Orange County Court at Law

Guardian of the Person: Court Instructions

Thank you for accepting appointment as the Guardian of the Person with full or limited authority to represent the interest of the Ward. This is a fiduciary position that carries with it certain duties and a high degree of responsibility. As Guardian, your activities are strictly regulated by Texas law. Before you engage in any transactions, you should become familiar with the types of allowable actions you may take. If you have any questions, you should consult with an attorney. These instructions have been prepared as a *supplement* to the information given to you by your attorney and are not a substitute for legal advice. You must:

1. File your Oath;
2. File your Bond. (By law, the bond must be given and approved within twenty [20] days of the date of the order granting letters of guardianship.)

Letters of Guardianship

Your authority to act on the Ward's behalf does not begin until you have taken and filed your oath and the Court has approved your bond. At that time, the clerk of the Court is authorized to issue letters of guardianship to you. These letters serve as evidence to third parties of your authority to act on the Ward's behalf. Letters of guardianship expire one (1) year and four (4) months after the date of issuance unless renewed. Letters can be renewed and reissued by the clerk of the Court *after* the Court approves the guardian's Annual Report of the Person. To order letters of guardianship, you can call the clerk's office at 409-882-7055 or pick of letters of guardianship from the clerk's office.

Annual and Final Reports

*** Texas law requires you—as a Guardian of the Person—to file a report each year that covers a twelve (12) month reporting period, **with the reporting period beginning on the date you qualify to serve as Guardian**. The date you qualify is the date when the Court approves your bond *or* when you take and file your oath, *whichever is later*. Texas law requires that your Annual Report be filed not later than sixty (60) days after the reporting period ends.

1. **Each year, within sixty (60) days of the anniversary of the date you qualified as Guardian,** you must file your sworn or affirmed Annual Report. Failure to file an Annual Report may result in your removal as Guardian and may result in the assessment of fees against you individually and not from guardianship funds.

    - In your Annual Report, you must answer each of the questions on the Report form, including information concerning the Ward's physical welfare, well-being, progress in education (if pertinent), and income. You also will note how many times you visited the Ward in person, and you will sign the report before a notary.
    - In your Annual Report, you must swear or affirm either that you have paid your bond premium for the next reporting year, filed an approved cash bond, or have a personal surety bond approved by the court and filed with the clerk.
    - If, pursuant to Court order, you are managing any funds of the Ward other than government benefits, you must report on your management of those funds as part of your Annual Report.

- You may complete and file your Annual Report without assistance of an attorney. Annual Report forms are available on the County Clerk's website, www.co.orange.tx.us/countyclerk. If you have questions, call the County Clerk's Office at 409-882-7055, or the Court Coordinator of the County Court at Law at 409-882-7084 .
- Texas law requires a $12.00 fee for the processing of each Annual Report to determine whether the guardianship continues to be appropriate, unless an affidavit of inability to pay costs is on file.

2. **When the guardianship is ready to be closed**, you must file a Final Report. A guardianship is ready to be closed when the Ward regains competency, dies, or reaches eighteen (18) years of age (for guardianships based solely on minority).

Ongoing requirement for you as the Guardian of the Person

If the Ward receives any funds or property with a value over $2,000, other than government benefits, you must report receipt to the Court within thirty (30) days. For example, you must report receipt of funds or property that the Ward acquires by inheritance, by gift, or from a lawsuit.

Your Powers and Duties

The order appointing you as Guardian of the Person should specify whether you have been appointed as guardian of the person with limited authority or guardian of the person with full authority. *Guardians of the person with limited authority have only those powers specifically set forth in the order appointing them.* Under Texas law, a guardian of the person with full authority has the rights and duties set out below:

1. The right to have physical possession of the ward and to establish the ward's legal domicile;
2. The duty to provide care, supervision, and protection for the ward;
3. The duty to provide the ward with clothing, food, medical care, and shelter as completely as the Ward's resources permits; and
4. The power to consent to medial, psychiatric, and surgical treatment other than the in-patient psychiatric commitment of the ward. (But the guardian of the person of a ward does have the power to transport the ward to an inpatient mental health facility for a preliminary examination in accordance with Subchapters A and C, Chapter 573, Health and Safety Code.)

REMEMBER: When there are **co-guardians** of the person, BOTH need to file the oath, bond and annual reports!

Many thanks to Judge Guy Hermann and the Travis County Probate Court, and Judge Claudia Laird, Montgomery County Court at Law No. 2, from both of whom this form is derived.

#1: Be the Ward's Advocate!

You are often required to speak on behalf of your Ward. You should protect your Ward by:

- **Meeting the Ward's Needs. Make all final decisions** for the Ward in residential, medical, and other matters. (As Guardian, you **cannot** place the Ward in an in-patient psychiatric hospital.) By statute, you have a duty to provide care, supervision, and protection for your Ward and to provide your Ward with clothing, food, medical care, and shelter as completely as the Ward's resources permit.
- **Visiting Regularly.** It is the Court's expectation that guardians visit their wards ***at least*** once a month.

#2: Submit an Annual Report*

- **The Annual Report is required by law.**
- Failure to file this report can result in your removal as Guardian.
- **Provide as many details as possible** using the form provided by the Court.
- **Complete, get notarized, and bring or mail to the Orange County Clerk's Office.**
- Texas law requires a $12.00 fee for the processing of each Annual Report to determine whether the Guardianship continues to be appropriate, unless an affidavit of inability to pay costs is on file.



#3: Cooperate with the Court Visitor

The Court's goal (if not presently, at least in the future) is to have a Court Visitor visit the Ward once a year to assess the Ward's physical condition & living conditions. The Ward may be visited more or less frequently.

- **The Court Visitor will want to speak with the Guardian, too.**
- If you are unable to meet with the Court Visitor at the time of the Court visit, the Court Visitor will attempt to contact you by phone.

#4: Report Address Change

The Court needs the current address and phone number for both the Ward and the Guardian.

If the Ward or the Guardian moves, call the County Clerk at 409-882-7055 to report the address change, or mail the information to

County Clerk
801 W. Division, 1st Floor
Orange, TX 77630

#5: Submit Final Report*

A Final Report must be filed:

- **When the Ward dies;**
- **When a minor Ward turns 18 years old;**
- If the Court accepts your **resignation as Guardian.**

Once one of the above things happens, the Guardian must complete, get notarized, and bring or mail a Final Report to the Orange County Clerk's Office.

* You may complete and file your Annual or Final Report without the assistance of an attorney. Forms for your Annual Report of the Person are available on the County Clerk's website *www.co.orange.tx.us/countyclerk* or at the Clerk's office. If you need a form for a Final Report, you may contact the County Court at Law and ask for assistance in getting a Final Report Form. If you have questions, call the Court's Guardianship Coordinator at 409-882-7084 (If you are also Guardian of the Ward's Estate, note that Texas law **requires** you to work with your attorney to prepare your Annual or Final *Accounts*.)

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