

CAUSE NO. _____

**BEXAR COUNTY PROBATE COURT INSTRUCTIONS TO GUARDIAN
OF THE PERSON AND ESTATE**

As a duly appointed Guardian of the Person and Estate, you are hereby advised by the court that you **MUST** perform the following on an annual basis: (All section references are to the Texas Estates Code, unless otherwise indicated)

1. Qualify as Guardian: Within 21 days from the day the judge signed the order appointing you as Guardian of the Person and Estate you must (§1105.003):

- Take and file an oath of Guardian (§1105.051),
- Obtain and file the required bond (§1105.001),
- Obtain Letters of Guardianship from the probate clerk's office and pay the fee, which is currently \$2.00 per letter (§1106.001).

2. Power of Guardian of the Person (§1151.051)

- The right to have physical possession of the ward and to establish the ward's legal domicile-(home).
- The power to consent to medical, psychiatric and surgical treatment (other than inpatient psychiatric treatment), including the right to make end of life decisions regarding withholding of life support, hydration and nutrition (§166.039 Texas Health and Safety Code).
- Power to consent to donation of organs of the ward at the time of the ward's death (§692.004(a)(5) Texas Health and Safety Code).
- Any other power specifically granted in the order appointing the guardian.

3. Duties of the Guardian of the Person

- The duty of care, supervision and protection of the ward (§1151.051)
- The duty to provide the ward with clothing, food, medical care and shelter (§1151.051)
- The duty to file an annual report setting forth specific information regarding the condition of the ward from a medical and social standpoint. This report must be filed within 60 days of the anniversary date of the guardianship (the filing date of the bond and/or oath, whichever is later). This report includes a statement detailing any funds received/expended on behalf of the ward or the ward's dependents regardless of the source of such funds (i.e. welfare, social security, etc.) (§1163.101)
- The duty to notify the court immediately of any address changes of the guardian or ward. Failure to do so is cause for

removal of the guardian and cancellation of all Letters of Guardianship (§1203.051)

- The duty to notify the court immediately if the Ward dies, or in the case of a minor, when the ward turns 18, and file a Final Report.
- The duty to notify the court immediately if you or any other person or entity has been appointed conservator of the ward or if the ward has been adopted.
- The duty to pay all necessary premiums on the corporate surety bond.
- A Court Visitor will be assigned annually to assess the condition of the ward. Please cooperate with this person (§1054.102).

4. Expectations of Guardian of the Person

- See that the ward is appropriately housed.
- Have frequent and meaningful personal visits with the ward.
- Make every effort to insure that the ward is receiving all available benefits for which he/she may be eligible or entitled.
- Obtain psychological, social services, training, educational, social and vocational opportunities for the ward as needed and appropriate.
- Authorize and arrange any needed medical, dental, ophthalmological and surgical treatment.

5. Guardian of the Estate - File an Inventory:

Within 30 days of filing oath and/or bond (whichever is later), the guardian must file an inventory, appraisal and list of claims of the guardianship estate. (§1154.051)

6. Guardian of the Estate - Notice to

Creditors. Within one month of filing the oath and/or bond (whichever date is later), the guardian must publish a notice to creditors in a newspaper of general circulation in the county. A copy of the notice along with a publisher's affidavit must be filed. Within 4 months of filing oath and/or bond, the guardian must give notice by certified or registered mail, return receipt requested, to all secured creditors and claimants of whom the guardian has actual knowledge.

7. Guardian of Estate - Investment Plan:

Within 180 days of qualifying as Guardian of the Estate you must, unless waived by the court, file an investment plan with the court in conformity with Section 1161.051.

8. Guardian of Estate - Accountings. The Guardian of the Estate must maintain an accurate record of all expenditures/receipts of guardianship funds. Within 60 days of the first and subsequent anniversary date, an Annual Account, meeting the requirements of the Probate Code must be filed. A Final Account must be filed when the guardianship is to be closed due to death, restoration or emancipation of the ward. (§§1163.001 & 1204.001).

9. Guardian of Estate's powers without court order (§1151.103)

- To purchase liability and property insurance
- To pay taxes, court costs & bond premiums
- To vote stocks, pay calls and assessments

10. Guardian of Estate shall take possession of all property of the ward.

Upon receiving Letters of Guardianship immediately collect and take possession of all personal property and records of the estate (§1151.152) Including:

- **Security:** Change locks on real property
- **Storage:** Place non-perishable personal property in insured storage if necessary.
- **Perishable Property:** Once the inventory has been approved, request authority from the court, to sell perishable personal property. (§1151.152)
- **Accounts and Investments:** All guardianship funds must be deposited in an insured account in the name of the Guardianship. Retain, in a checking account, funds reasonably necessary for the current support of the ward. All additional funds **MUST** be invested in insured interest bearing accounts.
- **DO NOT** commingle Social Security benefits with funds in guardianship account. You have to report to the Social Security Administration only for the use of SS benefits.
- **Cancel Credit Cards Issued to the Ward.** Notify, in writing, credit reporting agencies of the ward's incapacity and that that the ward will not be accepting

"pre-approved" credit cards or loans. Call 1-888-5OPTOUT or go online to www.OptOutPreScreen.com.

11. Guardian of Estate shall manage the property of the ward as a "prudent person" would manage his or her own property (§1151.101 & 1151.151)

- **Spending Money:** Obtain a written order of the court authorizing any expenditure of guardianship funds before making the expenditure. Obtain an order for a monthly allowance for ward's maintenance and support (§1101.151(b)3).
- **Expenditures for Support:** A parent of a minor has a legal duty to support the child. Absent a showing that the parent is unable to support the child, that parent has NO authority to invade the income/principal of the minor ward's estate to pay for the minor ward's support. (§1156.051).
- **Sales and Leases:** Obtain a written order of the court before attempting to sell, lease, transfer or otherwise dispose of any asset of the guardianship.
- **Insurance:** Obtain adequate health insurance for the ward if possible; and adequately insure all non-cash assets.
- **Collect all debts,** rentals, or claims due to the ward. If necessary, obtain court permission to litigate on ward's behalf (§1151.104 & 1151.105).
- **Creditor's Claims:** Consult your attorney. Improper approval of a claim or failure to timely act can result in your personal liability.
- **Gifts:** The guardian has NO authority to make a gift of the ward's property without prior permission.
- **Funeral plan purchase.** If funds are available, pre-purchase burial plan, cemetery plot, engraved marker or make cremation arrangements with the court's permission.

12. Consult your attorney with any questions that you may have regarding this guardianship.

WARNING: Letters of Guardianship Person and Estate EXPIRE one year and four months after the date of issuance unless renewed (§1106.002). The clerk may not renew the letters until the guardian has filed the required annual report of condition and well being of ward and an annual accounting that is approved by the court. (§1163.101743).

I acknowledge receipt of a copy of these court instructions.

Guardian's signature

Printed name

Date

CAUSE NO. _____

BEXAR COUNTY PROBATE COURT INSTRUCTIONS TO GUARDIAN OF THE PERSON

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2. Power of Guardian of the Person

(§1151.051)

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- Any other power specifically granted in the order appointing the guardian.

3. Duties of the Guardian of the Person

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received/expended on behalf of the ward or the ward's dependents regardless of the source of such funds (i.e. welfare, social security, etc.) (§1163.101)

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5. Consult your attorney with any questions that you may have regarding this guardianship.

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I acknowledge receipt of a copy of these court instructions.

Guardian's signature

printed name

date