

CAUSE NO. _____

IN THE GUARDIANSHIP OF

IN THE PROBATE COURT

_____ ,

NO. 3

AN INCAPACITATED PERSON/ MINOR CHILD

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BEXAR COUNTY, TEXAS

**COURT INSTRUCTIONS OF THE GUARDIAN OF THE PERSON
OF AN INCAPACITATED ADULT OR MINOR**

As the duly appointed Guardian of the Person, you are hereby advised by the Court that you must comply with the following statutory requirements:

1. **File your Guardian’s Bond and Oath or Declaration within 20 days after the date of the order** appointing the guardian. *This is a mandatory requirement.* The date on which both the bond and oath/declaration have been filed is your QUALIFICATION DATE. §§ 1105.051, 1105.101, *Estates Code*
2. **Explain the Ward’s Bill of Rights** to the ward in the ward’s native language, or preferred mode of communication, and in a manner accessible to the ward, upon appointment and on annual renewal of the guardianship. The Bill of Rights for a Person Under Guardianship is attached hereto. § 1151.351, *Estates Code*
3. **File your sworn Annual Report of the Condition, Welfare and Well-Being of the Ward each year, no later than 60 days after the anniversary date of your qualification date. This is a mandatory requirement. Failure to file the Annual Report of the Guardian of the Person may result in an order to show cause, revocation of letters, removal as guardian, and/or a fine not to exceed \$1,000.00 (Sec. 1163.151, Estates Code).** Your annual reporting period will be from _____ through _____ and will be due on _____ of each year until this guardianship is closed. *Sec. 1163.101, Estates Code*

The **Annual Report of the Person** form is available at:

<https://www.bexar.org/3072/Orders-Forms>

4. **Keep an accurate accounting** of all Social Security funds you receive and expend on behalf of the Ward as you will need to account to the Social Security Administration for the use of these funds. *SSA Publication No. 05-10076, Rev. Jan. 2009.*
5. **Preserve, protect and insure, if insurable, all non-cash assets** of this Guardianship. *Chap. 1151, Estates Code.*
6. **File your Final Report of the Guardian of the Person** when the Guardianship is ready to be closed due to the death of the ward or a judicial finding that the ward has regained competency. **This is a mandatory requirement.** *Chap. 1204, Estates Code.*
7. Consult with your attorney on any matter regarding this guardianship you do not understand. **Failure to comply with the mandatory requirements of the Texas Estates Code may result in penalties up to and including revocation of letters of appointment and/or fines up to \$1,000.00.**



Judge Barbie Scharf-Zeldes
Probate Court No. 3
Bexar County, Texas

I, _____, the duly appointed Guardian of the Person, hereby attest that I have read the above and understand its contents.

Date

Signature _____
Guardian of the Person

NOTICE TO THE GUARDIAN: These Instructions from the Court are intended to inform you of your duties and responsibilities under the Estates Code and under the orders of this Court, in order to facilitate your compliance. Your attorney should explain these instructions to you and ensure that a copy is provided to you. If you have any questions or there is any part of these instructions that you do not understand, consult your attorney. You are required to sign a copy of these Instructions and file it with the clerk. By signing this form, you are acknowledging that you have received these Instructions from the Court.

Bill of Rights for Persons under Guardianship

Estates Code § 1151.351

Texas law provides a bill of rights to you as a person under a guardianship. Your guardian will explain these rights to you, which are listed below.

A person under a guardianship retains all the rights, benefits, responsibilities, and privileges granted by the constitution and laws of this state and the United States, except where specifically limited by a court-ordered guardianship or where otherwise lawfully restricted.

Unless limited by a court or otherwise restricted by law, you have the following rights:

- (1)** to have a copy of the guardianship order and letters of guardianship and contact information for the probate court that issued the order and letters;
- (2)** to have a guardianship that encourages the development or maintenance of maximum self-reliance and independence in the ward with the eventual goal, if possible, of self-sufficiency;
- (3)** to be treated with respect, consideration, and recognition of the ward's dignity and individuality;
- (4)** to reside and receive support services in the most integrated setting, including home-based or other community-based settings, as required by Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.);
- (5)** to consideration of the ward's current and previously stated personal preferences, desires, medical and psychiatric treatment preferences, religious beliefs, living arrangements, and other preferences and opinions;
- (6)** to financial self-determination for all public benefits after essential living expenses and health needs are met and to have access to a monthly personal allowance;
- (7)** to receive timely and appropriate health care and medical treatment that does not violate the ward's rights granted by the constitution and laws of this state and the United States;
- (8)** to exercise full control of all aspects of life not specifically granted by the court to the guardian;
- (9)** to control the ward's personal environment based on the ward's preferences;
- (10)** to complain or raise concerns regarding the guardian or guardianship to the court, including living arrangements, retaliation by the guardian, conflicts of interest between the guardian and service providers, or a violation of any rights under this section;
- (11)** to receive notice in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward, of a court proceeding to continue, modify, or terminate the guardianship and the opportunity to appear before the court to express the ward's preferences and concerns regarding whether the guardianship should be continued, modified, or terminated;
- (12)** to have a court investigator or guardian ad litem appointed by the court to investigate a complaint received by the court from the ward or any person about the guardianship;
- (13)** to participate in social, religious, and recreational activities, training, employment, education, habilitation, and rehabilitation of the ward's choice in the most integrated setting;
- (14)** to self-determination in the substantial maintenance, disposition, and management of real and personal property after essential living expenses and health needs are met, including the right to receive notice and object about the substantial maintenance, disposition, or management of clothing, furniture, vehicles, and other personal effects;
- (15)** to personal privacy and confidentiality in personal matters, subject to state and federal law;

(16) to unimpeded, private, and uncensored communication and visitation with persons of the ward’s choice, except that if the guardian determines that certain communication or visitation causes substantial harm to the ward:

(A) the guardian may limit, supervise, or restrict communication or visitation, but only to the extent necessary to protect the ward from substantial harm; and

(B) the ward may request a hearing to remove any restrictions on communication or visitation imposed by the guardian under Paragraph (A);

(17) to petition the court and retain counsel of the ward’s choice who holds a certificate required by Subchapter E, Chapter 1054 of the Texas Estates Code, to represent the ward’s interest for capacity restoration, modification of the guardianship, the appointment of a different guardian, or for other appropriate relief under this subchapter, including a transition to a supported decision-making agreement, except as limited by Section 1054.006 of the Texas Estates Code;

(18) to vote in a public election, marry, and retain a license to operate a motor vehicle, unless restricted by the court;

(19) to personal visits from the guardian or the guardian’s designee at least once every three months, but more often, if necessary, unless the court orders otherwise;

(20) to be informed of the name, address, phone number, and purpose of Disability Rights Texas, an organization whose mission is to protect the rights of, and advocate for, persons with disabilities, and to communicate and meet with representatives of that organization;

(21) to be informed of the name, address, phone number, and purpose of an independent living center, an area agency on aging, an aging and disability resource center, and the local mental health and intellectual and developmental disability center, and to communicate and meet with representatives from these agencies and organizations;

(22) to be informed of the name, address, phone number, and purpose of the Judicial Branch Certification Commission and the procedure for filing a complaint against a certified guardian;

(23) to contact the Department of Family and Protective Services to report abuse, neglect, exploitation, or violation of personal rights without fear of punishment, interference, coercion, or retaliation;

(24) to have the guardian, on appointment and on annual renewal of the guardianship, explain the rights delineated in this subsection in the ward’s native language, or preferred mode of communication, and in a manner accessible to the ward;

(25) to make decisions related to sexual assault crisis services, including consenting to a forensic medical examination and treatment, authorizing the collection of forensic evidence, consenting to the release of evidence contained in an evidence collection kit and disclosure of related confidential information, and receiving counseling and other support services; and

(26) to have private communications with the ward’s physicians or other medical professionals, unless the court, after a hearing requested by the ward’s guardian, orders the private communications to be limited due to:

(A) the risk of substantial harm to the ward; or

(B) the communications being unduly burdensome to the physician or medical professional.

This bill of rights does not replace or repeal other remedies you have under the law.