

# **GUARDIANSHIPS IN COLLIN, DALLAS AND DENTON COUNTIES**

Forms for Uncontested Guardianships of the Person

Presented to the Collin County Bar Association

Estate Planning and Probate Section

November 9, 2018

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Please use these forms at your own risk. They contain suggested language and are in no way a substitute for your legal expertise.

I also recommend that you purchase the Dallas Bar Association Probate Practice Manual published by the Probate, Trusts and Estates Section <https://www.dba-estatesmanual.com/>. It contains forms for Dallas, Collin and Denton counties and is an invaluable resource.

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Texas Guardianship Registration and Training Power Point by Jeff Rinard of the JBCC

# TRESI MOORE WEEKS

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Tresi Moore Weeks is an attorney and founder of The Weeks Law Firm, PLLC in Plano, Texas, where she assists clients with estate planning, special needs planning, probate and guardianship. As an advocate for her own child, she became active with the disability rights and advocacy community. Her special needs law practice has grown out of these experiences and her desire to help other families with loved ones with disabilities.

Tresi currently serves on the Board of Directors of several organizations, including Disability Rights Texas, Coventry Reserve, Estate Planning Council of North Texas, Dallas Society of Financial Service Professionals and the Collin County Bar Association. She also serves on the Advisory Council of My Possibilities in Plano.

Tresi frequently gives presentations and workshops about special needs trusts and guardianship for parents, attorneys, CPAs, financial advisors and educators. Tres and her husband are active members of Watermark Community Church in Dallas.

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## Education

Baylor University School of Law  
J.D., 1987

Baylor University  
B.A., 1984

## Licenses

Supreme Court of Texas

U.S. District Court, Northern District of Texas

U.S. Court of Appeals, Fifth Circuit

## Awards, Activities, Memberships

### Board of Directors:

- Collin County Bar Association
- CCBA Estate Planning and Probate Section (Past President)
- Estate Planning Council of North Texas
- Disability Rights Texas
- Association for Independent Living (2012-2018)
- Coventry Reserve
- Dallas Society of Financial Service Professionals
- My Possibilities: Advisory Council Member

### Planning Committee Member and Speaker:

- UT CLE Special Needs Trust Conference

### Member:

- National Academy of Elder Law Attorneys
- The College of the State Bar of Texas
- Dallas Estate Planning Council

Voted Best Attorney/Law Firm: Plano Star Courier  
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	<b>No.</b>	
<b>IN RE: GUARDIANSHIP OF</b>	<b>§</b>	<b>IN THE PROBATE COURT</b>
	<b>§</b>	
<b>{PROPOSED WARD},</b>	<b>§</b>	<b>NO.</b>
	<b>§</b>	
<b>AN ALLEGED INCAPACITATED</b>	<b>§</b>	<b>DALLAS COUNTY, TEXAS</b>
<b>PERSON</b>		

**APPLICATION FOR CO-GUARDIANS OF THE**  
**PERSON OF {PROPOSED WARD}**

**TO THE HONORABLE JUDGE OF SAID COURT:**

NOW COME Co-Applicants, {parents}, and file this Application for Appointment of Co-Guardians of the Person of {Proposed ward}, pursuant to §1101.001 of the Texas Estates Code and would respectfully show the Court the following:

**I.**

This Application should be governed by, and discovery conducted under §190.2 of the Texas Rules of Civil Procedure.

**II.**

That alternatives to guardianship and supports and services available that would avoid the need for guardianship were considered, however, no available alternatives were feasible to avoid the need for guardianship.

**III.**

The Proposed Ward, {Proposed ward}, is a {sex} whose date of birth is {Birth date}. {he/she} currently resides at {Address} and citation may be served at this address.

**IV.**

Co-Applicants, {parents}, whose address is {Address}, are the parents of the Proposed Ward and desire to become Co-Guardians of the Person of {Proposed ward}. Co-Applicants are

eligible to receive Letters Guardianship herein and are entitled to be so appointed.

**V.**

Co-Applicants seek guardianship of the Person of Proposed Ward.

**VI.**

This Court has jurisdiction and venue over these proceedings pursuant to §1023.001 of the Texas Estates Code because {Proposed ward} resides in Dallas County, Texas.

**VII.**

Pursuant to §1051.103 of the Texas Estates Code, the following persons will be personally served by citation:

1. Name: {Proposed ward}, the proposed ward, who may be served at {Address};
2. The Proposed Ward's parents are applicants in the cause and thus not entitled to service.

**VIII.**

Pursuant to §1051.105 of the Texas Estates Code, the following persons will sign waivers of notice and will renounce their right to guardianship: None

**IX.**

The approximate value and description of the Proposed Ward's separate property is: \$0.

**X.**

{Proposed ward} is a person who is unable to manage {his/her} property, financial affairs, or care for {him/her}self and is without a legal guardian of the person. It is necessary and will be advantageous for {Proposed ward} to have a guardian of {his/her} person for the care and attention of {Proposed ward}.

**XI.**

Co-Applicants request that the guardianship continue indefinitely for so long as {Proposed ward} is incapacitated.

## **XII.**

The specific facts which require a guardian to be appointed and Co-Applicants' interest in such appointment are as follows:

1. Applicants are the Proposed Ward's father and mother.
2. {Proposed ward} is diagnosed with {Diagnosis}.
3. {Proposed ward}'s future prognosis is likely to continue.

## **XIII.**

The nature and degree of the Proposed Ward's incapacity are set forth in a Certificate of Medical Examination, pursuant to §1101.103 of the Texas Estates Code, from {his/her} treating physician, {Doctor}, dated {Dr. Signed date} with an examination on {Exam date}.

## **XIV.**

The Co-Applicants respectfully request that the Court should find {Proposed ward} incapacitated for the purposes enumerated below and without capacity to care for {him/her}self, and the Co-Applicants request the following specific powers, to the exclusion of {Proposed ward}:

1. The power to review, to take possession of and to consent to the disclosure of {Proposed ward}'s medical or dental records;
2. The power to apply for, arrange for and consent to any and all psychological, psychiatric or medical examinations, treatment, test or evaluations for {Proposed ward}, but not the power or authority to consent to in-patient psychiatric commitment of {Proposed ward};

3. The power to consent to or object to medical and dental treatment for {Proposed ward}, including surgery, but not the power or authority to consent to sterilization for {Proposed ward};
4. The power or authority to sign a Do Not Resuscitate Order and/or issue directives regarding the withholding or withdrawing of life sustaining medical treatment for {Proposed ward} without further order of the Court;
5. The power to apply for, consent to, and enroll {Proposed ward} in a private and public residential care facilities, including 24 hour care facilities or nursing home facilities;
6. The power to apply for and to secure an identification card, social security card or other identification documents for {Proposed ward};
7. The power to apply for, consent to, and enroll {Proposed ward} in appropriate educational, vocational and recreational services;
8. The power to provide care, supervise and protect the person of {Proposed ward}, including to have physical possession of {Proposed ward} and to establish {Proposed ward}'s legal domicile and/or place of residence;
9. The power to take, apply for and to receive funds from governmental sources for {Proposed ward}, including:
  - a. Social Security Disability;
  - b. Medicare;
  - c. Supplemental Security Income benefits;
  - d. HUD Section 8 Rent subsidies, and
  - e. Veteran's benefits.
10. The power to apply for and to consent to governmental services on {Proposed ward}'s behalf, including
  - a. Vocational rehabilitation programs;

- b. Medicaid services;
  - c. Food Stamps; and
  - d. Veteran's benefits.
11. The power to transport the proposed ward to an inpatient mental health facility for preliminary examination in accordance with Sub-chapters A and C, Chapter 573, Health and Safety Code;
12. The power to take into possession, review, disclose and to manage {Proposed ward}'s bank accounts and other deposit accounts not in excess of \$2,000.00.
13. The power to sign documents necessary or appropriate to facilitate employment of the ward.

## **XV.**

The limitations which are requested to be imposed upon {Proposed ward}'s rights are as follows:

1. Exercise the powers and authority over {his/her} person for those powers and rights granted to the Guardian of the Person named above;
2. Manage {his/her} property, whether personal or real, tangible or intangible, or manage {his/her} financial affairs;
3. Hold or obtain a license to operate a motor vehicle;
4. Have the right to vote in public elections;
5. Make personal living decisions or establish {his/her} place of residence or legal domicile;
6. Make business decisions;
7. Apply for and consent to governmental benefits or services;
8. Make decisions involving {his/her} marital status;
9. Execute any type Power of Attorney;



10. Execute a new trust or will or make a codicil or amendment to any existing trust or will;
11. Make any gifts of real or personal property;
12. Purchase, own, or possess a firearm;
13. Seek employment without the explicit agreement of the Guardian named above;
14. Hire, terminate, or contract with persons employed to assist or care for {him/her}self;
15. Contract for good or services;
16. Admit or discharge {him/her}self from a residential care facility or hospital; or
17. Consent to medical, dental, psychological, and psychiatric treatment for {him/her}self.

#### **XVI.**

Co-Applicants request that the Proposed Ward receive the following protection and assistance and that the powers granted in the Court's Order of Appointment be limited as follows: None. **OR**

**1. Proposed Ward requests the right to vote in public elections;**

**2. Proposed Ward requests the right to hold or obtain a license to operate a motor vehicle.**

#### **XVII.**

To the best of the Co-Applicants' knowledge, a guardianship of the person or of the estate does not exist in this or any other state for {Proposed ward}

#### **XVIII.**

Co-Applicants are not aware of any power of attorney executed by the Proposed Ward or of any guardianship currently existing on {his/her} behalf in this or any other state.

#### **XIX.**

The names, addresses, and relationships to the Proposed Ward of those relatives required to be listed in this Application by Section 1101.001(13) of the Texas Estates Code, to the best of

the Applicants' knowledge are as follows:

1. Name: {dad}  
Address: {Address}  
Relationship to Proposed Ward: Father
2. Name: {mom}  
Address: {Address}  
Relationship to Proposed Ward: mother
3. Name: <sibling 1>; Age:  
Address:  
Relationship to Proposed Ward: sister/brother

The name and address of the Proposed Ward's spouse required to be listed in this Application by Section 1101.001(13) of the Texas Estates Code, to the best of the Applicants' knowledge are as follows: None.

The names and addresses of the Proposed Ward's children required to be listed in this Application by Section 1101.001(13) of the Texas Estates Code, to the best of the Applicants' knowledge are as follows: None.

WHEREFORE, PREMISES CONSIDERED, Co-Applicants pray that:

1. Notice of this Application be given as required by law;
2. {Proposed Ward} be personally served with citation to appear and answer this Application;
3. That an Attorney Ad Litem be appointed to represent the interests of the Proposed Ward;
4. Upon hearing hereof Co-Applicants, {parents}, be appointed Co-Guardians of the Person of {Proposed ward};
5. Letters of Guardianship of the Person be issued to the appointed Guardians of the Person upon taking the Oath and giving bond, based upon the immemorial

customs of this Court, as required by law;

6. Any and all Powers of Attorney be revoked by Order of the Court; and
7. For such other and further relief to which Co-Applicants may be entitled.

Respectfully submitted,

ATTORNEYS FOR APPLICANT

STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

**AFFIDAVIT**

**BEFORE ME**, the undersigned Notary Public, on this day personally appeared {parents}, who, being by me duly sworn on their oath, deposed and said that they have read the above and foregoing Application for Co-Guardians of the Person of {Proposed ward}, and that the allegations contained therein are within their personal knowledge to be true and correct.

\_\_\_\_\_  
{dad}, Applicant

\_\_\_\_\_  
{mom}, Applicant

**SWORN TO AND SUBSCRIBED TO BEFORE ME** on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Notary Public, State of Texas

Label	Question	Answer
Proposed ward	Proposed ward	
Sex	Male/female	
Birth date	Birth date	
His/her	His/her	
Him/her	Him/her	
He/she	He/she	
parents	parents	
dad	Dad	
mom	Mom	
Address	address	
Diagnosis	diagnosis	
Doctor	Doctor	
Exam date	Exam date	
Dr. Signed date	Dr. Signed date	

No. {Case number}

IN THE GUARDIANSHIP OF	§	IN THE PROBATE COURT
	§	
{PROPOSED WARD},	§	OF
	§	
AN INCAPACITATED PERSON	§	COLLIN COUNTY, TEXAS

**BOND FOR GUARDIAN(S) OF THE PERSON**

Know All Men By These Presents that we, as Principals, are held and firmly bound to the Judge of the Probate Court of **COLLIN COUNTY, TEXAS**, and any successors in office, in the sum of \$ **50**, conditioned that we shall well and truly perform all duties required of a Guardian of the **PERSON** by law under our appointment.

\_\_\_\_\_, Principal

\_\_\_\_\_, Principal

**SUBSCRIBED and SWORN TO BEFORE ME.**

\_\_\_\_\_  
NOTARY/CLERK/JUDGE

**ORDER APPROVING BOND**

On this date came on to be examined the above bond of the appointed Guardian(s) of the Person in this Cause in the sum required by Order of this Court, and being conditioned as required by law. The Court considers such bond to be good and sufficient, and the same is hereby approved and Ordered filed of record.

Signed \_\_\_\_\_, 2018

## Judge Presiding

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Label	Question	Answer
Proposed ward	Proposed ward	
Case number	Case number	

No. {Case number}

IN RE: GUARDIANSHIP

OF THE PERSON OF

{PROPOSED WARD}

§  
§  
§  
§  
§  
§

IN THE PROBATE COURT

OF

DENTON COUNTY, TEXAS

**ORDER APPROVING BOND**

The Court finds that {Father} and {Mother} have been appointed Co-Guardians of the Person of {Proposed Ward} and that said Guardian has posted a **CASH BOND** in the amount of \$250, Receipt Number \_\_\_\_\_ with the Denton County Clerk in compliance with the TEXAS ESTATES CODE and this Court's Order entered on {Hearing date}.

THEREFORE, it is **ORDERED** that said \$250 CASH BOND is **APPROVED**.

Signed on {Hearing date}.

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**JUDGE PRESIDING**  
PROBATE COURT  
DENTON COUNTY, TEXAS



Label	Question	Answer
Proposed ward	Proposed ward	
Case number	Case number	
father	father	
mother	mother	
Hearing date	Hearing date	

## **Collin County guardianship steps**

**1. Civil Case Information Sheet**

**Efile filing code: application**

**2. Letter to clerk requesting citation by constable**

**Efile code: application**

**(a) Citation to serve proposed ward: Under Optional Services and Fees:  
Request constable Personal Service \$79**

**Note: Posted citation fee is part of the filing fee in Collin County.**

**3. CME**

**Efile filing code: application**

**4. Application for Appointment of Permanent Guardian of the Person Efile  
filing code: Application**

**5. Affidavit of Inability to pay court costs**

**Efile filing code: Statement of Inability to afford costs**

**6. Waiver and renunciation of right to letters of guardianship**

**Efile filing code: No Fee documents**

**7. EMail ward personal info sheet to court**

**email address: probate@collincountytx.gov**

**subject: secure/confidential**

### **Documents for Hearing**

**1. Order Appointing Guardian.**

**2. Oath**

**3. Order for Ad Litem Compensation**

## **Dallas County guardianship steps**

- 1. Civil Case Information Sheet**  
**Efile filing code: application**
- 2. Letter to clerk requesting citation by constable**  
**Efile code: application**  
**Under Optional Services and Fees, request:**
  - “Issue Citation” 2: fee \$4.00/citation (Total of \$8)**
  - “Service constable posting” fee \$20**
  - “service constable service” fee \$80**
  - “non-certified copies” fee \$1/page (if application is 9 pages then pay \$9)**
- 3. CME**  
**Efile filing code: application**
- 4. Application for Appointment of Permanent Guardian of the Person**  
**Efile filing code: Application**
- 5. Waiver and renunciation of right to letters of guardianship**  
**Efile filing code: No Fee documents**
- 6. EMail Dallas County Guardianship Case Information Filing Cover Sheet**  
**email address: Olga.moreno@dallascounty.org**  
**subject: secure/confidential**
- 7. Attorney Affidavit of Compliance**  
**Efile filing code: No Fee documents**
- 8. Guardianship training certificates**  
**Efile filing code: No Fee Documents**
- 9. Mail a check for the following fees to the probate clerk:**
  - Attorney ad litem fee: \$400**
  - Court investigator fee: \$25**
  - Bond fee: \$100**

**An attorney ad litem will NOT be appointed until the court investigator's office receives the criminal background checks from the JBCC.**

**Attorney ad litem and County investigator:  
Each will contact the family and visit the proposed ward.**

**Documents for Hearing**

- 1. Order Appointing Guardian.**
- 2. Oath**
- 3. Proof of Facts**
- 4. Order for AAL fees**

**Efile all hearing documents 2 weeks prior to hearing  
No Bond form. Dallas has their own.**

## **Denton County guardianship steps**

**1. Civil Case Information Sheet**

**Efile filing code: application**

**2. Letter to clerk requesting citation by constable**

**Efile code: application**

**Under Optional Services and Fees, request:**

**“Issue Citation” 2: fee \$4.00/citation (Total of \$8)**

**“\$75 service-sheriff-posting” fee \$75**

**“\$75 service constable Write Citation” fee \$75**

**“non-certified copies” fee \$1/page (if application is 9 pages then pay \$18. The application is printed for and added to each citation.)**

**3. CME**

**Efile filing code: application**

**4. Application for Appointment of Permanent Guardian of the Person**

**Efile filing code: Application**

**Attachment: Ad Litem certificate**

**5. Waiver and renunciation of right to letters of guardianship**

**Efile filing code: No Fee documents**

**6. Attorney Affidavit of Compliance**

**Efile filing code: No Fee documents**

**7. Guardianship training certificates**

**Efile filing code: No Fee Documents**

**8. Mail a check for the following fees to the probate clerk:**

**Attorney ad litem fee: \$500**

**Attorney ad litem and County investigator:**

**Each will contact the family and visit the proposed ward.**

### **Documents for Hearing**

**1. Order Appointing Guardian. Just like Dallas County’s order.**

**2. Oath**

**3. Bond: \$250 personal cash bond.**

No. {Cause number}

IN THE GUARDIANSHIP OF	§	IN THE PROBATE COURT
	§	
{PROPOSED WARD},	§	OF
	§	
AN INCAPACITATED PERSON	§	COLLIN COUNTY, TEXAS

**OATH OF CO-GUARDIANS**

We, {parents}, do solemnly swear that we will discharge faithfully the duties of Guardian of the Person of {Proposed ward}, An Incapacitated Person, according to law.

---

{dad}, Co-Guardian

---

{mom}, Co-Guardian

STATE OF TEXAS	§
	§
COUNTY OF COLLIN	§

**SWORN TO AND SUBSCRIBED BEFORE ME** on this {Date of hearing} by the said {parents}, in the capacity therein stated.

---

**Judge Presiding**

Label	Question	Answer
Cause number	Cause number	
Proposed ward	Proposed ward	
dad	dad	
mom	Mom	
parents	Dad full name and Mom full name	
Date of hearing	Date of hearing	

No. {Cause #}

IN THE GUARDIANSHIP OF	§	IN THE PROBATE COURT
	§	
{PROPOSED WARD},	§	NO. {Court number}
	§	
AN INCAPACITATED PERSON	§	DALLAS COUNTY, TEXAS

**ORDER APPOINTING PERMANENT CO-GUARDIANS  
OF THE PERSON OF {PROPOSED WARD}**

On the date indicated below, came on to be heard the Application for Appointment of a Permanent Guardian of the Person for {Proposed Ward}, an Adult (“Proposed Ward”), who was not present in Court. The Proposed Ward’s appointed counsel was present.

At the hearing on this matter, after considering the Application filed by {parents} (“Applicants”) and, pursuant to Texas Estates Code Chapter 1101, considering the evidence presented, records filed in the case, and argument of counsel the Court finds by clear and convincing evidence that:

- A. The Proposed Ward is an incapacitated person;
- B. It is in the best interest of the Proposed Ward to have the Court appoint a Guardian of the Person for the Proposed Ward;
- C. The rights of the Proposed Ward and the Proposed Ward’s property will be protected by the appointment of a guardian;
- D. The alternatives to guardianship that would avoid the need for the appointment of a guardian have been considered and determined not to be feasible; and
- E. The supports and services available to the Proposed Ward that would avoid the need for the appointment of a guardian have been considered and determined not to be feasible.

The Court further finds by a preponderance of the evidence that:

- A. This Court has venue of this matter pursuant to Texas Estates Code § 1023.001 because Proposed Ward resides in this county;
- B. The Court has jurisdiction of this matter;
- C. The Proposed Ward has no permanent legal Guardian of the Person;



- D. Applicants are proper and eligible to act and not disqualified to serve as Permanent Guardian of the Person of the incapacitated person;
- E. The Proposed Ward is an adult and is not incapacitated because of a mental condition;
- F. The Proposed Ward is totally without the capacity, as provided by Texas Estates Code § 22.016 and Chapter 1101, to care for {him/her}self and to manage {his/her} property, and cannot:
  - 1. Feed, clothe, and provide shelter for {him/her}self,
  - 2. Care for {his/her} own physical health,
  - 3. Manage {his/her} property and financial affairs,
  - 4. Hold or obtain a license to safely operate a motor vehicle,
  - 5. Make personal living decisions regarding {his/her} residence or to consent to remain at a location or within a residence or facility,
  - 6. Make business and managerial decisions,
  - 7. Apply for and consent to governmental benefits or services,
  - 8. Make decisions involving {his/her} marital status,
  - 9. Execute any type Power of Attorney,
  - 10. Execute a new trust or make a codicil or amendment to any existing trust,
  - 11. Make any gifts of real or personal property,
  - 12. Vote in public elections, or
  - 13. Consent to medical, dental, psychological, and psychiatric treatment for {him/her}self.

The Court further finds that:

- A. Applicants have proven each element required by the Texas Estates Code to create a guardianship of the Person;
- B. Due citation and notice of said Application have been given as required by law;
- C. Proposed Ward is a {sex}, who is 18 years old, having been born on {Birth date};

- D. Professional services were rendered in this matter by an attorney pursuant to Texas Estates Code Sec. 1054.055;
- E. Proposed Ward is totally incapacitated and a full guardianship with full authority over the Person of the Proposed Ward should be granted;
- F. This determination of incapacity was based on evidence of recurring acts or occurrences within the preceding six-month period and not isolated instances of negligence or bad judgment;
- G. It is in the best interest of the Proposed Ward not to appear in Court and she did not appear;
- H. This Application for co-guardian of the Person should be granted.

**IT IS THEREFORE ORDERED** by this Court that {parents} are appointed Co-Guardians of the Person of {Proposed Ward}, an Incapacitated Person, with all the duties, powers, and limitations hereby granted to a guardian of the Person with full authority by the laws of this state, including but not limited to, the right, power, and authority to:

1. take charge and control of the person of the Ward and the Ward's personal possessions, including taking physical possession of the Ward; the authority, with or without the Ward's permission or consent, to enter into the Ward's residence (or any location where the Ward may be found) to remove the Ward from such residence or location, to transport the Ward, and to place the Ward in another residence, a hospital, nursing home, structured facility, rehabilitation facility or other medical facility to the extent necessary to provide a safe and healthy environment for the Ward, subject to Texas Estates Code § 1151.051;
2. contract and incur obligations for the Ward to obtain a burial insurance policy or to make arrangements for the Ward's burial needs prior to the need arising;
3. apply for and secure an identification card, social security card, or other identification documents for the Ward;
4. make employment decisions for the benefit of the Ward;
5. enter into and terminate contracts and other agreements, on behalf of the Ward and for the benefit of the Ward, for goods and services necessary for the health, education, employment, and daily life of the Ward, including but not limited to, utility contracts, rental agreements, employee benefit agreements, money management programs, and financial account agreements;

6. apply for and consent to services from governmental sources on the Ward's behalf, including but not limited to:
  - a. Vocational rehabilitation programs;
  - b. Medicaid Waiver services;
  - c. Food Stamps;
  - d. Temporary Aid for Needy Families (TANF);
  - e. Veteran's services; and
  - f. Civil Service benefits services.
7. take, apply for, and receive funds from governmental sources or execute binding waivers of funds to be received from governmental sources, including but not limited to:
  - a. Social Security disability;
  - b. Social Security retirement;
  - c. Medicare/Medicaid;
  - d. Supplemental Security Income benefits;
  - e. HUD Section 8 rent subsidies; and
  - f. Veteran's benefits.
8. apply for, consent to, enter into, and enroll, with or without the Ward's consent, the Ward in residential and non-residential programs and services which are reasonably required and needed by the Ward and which are operated by public or private agencies and facilities, subject to Texas Estates Code § 1151.051;
9. consent to, enter into, and determine, with or without the Ward's consent, the Ward's residence, establish the Ward's legal domicile, and make application for, consent to, and enroll the Ward in public or private residential care facilities or other appropriate living facilities, including but not limited to 24 hour care facilities or nursing home facilities, subject to Texas Estates Code § 1151.051;
10. execute an Out-of-Hospital DNR Order pursuant to § 166.088 of the Health and Safety Code or issue directives regarding the withholding or withdrawing of life sustaining medical treatment for the Ward;
11. apply for, arrange for, consent to, or object to psychological, psychiatric, medical, or dental examinations, tests, treatments, or evaluations, including, but not limited to, a comprehensive diagnosis and evaluation, but not the power or authority to consent to in-patient psychiatric commitment of the Ward;
12. transport the Ward to an inpatient mental health facility for preliminary examination in accordance with Sub-chapters A and C, Chapter 573, Texas Health and Safety Code;
13. review, take possession of, or consent to the disclosure of psychological, medical and dental records for the Ward, including but not limited to, the power to have access to any and all of the Ward's medical records, health records, and protected

health information, from any and all covered entities pursuant to 45 C.F.R. 160-164 Health Insurance Portability and Accountability Act (HIPAA). This right, power and authority should apply to any and all information governed by HIPAA and should be complied with by any and all health-care providers and insurance companies that have provided treatment, testing or services. “Protected Health Information” regarding the Ward’s records should be given the most liberal interpretation by the Ward’s health care providers and is to include any and everything regarding the Ward’s health condition. This authority should allow the Guardian to request and obtain copies of any of the protected health information, including any chemical dependency records, AIDS/HIV testing, results or treatment, and all other treatment, testing, or records that the Guardian deems necessary. This authority should supersede any prior agreements that the Ward may have executed with the Ward’s providers regarding access or disclosure or lack thereof of the Ward’s protected health information;

14. consent or object to medical and dental treatment and testing, invasive and noninvasive procedures, including surgery, administration of psychotropic drugs and the choice of physician, psychologist, psychiatrist, or dentist, but not the power or authority to consent to sterilization of the Ward;
15. apply for, consent to, and enroll the Ward in appropriate educational, vocational or recreational services;
16. determine who may and who may not visit the Ward, and to deny access to the Ward to anyone whose visits are not in the Ward’s best interest as determined by the Guardian;
17. obtain, retain, and de-activate any credit or debit cards in the Ward’s name;
18. place a security freeze with the following credit bureaus on the Ward’s social security number to prevent identity theft:
  - a. Equifax,
  - b. Experian, and
  - c. Trans Union.
19. make decisions related to military service;
20. propose or contest a proposed transfer or discharge from a state school, state human development center, community MHMR center or any other placement;
21. manage the Ward’s estate, including, but not limited to, taking any and all actions necessary to collect, preserve, and protect the Ward’s estate and to incur costs and execute any contracts necessary for the collection, preservation, and protection of the Ward’s estate;

22. enter into the Ward's residence, with or without the Ward's permission or consent, to remove and/or secure the Ward's personal property;
23. take possession of all financial, medical, legal and other records;
24. conduct all financial transactions on the Ward's behalf, including, but not limited to, opening and/or closing accounts in the Ward's name, spending estate funds approved by the Court, negotiating checks and other instruments payable to the Ward. And any other financial transactions with the Ward's bank, brokerage service, savings and loan, credit union, or other financial institutions;

**IT IS FURTHER ORDERED** by this Court that {parents} shall have the right and authority to advise all income sources (including but not limited to Social Security) as to who should be the representative payee for the Ward and all other powers necessary to protect the Ward and see to the care and personal and physical needs of the Ward.

**IT IS ORDERED** that Letters of Guardianship be issued to {parents} upon their filing of an Oath of office and giving a bond in the sum of \$\_\_\_\_\_, payable and conditioned as required by law, and the Clerk is hereby directed to issue Letters of Guardianship to {parents} upon their qualification according to law.

**IT IS ORDERED** by this Court that this Co-Guardianship of the Person, pursuant to Texas Estates Code § 1101.151, shall be a full guardianship and that the Ward is declared totally incapacitated without the authority to exercise any rights or powers for {him/her}self.

**IT IS FURTHER ORDERED** that the limitations imposed upon {Proposed Ward}'s rights in connection with the guardianship of the person are that {Proposed Ward} shall no longer have the right to:

1. Exercise the powers and authority over {his/her} person for those powers and rights granted to the Guardian of the Person named above;
2. Manage {his/her} property, whether personal or real, tangible or intangible, or manage {his/her} financial affairs;
3. Hold or obtain a license to operate a motor vehicle;

4. Make personal living decisions or establish {his/her} place of residence or legal domicile;
5. Make business decisions;
6. Apply for and consent to governmental benefits or services;
7. Make decisions involving {his/her} marital status;
8. Execute any type Power of Attorney;
9. Execute a new trust or will or make a codicil or amendment to any existing trust or will;
10. Make any gifts of real or personal property;
11. Purchase, own, or possess a firearm;
12. Seek employment without the explicit agreement of the Guardian named above;
13. Hire, terminate, or contract with persons employed to assist or care for {him/her}self;
14. Contract for good or services;
15. Admit or discharge {him/her}self from a residential care facility or hospital;
16. Vote in public elections, or
17. Consent to medical, dental, psychological, and psychiatric treatment for {him/her}self.

**IT IS ORDERED** that any powers given to any person or entity under any and all powers of attorney previously executed or granted by {Proposed Ward} are hereby void and no longer have any force or effect in law.

**NOTICE TO PEACE OFFICER**

**NOTICE TO ANY PEACE OFFICER OF THE STATE OF TEXAS: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE RIGHT OF A GUARDIAN OF THE PERSON OF A WARD TO HAVE PHYSICAL POSSESSION OF THE WARD OR TO ESTABLISH THE WARD'S LEGAL DOMICILE AS SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CIVIL OR OTHER CLAIM REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THIS ORDER THAT RELATE TO THE ABOVE-MENTIONED RIGHTS OF THE COURT-APPOINTED GUARDIAN OF THE PERSON OF THE WARD. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT IN JAIL FOR AS LONG AS TWO YEARS AND A FINE OF AS MUCH AS \$10,000.**

**IT IS FURTHER ORDERED** that the term of this guardianship shall be until the Ward is restored to full legal capacity, dies, or until the Court determines this matter shall be terminated.

SIGNED on this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
**JUDGE PRESIDING**

Label	Question	Answer
Cause #	Cause number	
Proposed ward	Proposed ward	
Court number	1,2 3	
Sex	Male/female	
Birth date	Birth date	
His/her	His/her	
Him/her	Him/her	
He/she	He/she	
parents	parents	
dad	Dad	
mom	Mom	
Address	address	
Diagnosis	diagnosis	
Doctor	Doctor	
Exam date	Exam date	
Dr. Signed date	Dr. Signed date	



No. {Cause number}

IN RE: THE GUARDIANSHIP OF	§	IN THE PROBATE COURT
	§	
{PROPOSED WARD},	§	OF
	§	
AN INCAPACITATED PERSON	§	COLLIN COUNTY, TEXAS

**ORDER APPOINTING CO-GUARDIANS OF THE PERSON**

This cause came before the Court for trial on an Application for Appointment of Co-Guardians filed by {parents} relating to {Proposed ward}, a {sex} born {Birth date}, and the Court having conducted a trial at which all parties were present and at which the proposed Ward was represented by {his/her} Attorney Ad Litem, and the Court having determined that such Application should be granted;

It is accordingly **ORDERED** that {parents} are hereby appointed as Co-Guardians of the Person of {Proposed ward}, and that {parents} are granted, to the exclusion of the Ward, complete authority over the Ward to the fullest extent permitted by law, including the power and the right to choose, select, and establish the legal residence and domicile of the Ward.

It is **ORDERED** that {Proposed ward} shall RETAIN the right to vote, and the right to drive or to operate a motor vehicle with the consent and approval of the Guardian upon satisfying the licensure requirements of the Department of Public Safety, the right to associate with those with whom {he/she} may choose.

The Co-Guardians shall post a Personal Bond in the sum of \$50.00, and shall file an Oath as required by law. Once they have filed their Oath and the Bond has been signed, approved and filed, Letters of Guardianship of the Person shall issue to the Co-Guardians by the Clerk of this Court.

During any time that {Proposed ward} resides with either Guardian, it is further **Ordered** that the Guardians are to enter into a rental agreement to provide the Ward with housing at a cost of \$350.00 per month, with such rent to increase hereafter in proportion to increases in the cost of living.

{parents} shall file a report on the condition, location, and well-being of {Proposed ward} every twelve (12) months from the date of appointment, and shall report to the Court any substantial increase in the Ward's Estate within thirty (30) days of such increase.

This duration of this Order shall be until the death of the Ward or until the Ward is restored to legal capacity by subsequent Court Order.

Signed {Date of hearing}

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**JUDGE PRESIDING**

**NOTICE TO ANY PEACE OFFICER: YOU MAY USE REASONABLE EFFORTS TO ENFORCE THE RIGHT OF A GUARDIAN TO HAVE PHYSICAL POSSESSION OF THE WARD AS SPECIFIED IN THIS ORDER. A PEACE OFFICER WHO RELIES ON THE TERMS OF A COURT ORDER AND THE OFFICER'S AGENCY ARE ENTITLED TO THE APPLICABLE IMMUNITY AGAINST ANY CIVIL OR OTHER CLAIM REGARDING THE OFFICER'S GOOD FAITH ACTS PERFORMED IN THE SCOPE OF THE OFFICER'S DUTIES IN ENFORCING THE TERMS OF THIS ORDER THAT RELATE TO THE RIGHTS OF THE GUARDIAN OF THE PERSON OF THE WARD. ANY PERSON WHO KNOWINGLY PRESENTS FOR ENFORCEMENT AN ORDER THAT IS INVALID OR NO LONGER IN EFFECT COMMITS AN OFFENSE THAT MAY BE PUNISHABLE BY CONFINEMENT FOR AS LONG AS TWO YEARS AND BY A FINE OF AS MUCH AS \$10,000.**

Label	Question	Answer
Cause number	Cause number	
Proposed ward	Proposed ward	
Sex	Male or female	
Birth date	Birth date	
His/her	His or her	
He/she	He or she	
parents	Dad full name and Mom full name	
Date of hearing	Date of hearing	

No. {Cause number}

IN THE GUARDIANSHIP OF	§	IN THE PROBATE COURT
	§	
{PROPOSED WARD}	§	OF
	§	
AN INCAPACITATED PERSON	§	COLLIN COUNTY, TEXAS

### ORDER FOR AD LITEM COMPENSATION

This cause came before the Court for consideration of appropriate compensation for the services provided by the Attorney Ad Litem to the Ward in this Cause, and the Court having determined that \$\_\_\_\_\_ is a reasonable fee for such services and that the Ward is indigent;

It is accordingly Ordered that the above sum found by the Court to be a reasonable fee for the Attorney Ad Litem is to be paid out of the Treasury of **COLLIN COUNTY TEXAS**, to {AAL}, {AAL address}.

The Attorney Ad Litem is hereby discharged from further representation of the Ward, provided further that the Attorney Ad Litem may request reinstatement if circumstances hereafter suggest to the Attorney Ad Litem that the interests of the Ward so require.

Signed \_\_\_\_\_, 2018

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**Weldon Copeland, JUDGE PRESIDING**

Label	Question	Answer
Cause number	Cause number	
Proposed ward	Proposed ward	
AAL	AAL	
AAL address	AAL address	

No. {Cause number}

IN THE GUARDIANSHIP OF	§	IN THE PROBATE COURT
	§	
{PROPOSED WARD}	§	NO. {Court no}
	§	
AN INCAPACITATED PERSON	§	DALLAS COUNTY, TEXAS

### ORDER FOR ATTORNEY AD LITEM FEES

After receiving testimony in open Court as to the amount of time expended by the Attorney Ad Litem in representing the above named Ward, the Court makes the following finding of facts:

1. {Aal}, State Bar No. {Bar number} was appointed Attorney Ad Litem for {Proposed Ward} on {Date appointed AAL}.
2. Said attorney spent \_\_\_\_\_ hours on this case.
3. The applicants will pay attorney ad litem fees.
4. The applicants are responsible for paying said attorney a reasonable fee pursuant to Section 1155.151 (3) of the Texas Estates Code.
5. The sum of \$\_\_\_\_\_ is a reasonable fee.

THEREFORE, IT IS ORDERED AND ADJUDGED that {Aal}, Attorney Ad Litem, be paid a sum of \_\_\_\_\_, with \$400 being paid from the funds held in the registry of the Court for such purpose, and the remaining \$\_\_\_\_\_ balance due to be paid by the applicants.

Signed \_\_\_\_\_, 2018.

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**JUDGE PRESIDING**

Label	Question	Answer
Cause number	Cause number	
Court no	Court no	
Proposed ward	Proposed ward	
AAL	AAL	
AAL address	AAL address	
Bar number	Bar number	
Date appointed AAL	Date appointed	

# Texas Guardianship Registration & Training

Jeff Rinard  
Judicial Branch Certification Commission  
Office of Court Administration



# Guardianship Registration Rules

## Rule 10.2 – Guardianship Registration

- Effective June 1, 2018, all guardianships in the state of Texas must be registered with the Judicial Branch Certification Commission (JBCC).
- All guardianship applicants will be required to submit certain information to JBCC, which will be registered in the guardianship database when the clerk of the court notifies JBCC that the guardian has qualified (oath and bond are filed).
- NOTICE OF THE REQUIREMENT – Probate court clerks and JBCC will provide written notice to all proposed guardians of the registration requirement as well as the criminal history and guardianship training requirements for proposed guardians who are not attorneys, certified guardians or corporate fiduciaries.
- JBCC is working on developing a form for clerks to use to issue the required notices.
- The clerk will notify JBCC by email when the guardian has qualified – [jbccguardianregistration@txcourts.gov](mailto:jbccguardianregistration@txcourts.gov)

# Guardianship Training Rules

## Rule 10.3 – Guardianship Training

- Effective June 1, 2018, a proposed guardian may not be appointed unless they complete the training required under new Sec. 155.204, Government Code.
- EXCEPTIONS TO TRAINING REQUIREMENT –
  - Certified guardians (already registered with JBCC), attorneys and corporate fiduciaries are not required to complete the training.
  - A person applying to be appointed TEMPORARY guardian for no longer than 60 days is not required to complete the training; if the temporary guardianship is extended or made permanent by the Court, the guardian must first complete the required training.
  - The Court may waive the training requirement if the proposed guardian has completed the training less than one year prior to the date of the pending guardianship application.

# Guardianship Training Rules

## Rule 10.3 – Guardianship Training

- ONLINE TRAINING – JBCC will provide online training, or the printed materials and instructions, to the proposed guardian.
- The proposed guardian must complete the training at least 10 days before the hearing on the application.
- The proposed guardian will receive a certificate of completion, and JBCC will notify the Court when they have completed the training.

# Guardianship Training Rules

## Rule 10.4 – Waiver or Postponement of Guardianship Training

- A Court may waive the guardianship training if the proposed guardian has completed the training less than one year prior to the date of the guardianship application.
- A Court may grant a postponement of up to 60 days after qualification for the completion of the training requirement if:
  - The Court makes an immediate appointment of a successor guardian under Sec. 1203.102(b), Estates Code;
  - The Court appoints a temporary guardian under Chapter 1251, Estates Code; or
  - The Court finds that the immediate appointment of a guardian is necessary because of “extraordinary facts and circumstances.”
- COURT NOTICE TO JBCC – If the Court grants a waiver or postponement of the guardianship training under Rule 10.4, the COURT is responsible for notifying JBCC of the waiver or postponement, and the reasons it was granted, within five (5) days after the appointment of the guardian.

# Guardianship Qualification Rules

## Rule 10.5 – Criminal History Background Requirement

- Effective June 1, 2018, JBCC will obtain a criminal history background report for each guardianship applicant who submits the required registration information under Rule 10.1(a) and provide it to the clerk for the exclusive use of the Court.
- EXCEPTIONS – Certified guardians, provisionally certified guardians, attorneys and corporate fiduciaries are not subject to the criminal history background requirement.

# Guardianship Qualification Rules

## Rule 10.5 – Criminal History Background Requirement

- A proposed guardian or temporary guardian may not be appointed unless the criminal history background information is obtained by JBCC and provided to the Court at least 10 days prior to the hearing date.
  - Name (including former names) and date of birth search of DPS criminal history records if the estimated value of the liquid assets of the guardianship estate is \$50,000 or less
  - Fingerprint-based search of FBI criminal history records if the value of the liquid assets of the guardianship estate is more than \$50,000

# Guardianship Qualification Rules

## Rule 10.5 – Criminal History Background Requirement

- Clerk must NOT file the criminal history background report in the court file.
- Hearing may not be held on the application until at least 10 days after the Court has received the criminal history background report.
- JBCC may not disclose the criminal history background information to any person or agency other than the clerk of the court in which the guardianship case is pending or to the court, except upon court order or consent of the proposed guardian.
- JBCC and the clerk of the court may destroy the criminal history background report after it has been used for its intended purpose.
- NOTE: Unauthorized disclosure of criminal history background information is a criminal offense under Sec. 411.085, Government Code.

# Guardianship Registration Rules

## Rule 10.6 – Notice of Guardianship – Entry in Database

- Clerk must notify JBCC of the date of the guardian's qualification (bond and oath filed).
- JBCC will register the guardianship information obtained under Rule 10.2 in the statewide guardianship database.
- If a guardianship application is dismissed, denied or non-suited, the clerk of the Court must notify JBCC within 10 days of such orders; the clerk must notify JBCC if any proposed guardian whose information is on file with the Commission is NOT appointed or fails to qualify for any other reason within 10 days of the date when it becomes clear that the person will not serve as guardian.
- If a Court removes a guardian, or closes a guardianship, the clerk of the Court must *immediately* notify JBCC by email to [jbccguardianregistration@txcourts.gov](mailto:jbccguardianregistration@txcourts.gov).
- If a Court transfers a guardianship to another jurisdiction or venue, the clerk of the Court must notify JBCC within 10 days of receipt of confirmation that the receiving Court has accepted the guardianship by email to [jbccguardianregistration@txcourts.gov](mailto:jbccguardianregistration@txcourts.gov).
- JBCC must update the Guardianship Database upon receipt of any notice from the clerk or the Court of a change, transfer or termination of a registered guardianship.
- JBCC must allow access to the guardianship database only as permitted under Sec. 155.153, Government Code and exclusively for the purposes specified in that section.



# Guardianship Registration Rules

## Rule 10.7 – Registration of Pending and Pre-Existing Guardianships

- APPLICATIONS PENDING AS OF JUNE 1, 2018
  - A Court must provide written notice of registration requirements to a proposed guardian who may be appointed on or after June 1, 2018, pursuant to a guardianship application filed before that date.
  - The proposed guardian must also complete the guardianship training and submit to criminal history background requirement no later than 10 days before the hearing on the application or August 31, 2018, whichever is later.
- PRE-EXISTING GUARDIANSHIPS
  - Each guardian of a guardianship that existed on or before June 1, 2018, must register with JBCC by submitting the information required under Rule 10.2(a) and providing the guardian's qualification date no later than the filing due date of the guardian's next annual report or accounting.
  - The COURT must notify the guardian of this requirement.
  - A guardian appointed and qualified before June 1, 2018, is not required to complete the guardianship training or undergo a criminal history background check unless ordered by the Court.
  - Registration is not required for guardianships that were closed or terminated prior to June 1, 2018.