianza o cuando usted firme el documento de su Juramento. El que se realice al ultimo será el que se autorizara.

Tiempo limite para realizar los requisitos que usted debe llevar a cabo como el Tutor asignado del pupilo y de la propiedad del pupilo:

- 1.Usted tendrá que registrar su inventario, evaluación y lista de recibos **dentro de un plazo de 30 dias** una vez que usted haya sido autorizado. Su abogado deberá revisar y firmar este inventario.
2. Usted deberá entregar una solicitud, **dentro de un plazo de 30 dias**, donde usted solicite una mensualidad o una suma anual para cubrir gastos, proveniente de los fondos monetarios de la Tutela para la educación, sustento del pupilo y el mantenimiento de la propiedad del Pupilo; salvo que se haya ordenado una suma monetaria al momento que usted fue nombrado Tutor, o que dicha suma monetaria sea incorrecta.
3. Usted deberá presentar una solicitud por escrito para aprobar algún plan de inversión de los bienes de la propiedad, a menos que usted invierta dichos fondos monetarios conforme a lo estipulado en el Plan de Inversion, Fraccion 855 (b) del Código de procedimientos testamentarios.
4. Procedimiento de Reclamos (derechos). En la Fraccion 783-809; El Código del Tribunal Testamentario explica los tiempos limite de los requisitos en relación con avisos y otros procedimientos legales que forman parte del proceso de estatutos de los Procedimientos de Reclamos. Dichas instrucciones, impuestas como obligaciones mediante la Corte, no menciona ninguno de dichos requisitos. Su abogado lo guiará a través del proceso de estatutos de los Procedimientos de Reclamos (derechos).
5. Usted deberá presentar dos informes: Un Informe de cuenta anual y un informe anual, dentro de un plazo de 60 dias, a partir del inicio una vez que usted haya sido autorizado como Tutor. Si usted no cumple y no presenta dichos informes anuales, esto podría causar que a usted le quiten la Tutela y se le podrían imponer costos en su contra y costos contra la fianza; dichos costos no provendrán de los fondos de su Tutela.
6. Al momento que la Tutela este lista para concluirse, usted deberá presentar un Informe Final de la Cuenta y un Informe Final . La Tutela estará lista para concluirse al momento que:
 - (1) En caso que el Pupilo recobre su capacidad mental;
 - (2) En caso que el Pupilo falleciere
 - (3) Cuando el Pupilo cumpla 18 años de edad (Esto aplica solo en el caso que dicha tutela se haya aplicado a un menor de edad)

Informe General

Cambio de dirección. Usted deberá avisar a su abogado de cualquier cambio de dirección postal, ya sea que usted o el pupilo se hayan mudado y su abogado deberá avisar a la Corte. Usted no podrá mudarse a otro Estado o abandonar el estado por más de tres meses, sin el permiso del Juez. En el caso que el pupilo se mudase del Condado, primero deberá consultar esto con su abogado para determinar si dicha tutela deberá ser transferida.

Lo siguiente aplica a los padres Tutores de la Propiedad de los hijos menores de edad: Los padres naturales de un hijo menor se obligan a mantener a este hijo y no deberán gastar los fondos monetarios de la tutela, capital del patrimonio, o ingresos sin previa orden del Juez.

Lo siguiente aplica al Tutor de cualquier propiedad: En el caso de que un Juez le haya asignado a usted una mensualidad monetaria, usted no necesitará una aprobación adicional mediante un Juez para usar dichos fondos monetarios. Se le prohíbe gastar cualquier otro fondo monetario proveniente de la Tutela, a menos que usted primero obtenga, mediante su abogado, una orden por escrito, del Juez autorizando dichos gastos. Consulte con su abogado en relación a las escasas excepciones donde la ley permite que se realicen dichos gastos sin una orden del Juez.

Se pondrán todos los fondos monetarios de la Tutela en cuentas aseguradas a nombre de la Tutela. Mantenga una lista solamente de las cuentas monetarias que hayan sido razonablemente necesarias para la manutención y mantenimiento actual del Pupilo. Todo fondo monetario adicional se pondrá en una cuenta que genere intereses al más alto interés posible en ese momento disponible, a menos que usted obtenga un plan de inversión autorizado que permitiese otra inversión.

Mantenga un informe fiel y correcto de los ingresos de la Tutela y todos los gastos provenientes de los fondos monetarios de la Tutela. Guarde y organice todos los recibos y estados de cuentas del banco. Preserve, proteja, y asegure (si es asegurable) todo los bienes (que no sean dinero en efectivo) de las propiedades de dicha Tutela.

Obtenga previa orden del Juez antes de intentar vender, transferir, rentar, por más de un año, o de disponer de algún bien (propiedad que no sea dinero en efectivo) de la actual Tutela.

Consulte con su abogado si tiene alguna duda sobre algún asunto en relación a dicha Tutela. Incumplimiento de los procedimientos legales podrían causar que usted pierda su derecho a la Tutela y usted podría ser el responsable ante la ley.

David Gonzales, III, Juez en Turno
Juzgado No. 3 del Condado
Condado de Cameron, Texas

Yo, como tutor de esta persona y de su propiedad, doy fe que he leído el documento que antecede y entiendo su contenido

Tutor

Fecha