

DUTIES OF GUARDIANS OF THE PERSON

PROVIDED BY:
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COUNTY COURTS AT LAW NO. 1 AND NO.2
115 N. BRIDGE
VICTORIA TEXAS 77901

CAUSE NO.: _____

INTRODUCTION:

You have been appointed by this Court as Guardian of the Person With Full or Limited Authority (power) to represent the interests of the Ward. This is a fiduciary position, which carries with it certain duties and a high degree of responsibility. Your activities are strictly regulated by the Texas Estates Code and you should familiarize yourself with the types of allowable actions you may take before engaging in any transactions. If you have any questions, you should consult with your attorney. This guide has been prepared as a supplement to the information given to you by your attorney and is not a substitute for legal advice.

YOUR QUALIFICATION:

Your authority to act on behalf of the Ward does not begin until you have met the statutory qualifications and receive letters of guardianship. You must first take the oath of office and execute a bond in the amount set by the Court. (Texas Estates Code Section 699) The bond and oath must be executed and approved by the Court within 20 days from the date of the order of your appointment as guardian. (Texas Estates Code Section 701). The Probate Court can revoke the appointment of a guardian who fails to qualify within the time period prescribed by law. (Texas Estates Code Sections 701, 721,761(a(1))) Your attorney will be able to direct you to an appropriate bonding company.

LETTERS OF GUARDIANSHIP:

After the Court has approved your oath and bond, the clerk of the court is authorized to issue letters of guardianship to you. You may call the County Clerk at (361) 575-1478 to request issuance of letters. There is a charge of \$2.00 for each letter. These letters serve as evidence to third parties of your authority to act on the Ward's behalf. **Letter of guardianship expire one year and four (4) month, after the date of issuance unless renewed. Later may only be renewed and reissued by the clerk on the receipt and approval by the Court of the guardian's.** **ANNUAL REPORT OF THE PERSON.** (Texas Estates Code Section 659)

YOUR POWERS AND DUTIES:

Your specific powers and duties are set out in the order appointing you Guardian. Generally the Guardian of the person is entitled to the charge and control of the person of the Ward and the duties of the guardian correspond with the rights of the guardian. A guardian of the person has:

1. The right to have physical possession of the Ward and to establish the Ward's legal domicile;
2. The duty of care, control, and protection of the Ward;
3. The duty to provide the Ward with clothing, medical care, and shelter; and
4. The power to consent to medical, psychiatric, and surgical treatment other than the in-patient psychiatric commitment of the Ward. (Texas Estates Code Section 767)

SUPPORT AND MAINTENANCE OF ADULT WARDS WHEN THERE IS AN ESTATE:

When different persons have the guardianship of the person and estate of a Ward, the guardian of the estate shall pay to the guardian of the person a sum that is set by the Court at a specified time for the Ward's education and maintenance. The Guardian may be required to reimburse the estate for any improper expenditures. (Texas Estates Code Section 776)

ANNUAL REPORT OF THE PERSON:

A Guardian with powers over the Person must complete a sworn ANNUAL REPORT OF THE PERSON **12 months from the date of qualification as guardian, and annually thereafter**, containing statutorily required specific information and file it with the clerk of the Court while the guardianship of the Ward remains open. (Texas Estates Code Section 743 (a-c))

In addition, when there is a separate guardian of the estate, the Guardian of the Person shall file with the Court a **sworn** account of all receipts and disbursements that have occurred for the support and maintenance of the ward, and the education of the ward when necessary, during the year. (Texas Estates Code Section 743(a))

There is a sample form at the County Courts at Law website at http://www.vctx.org/departments/county_court/ccatlaw.htm

CLOSING THE WARD'S ESTATE/DUTIES OF THE GUARDIAN OF THE PERSON:

If you are the Guardian of the Person of a minor, you must institute the procedure to close the minor's estate as soon as the Ward reaches eighteen (18) years of age, or the minor's disabilities of minority have been removed according to the law of this state, or the minor marries. If you are the Guardian of an incapacitated adult, you must institute the

procedure to close the Guardianship when the Ward's mental capacity has been restored by order of the Court, or the Ward dies, or for any other reason that the Court determines that a Guardian of the Person is no longer necessary. (Texas Estates Code Section 745)

In closing a Guardianship of the Person the Guardian is to deliver all property of the Ward in the possession or control of the Guardian to the emancipated Ward or other person entitled to the property. If the Ward is deceased, the Guardian should deliver the property to the personal representative of the Ward's estate or other person entitled to the property. (Texas Estates Code Section 747 (b))

MISCELLANEOUS:

Other information in addition to the statutory requirements that a Guardian of the Person must be aware of is as follows:

1. The Guardian of the Person must always act in good faith and in the Ward's best interests.
2. Failure to follow any of the statutory procedures may lead to your removal as guardian and you may be held personally liable.
3. You must notify the Court or your attorney of any change in your mailing address.
4. You may not move to another state or be absent from this state for more than three months without the Court's permission.
5. If you receive funds for the support, maintenance, or education of the Ward, you must keep receipts and cancelled checks for all purchases and expenditures because if you spend funds without Court approval, you may be subject to removal and held personally liable for any deficiencies.