

Bastrop County Court
Guardian of the Person: Court-Ordered Instructions

Cause No. G - _____

Guardianship of: _____

Thank you for considering appointment as the Guardian of the Person with full or limited authority to represent the interests of the Ward. This is a fiduciary position that carries with it certain duties and a high degree of responsibility. As Guardian of the Person (the Ward), 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 do not cover everything you may need to know.

Please initial each place provided (_____) to indicate that you have read and understand what is required of a Guardian. This document must be signed in the presence of a Notary or Clerk of the Court. Bring this document to Court for the hearing on your request to be Guardian.

1. _____ **Prior to the guardianship hearing, you must:**

A. Read these Court-Ordered Instructions and initial each of the boxes in the margins indicating that you understand the italicized points made in the text to the right of each of the boxes.

B. Fill out your Initial Report on the Condition and Well-Being of the Ward.

C. Fill out the Guardianship General Information form required by the Court.

2. _____ **Before you leave the Court after the hearing, you must:**

A. Sign, before a notary or in the presence of the Court Clerk, and file these Court-Ordered Instructions. The original will be filed in the Clerk's Office and placed in the file; the Court will make a copy for you to keep and reference as you serve as Guardian.

B. Take your Oath of service – your signed and sworn (or affirmed) commitment to “discharge faithfully the duties of guardian.”

*C. File your Initial **Report on the Condition and Well-Being of the Ward**.*

D. Submit the Guardianship General Information form for the Court's internal files

3. _____ **If required, you must file your bond within 20 days after the Court signs the order granting letters of guardianship.**

Letters of Guardianship

Your authority to act on the Ward's behalf does not begin until you have qualified – which requires both that (1) you have taken your oath and (2) the Court has approved your bond (if required). 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 are sent when you have qualified. If you need additional letters, request them from the Clerk's office (Bastrop County Courthouse- 1st floor, or call 512-332-7134).

Letters of guardianship expire one year and four 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

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Annual Report of the Person. New Letters of Guardianship are sent when your Annual Report is approved. Contact the clerk's office to order additional Letters of Guardianship (see above).

Annual and final reports

★ Texas law requires you – as a Guardian of the Person – to file a report each year that covers a 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 60 days after the reporting period ends. *Once the date you qualify is determined, the Court will send you the dates that each year your Annual Report must cover as well as the date each year by which you must file your Annual Report with the Bastrop County Clerk's Office.*

1. Annual Report Required.

Each year, within 60 days of the anniversary of the date you qualified as Guardian, you must file your sworn (or affirmed) Annual Report (“Report on the Condition and Well-Being of a Ward”). 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 on your bond (not from funds of the Ward).

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, when you sign the Report, you will declare under penalty of perjury that the Report is true and correct.

The Judge requests that you include a recent photo of the Ward in each of your Annual Reports. The photo should be representative of the Ward's appearance and condition.

In your Annual Report, you must swear or affirm either that you have paid your bond premium for the next reporting year or that you have filed an approved cash bond.

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.

If you receive Social Security benefits on the Ward's behalf, you must attach to your Annual Report a copy of the most recent “Representative Payee Report” you filed with the Social Security Administration (SSA), accounting for your use of those funds. (A report to SSA is required annually.)

You may complete and file the Annual Report without an attorney's assistance. Forms are available in the Bastrop County Clerk's Office or online at the Bastrop County Court (Probate) website: www.co.bastrop.tx.us/page/court.probate

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 may be closed when the Ward:

regains competency (requires an application, hearing, and Court order); or

dies (attach a death certificate to the Final Report); or

reaches 18 years of age (for guardianships based solely on minority).

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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 of the funds or property to the Court within 30 days. For example, you must report receipt of funds or property that the Ward acquires by inheritance, by gift, or from a lawsuit. A Court-appointed Visitor may visit the Ward at any time to assess the Ward's physical condition and living conditions.

Change of address

You must notify the Court of any change in the mailing address of either you or the Ward. (Call the County Clerk's Office at 512-332-7242). If the Ward moves from this County, consult with the Court Coordinator (512-332-7201) about whether the guardianship should be transferred.

Moving the Ward to a more-restrictive care facility? *You may not move the Ward*

into a more-restrictive care facility until you provide notice to the Court, the Ward, and any person who has requested notice, and only after seven business days following the Court's receipt of the notice. If nobody has objected to the proposed move, then you may move the Ward.

Previously existing powers of attorney

When appointing a guardian of the person, it is the usual practice of this Court to revoke all known and unknown *medical* powers of attorney previously executed by the Ward. There are some exceptions, which will always be indicated in the Order appointing the guardian of the person.

Your powers and duties

The order appointing you as Guardian of the Person specifies 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 permit.
4. The power to consent to medical, 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.)
5. If the Ward is an adult, the duty to inform the Ward's spouse, parents, children, and siblings as soon as possible if:
 - a. the Ward dies;
 - b. the Ward is admitted to a medical facility for acute care for three days or more; or
 - c. the Ward has moved.

