

HARRIS COUNTY PROBATE COURTS

Guardianship of the Person and Estate Handbook

Protecting and Preserving what we Cherish



Probate Court No. 1

Honorable Jerry Simoneaux

Probate Court No. 2

Honorable Pamela Medina

Probate Court No. 3

Honorable Jason Cox

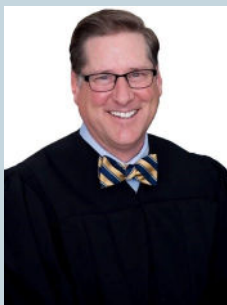
Probate Court No. 4

Honorable James Horwitz

Probate Court No. 5

Honorable Kathleen S. Stone

A NOTE FROM THE JUDGES



Judge Jerry Simoneaux

Probate Court No. 1



Judge Pamela Medina

Probate Court No. 2



Judge Jason Cox

Probate Court No. 3



Judge James Horwitz

Probate Court No. 4



Judge Kathleen S. Stone

Probate Court No. 5

Thank you for accepting your appointment as guardian. Please take the time to familiarize yourself with this handbook which serves to outline your duties and responsibilities. As a guardian, you have a fiduciary duty to act on behalf of and in the best interests of the ward in all decisions relating to the ward. As a result, Texas law requires that guardians obtain legal representation to help facilitate and guide them through this ongoing process.

The purpose of this handbook is to serve as a reference guide, highlighting specific issues and requirements necessary to be effective in the role of guardian. We hope this information enhances your ability to serve in this capacity in a thoughtful and competent manner. Should you have additional questions or concerns, your attorney and our staff are available to provide assistance.

Protecting and Preserving What We Cherish

Historical photographs featuring Harris County courthouses have been included in this handbook to emphasize our theme of “protecting and preserving what we cherish.” Beside each photograph is a brief explanation listing facts, background information, and points of interest obtained through Joel Draut, the photo archivist for the Julia Ideson Library. In addition, the recent photography of the renovated courthouse was obtained through Anthony Butts, a local photographer and graphic artist. We would like to express our gratitude to Joel Draut and Anthony Butts for their help in procuring these photographs.

Photographs, taken by Abigail Butts, of landmarks well-known to Houstonians are also featured throughout the handbook including some prominent sculptures found throughout the city. We have included photographs highlighting many beautiful scenes cherished by the residents of Harris County.

Only four of the five courthouses presented in this handbook are pictured due to controversy regarding the appearance of the first courthouse. All of the courthouses mentioned resided on a block of land known as “Courthouse Square,” located in downtown Houston on Fannin between Congress and Preston.

This parcel of land was donated by two brothers, Augustus and John Allen, who were real estate promoters from New York. The deed memorializing the donation states that should anything other than a courthouse be erected on the property, the title to the land would then revert back to Allen family heirs.

The first of five courthouses to grace this donated plot took the form of a two-story log structure built in 1838. The building was enlarged in 1841, eventually deteriorated, and was sold at auction in 1844. The second courthouse, completed in 1851, consisted of a two-story brick building with four centrally located entrances on each side and a cupola. This courthouse was used only nine years due to its limited capacity. New accommodations became necessary, and plans for a third courthouse were undertaken. Construction of Harris County’s third courthouse was complete in 1860, and its intended use was postponed due to the commencement of the Civil War. During the war, the two-story Greek Revival building was used as a hospital, artillery storage facility, and a cartridge factory, all of which were located on separate floors.

A fourth courthouse became necessary by 1883 due to rapid deterioration of the antebellum courthouse. The fourth courthouse, a four-story Victorian Gothic style building, was also demolished due to deterioration and replaced with a fifth courthouse built in 1910. The 1910 courthouse, which stands today, was built in a Classical Revival style using indigenous materials. The historical authenticity and integrity of the building were compromised during a renovation that took place in the 1950s. The courthouse has recently been renovated to its original splendor and is now home to our Appellate Courts. The renovation of the fifth courthouse inspires us to reflect upon the history of Harris County and take pride in that history, thereby reinforcing the theme of the Guardianship Handbook—protecting and preserving what we cherish.

The stained glass skylight featured on the front cover is located in the dome of the 1910 Harris County Courthouse, which underwent renovations and was officially completed in 2011. The skylight was designed to complement the architectural structure of the building.

LESSER RESTRICTIVE ALTERNATIVES

Lesser Restrictive Alternatives to Guardianship

In cases where a lesser restrictive alternative to guardianship is ordered, these alternatives include, but are not limited to, appointing an agent under a medical power of attorney, assigning an attorney or agent under a durable power of attorney, establishing a declaration for mental health treatment, appointing a representative payee, establishing joint bank accounts, creating a management trust, creating a special or supplemental needs trust, designating a guardian before one is needed, and making decisions based on person-centered planning.

Supports and Services

“Supports and services” are closely related to lesser restrictive alternatives, and refer to formal and informal resources and assistance enabling an individual to meet their basic needs, care for their physical or mental health, manage their financial affairs, and make personal decisions regarding residence, voting, operating a motor vehicle, and marriage.

Application for Complete Restoration of Ward's Capacity or Modification of Guardianship

A ward or one interested in the ward's welfare may file an application with the court for orders including an order finding that the ward is no longer an incapacitated person resulting in the settlement and closing of the guardianship. The court may also determine that the ward lacks the capacity, or sufficient capacity with supports and services, to do the tasks necessary to fulfill their needs, care for their physical and mental health, or manage their financial affairs, thus granting

additional powers and duties to the guardian. Lastly, in cases where the ward has the capacity, or sufficient capacity with supports and services, to do the tasks necessary to fulfill their needs, care for their physical and mental health, or manage their financial affairs, a court may limit the guardian's powers and duties, thus permitting the ward to care for him or herself, make decisions regarding residence, or manage the ward's financial affairs consistent with their ability, with or without supports and services.

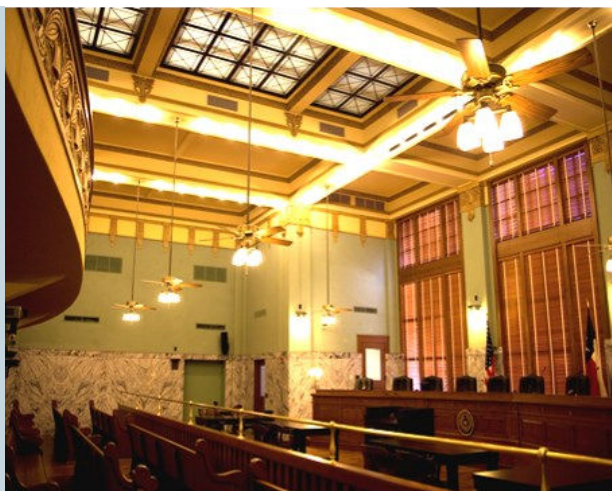
A person may not reapply for complete restoration of a ward's capacity or modification of a ward's guardianship before the first anniversary of the hearing date on the last application, unless otherwise provided by the court in the order granting guardianship.

A guardian cannot prevent a ward from communicating with the court or they risk being removed as guardian. At a hearing on an application for restoration or modification of a guardianship, the court will consider evidence regarding the ward's mental or physical capacity that is relevant to the complete restoration of the ward's capacity or modification of the ward's guardianship at the time of the hearing. In this case, the party who filed the application has the burden of proof at the hearing. Also, the court may not grant an order completely restoring a ward's capacity or modifying a ward's guardianship unless the applicant presents the court with a written letter or certificate from a licensed doctor. Evidence that supports and services available to the ward increases the self-sufficiency of the ward may cause a court to limit the specific powers or duties of a Guardian.

The north courtroom of the 1910 Courthouse in 1920.



The north courtroom of the 1910 Courthouse today.



REQUIRED FILINGS WITH THE COURT

Texas law permits the appointment of a guardian for the ward's person (physical well-being) and the ward's estate (financial well-being). If your appointment is as guardian of the ward's estate, the following filing requirements apply to you:

Bond and Oath

The bond must be filed within twenty days (20) of appointment. An appointee cannot qualify as guardian and Letters of Guardianship cannot be issued without the court's approval of the bond. The date the bond is approved and the oath is signed is called the "qualification date."

Inventory, Appraisement, and List of Claims

An Inventory, Appraisement, and List of Claims must be filed by your attorney on your behalf within thirty (30) days of the qualification date. The Inventory, Appraisement, and List of Claims must be verified and list, describe, and declare the value of the ward's property as of the qualification date.

Allowances and Expenditures, Notice of Appointment

Within thirty (30) days of the qualification date, your attorney must file on your behalf an application requesting monthly or annual allowances to be expended from guardianship funds for the use and benefit of the ward.

Most expenses must be approved by the court, including attorney fees paid from the ward's estate and cash allowances given to the ward. Expenses not requiring court approval include: premium for the guardian's bond, court and filing costs, and the ward's taxes. In addition, your attorney should publish a Notice of Appointment, printed in the county where letters are issued.

In the event expenditures are made in good faith by the guardian to either the ward or the ward's spouse or dependents, the court may approve such expenditures provided that it was not

convenient or possible to obtain court approval first, the expenditures were reasonable and proper based upon clear and convincing evidence, and the court would have granted the authority to make the expenditures had an application been filed in advance.

Investment Plan

An investment plan must be filed within one-hundred and eighty (180) days of the qualification date, unless waived by the court.

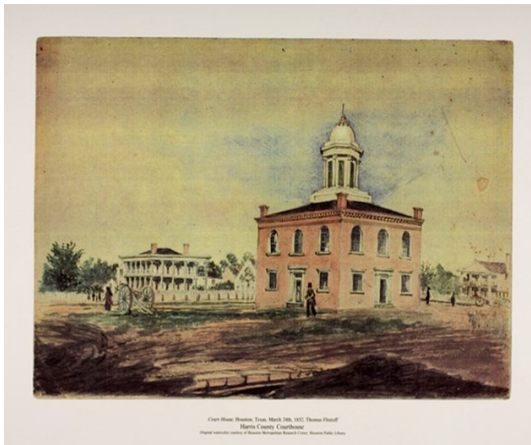
The court will typically make such determination after the filing of the sworn Inventory, Appraisement, and List of Claims. As guardian, you are expected to be prudent and exercise good judgment when investing and managing a ward's estate. Several factors should be taken into consideration when making an investment decision involving the estate of a ward, including but not limited to: (1) costs of supporting the ward; (2) the ward's age, education, current income, ability to earn additional income, net worth, and liabilities; (3) the nature of the ward's estate; and (4) any other resources reasonably available to the ward.

Only safe investment options should be considered. Some examples include government bonds and interest bearing time deposits that are insured by the Federal Deposit Insurance Corporation (FDIC). The court will determine whether a guardian has prudently managed an estate by reviewing the investments collectively as opposed to individually.

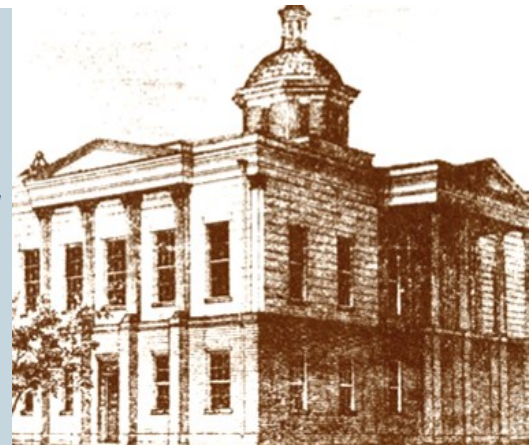
"Love begins by taking care of the closest ones, the ones at home."

—Mother Teresa

Painting of Harris County's second courthouse. This courthouse was built in 1851 and stood nine years.



Harris County's third courthouse was still under construction and left incomplete when Texas joined the Confederacy. During the war, iron chains from the fence were melted down for cannonballs.



REQUIRED FILINGS WITH THE COURT

Annual Account

The Annual Account is filed each year within sixty (60) days after the anniversary of the qualification date.

The Annual Account must be prepared by your attorney on your behalf. This form is accompanied by an affidavit which attests to the accuracy of the information provided and is signed by you. You should keep and organize all receipts of disbursements made on behalf of the ward out of the estate.

In addition, all bank and financial statements during the accounting period should be given to your attorney for the preparation of the Annual Account. A bank officer must sign a verification of funds prepared by either your attorney or by the bank verifying funds at the end of the accounting period.

You must also provide a voucher for each item of credit that is claimed in the account. Proof of the existence and possession of securities or other assets held in a financial institution is also necessary. After the Annual Account is approved by the court, you may order updated Letters of Guardianship for the Estate. Failure to file an Annual Account could result in removal.

Final Account

Consult your attorney if the guardianship estate should be closed. There are many circumstances in which this may be necessary.

The guardianship estate must be closed when the ward dies, is restored, or in the case of a minor, when the ward becomes an adult, assuming the adult ward is not found to be incapacitated by the court. A minor child becomes an adult by either reaching the age of eighteen (18), having their disabilities as a minor removed according to the law, or through marriage. Additionally, a guardianship estate must be closed when an

incapacitated ward is restored to full legal capacity, or when the spouse of a married ward has qualified as survivor in a community administration and the ward does not own separate property.

Further, a guardianship estate becomes unnecessary when the ward's estate is exhausted or when the foreseeable income accruing to the ward or to the estate is so negligible that maintaining the guardianship would be burdensome. Finally, when all assets of the estate have been placed in a management trust or have been transferred to a pooled trust subaccount in accordance with a court order, the court may determine that a guardianship estate is no longer necessary.

A Final Account must be prepared by your attorney when closing the guardianship estate is desired. Once the Final Account is approved, the Application to Close and Discharge the Guardian of their Bond and the Receipt must be prepared by your attorney and filed with the County Clerk's office.

Sales and Abandonment of Property

Any sale or abandonment of property, including personal property and real estate, must be approved by the court. If real estate or tangible property does not serve the ward and represents a liability or an ongoing expense to the ward's estate, it should be sold or perhaps abandoned if it lacks value. Retention of such property will require court approval.

Filing Fee and Forms

All forms require a filing fee. You may obtain fee information from the Harris County Clerk's Office at 713-274-8585, or on their website: <http://www.cclerk.hctx.net> under the heading "Fee Schedule." You may also download certain forms from this website, such as the Annual Report. Other required forms must be prepared by your attorney.



This Victorian Gothic building was Harris County's fourth courthouse, built in 1884. The Houston Bar Association branded this courthouse a firetrap. It was eventually torn down.



The 1910 courthouse as it appeared then. The recent restoration of this courthouse was completed in 2011 and made possible through funding provided by the Texas Historic Courthouse Preservation Program.

WARD'S BILL OF RIGHTS

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 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, guardian ad litem, or attorney ad litem appointed by the court to investigate a complaint received by the court from the ward or any person about the guardianship;



WARD'S BILL OF RIGHTS

(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 the 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 Estates Code Section 1054.006;

(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;

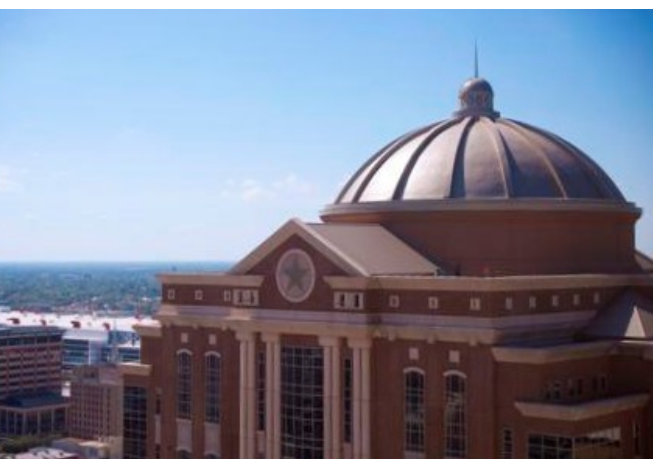
(20) to be informed of the name, address, phone number, and purpose of Disability Rights Texas, an organization whose mission is to protect the rights of, and advocate for, persons with disabilities, and to communicate and meet with representatives of that organization;

(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; and

(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.



POWERS AND DUTIES AS GUARDIAN OF THE ESTATE

A Guardian of an Estate is appointed by the court to handle the ward's estate or everything the ward owns or has a right to receive, including but not limited to: personal property, real property, money, bank accounts, furniture, cars, clothes, and legal claims resulting from personal injury or other wrongdoing. Under Texas law, the Guardian of the Estate with full authority has the rights, restrictions, and duties set out below:

Take Possession of Estate Assets

The guardian must take possession of and protect all of the ward's property, manage all property, collect all debts, rentals, or claims that favor the ward, enforce all obligations that favor the ward, and bring and defend suits by or against the ward. The guardian must also publish a notice in a newspaper printed in the county where the Letters of Guardianship were issued calling on any person who has a claim against the estate to present the claim within the permitted period. In addition, the guardian is entitled access to the ward's digital assets.

Exercise Good Judgment, Good Faith, and Diligence

Guardians serve as fiduciaries and must take care of the ward's estate even more carefully than he would his own. A Guardian of an Estate must be conservative, thrifty, and cautious when handling the assets of the ward. They should always act in good faith and be mindful of the interests of others who may have a stake in or claim to the assets under management.

Avoid Co-Mingling of Assets

Guardians must separate the ward's property from their own property. All funds in a guardianship estate must be placed in separate, insured accounts in the name of the guardianship estate, i.e.: Mike Smith, Guardian of the Estate of Sally Smith, an Incapacitated Person.

Work With the Courts

If the court ordered an allowance, no further court approval is

necessary before spending funds for purposes that were approved by court order. Never spend any guardianship funds beyond the allowance without first obtaining, through an attorney, a written order of the court authorizing such expenditures. If a Guardian of the Estate makes expenditures for purposes not approved by the court, they may be subject to removal and held personally liable for any deficiencies. It is also the responsibility of the guardian that all required notices and documents are filed timely with the court.

Insurance and Cash Deposits

Insurance must be obtained and maintained to cover all property of the ward whenever the estate has the ability to pay the premiums. All cash deposits must be within the limits of FDIC/NCUA coverage, or no more than \$250,000.00 per depository.

Non-Cash Assets

With respect to non-cash assets, such as real property or personal effects, the guardian has a duty to protect, preserve, and insure all non-cash assets of the estate. The attorney, on the guardian's behalf, must obtain a written order of the court before attempting to sell, transfer, lease for more than a year, abandon, or otherwise dispose of any non-cash assets of the estate. All personal property of the ward in the State of Texas should remain in Texas unless prior court approval is obtained.

Images below include those of Houston's Museum of Natural Science and the Museum of Fine Arts. On the page to the right is a photograph of Houston's Skyline from Buffalo Bayou Park. On the left is "Personage and Birds," a sculpture created in 1970 by Joan Miró and installed in downtown Houston by Jones Hall in 1982. To the right is "Cloud Column," created by sculptor Anish Kapoor, who also designed Chicago's "Cloud Gate." Cloud Column may be found by the Museum of Fine Arts, Houston.



POWERS AND DUTIES AS GUARDIAN OF THE PERSON

Parents as Guardian of Minor Child's Estate

Parents are obligated to support minor children with their own funds and they may not use assets of the guardianship estate without court order. If a parent satisfies the court by clear and convincing evidence that they are unable to support their child or children without unreasonable hardship, they may be allowed to expend funds of the estate for the use and benefit of the minor child. Such expenditures require prior court approval.

Scope of Authority

The Guardian of the Person is obligated to care for the ward's physical, emotional, and educational needs. Under Texas law, a Guardian of the Person with full authority has the right to have possession of the ward and establish the ward's residence. The guardian also accepts the duty to provide care, supervision, and protection for the ward as well as to provide them with food, clothing, medical care, and shelter. What is more, the guardian holds the power to consent to medical, psychiatric, and surgical treatment other than the inpatient psychiatric commitment of the ward. The guardian may establish a trust and direct that the income of the ward be placed in the trust for the purpose of obtaining eligibility for medical assistance.

In addition, the guardian has the authority to personally transport the ward or to direct the ward's transport by emergency medical services to an inpatient mental health facility for a preliminary exam. The guardian must provide written notice immediately to the court of the filing of an Application for an Order of Protective Custody. If a guardian must place a ward in a more restrictive care facility, they again must provide notice of the placement to the court beforehand.

Finally, the guardian must inform those relatives who have elected in writing to receive notice when the ward:

1) dies; 2) is admitted to a care facility for three (3) days or more; 3) has a change of residence; 4) is staying somewhere other than the ward's residence for a week or more.

Letters of Guardianship

Letters of Guardianship are good for one year and four months after the date of issuance and demonstrate authority to act as guardian. The residential placement facility, school, day program, and the ward's doctors should have a copy of the Letters of Guardianship for their records. Letters of Guardianship must be renewed and reissued each year after the Annual Report is approved. Carefully read the order of appointment as guardian, as some of the rights of the ward may have been retained by the ward.

Annual Reports

Texas law requires the Guardian of the Person to file a sworn or affirmed report each year that covers a twelve (12) month reporting period, with the reporting period beginning on the qualification date. Copies are not accepted. This form must be completed with original signatures and notary seals. The guardian must contact the court if the guardian or the ward moves to a new address. Failure to file the Annual Report will result in a Show Cause Order being issued, requiring the guardian to appear in court and explain why the guardian should not be removed. The guardian may file or mail the Annual Report with the required filing fee. Be aware that the filing fees must be paid by either a money order or cashier's check. In the event that the Guardian of the Person is unable to pay the required filing fee, the court may waive this fee. However, if the Annual Report is not filed on time and an Order to Show Cause has been issued, filing fees will not be waived.



TAKING CARE OF YOUR LOVED ONE

Questions to Ask About All Medications:

- What is the name of the medication and what does it do?
- When/how is it taken? With water/food ? Empty stomach?
- How long should it be taken? Are there refills?
- Does this medication contain anything that could cause an allergic reaction?
- Will this medication interact with any other medications that are currently being taken?
- Will this medication affect day-to-day activities?
- What should be done if there are adverse side effects?
- Is a generic version of this product available?
- What is the best way to store medication?

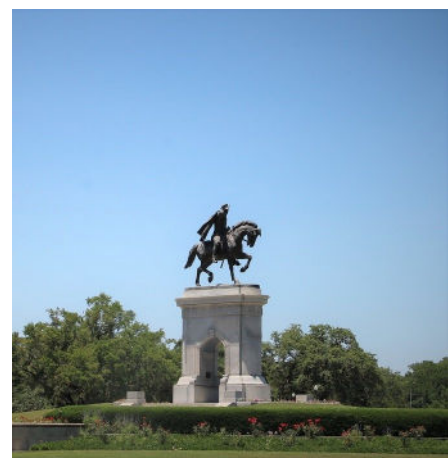
Tips for Interviewing Personal Care/Assisted Living Facilities:

- Ask specific questions regarding location.
- Ask about the cost. Do they have a daily or monthly rate? If private pay, can Medicare or Medicaid be applied?
- What services are included? (number of meals per day, snacks, laundry, housekeeping, activities, transportation)
- What is the capacity of residents for this facility?
- How long has the facility been in business?
- Do they provide references?
- Who furnishes the room?
- Are short-term stays okay (respite care and cost)?
- Who provides respite for the service providers?
- Is the facility licensed by the State of Texas?

Indicators of Poor Care in Assisted Living Facilities:

- Unanswered call bells
- Incorrect use of restraints (both physical and chemical)
- Excessive use of restraints
- Overly sedated residents
- Residents not taken to the bathroom regularly
- Frequent urinary tract infections
- Urine and other body odors
- Unsatisfactory mouth care (odors)
- Men unshaven
- Hair not combed
- Fingernails/Toenails long and dirty
- Not having residents out of bed and dressed
- Eyeglasses and teeth locked away
- Skin breakdown on buttocks, in skin folds, and creases
- Not offering water to residents (dehydration)
- Dry mouth, eyes sunken, very dry skin, speech problems
- Unexplained confusion or drowsiness
- No assistance with feeding, leading to poor nutrition
- Reddened areas that do not disappear
- Poor staff training
- Inadequate supervision of staff
- Threats, rough handling, scolding

Mecom Fountain, located at the intersection of Main and Montrose in Houston, was designed by Eugene Werlin and presented to the city by the Mecom family in 1964. The Sam Houston Monument, created by Enrico Cerracchio in 1925, is located nearby at Hermann Park.



TAKING CARE OF YOUR LOVED ONE

Making Medical Decisions

It is the guardian's responsibility to make decisions based on the ward's needs. Medical decisions can be hard to make as the well-being and comfort of the ward, and even the ward's life, depend on making the right choices. Doctors often use vague language when explaining the risks and benefits associated with the treatment options. It is the responsibility of the doctor to inform the guardian of treatment options in a clear manner so that the guardian can make an informed decision. Below are some questions the guardian might consider asking a doctor caring for the ward:

- What is the name of the procedure/What does it mean?
- What is the expected outcome of the procedure?
- What are the other possible outcomes of the procedure?
- Why is it being done now instead of later?
- Who will perform the procedure? Does the procedure require a specialist and does the person performing the procedure have the appropriate expertise?
- Have there been consultations with other doctors? Who?
- How much does the ward's disability interfere with performing the procedure? Has the doctor planned for this?
- What care is required after the procedure?
- How long is recovery? Will there be discomfort?

Liability and Removal

A Guardian of the Person is not liable to a third person solely because the person has been appointed as Guardian of the Person. A Guardian of the Person can be liable for breach of their fiduciary duties during the time they were guardian even after the guardianship is terminated.

The court may remove a Guardian of the Person who does any of the following:

- Neglects to qualify by filing a Bond and Oath within twenty (20) days of the guardian's appointment;
- Leaves the state for three months at one time without permission of the court, or removes the ward from the state;
- Cannot be served with notices or other processes because

the guardian's whereabouts are unknown, or because the guardian is eluding service;

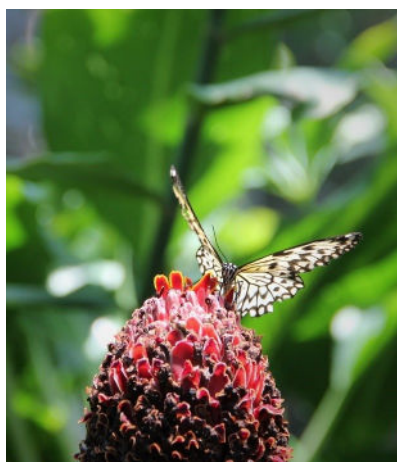
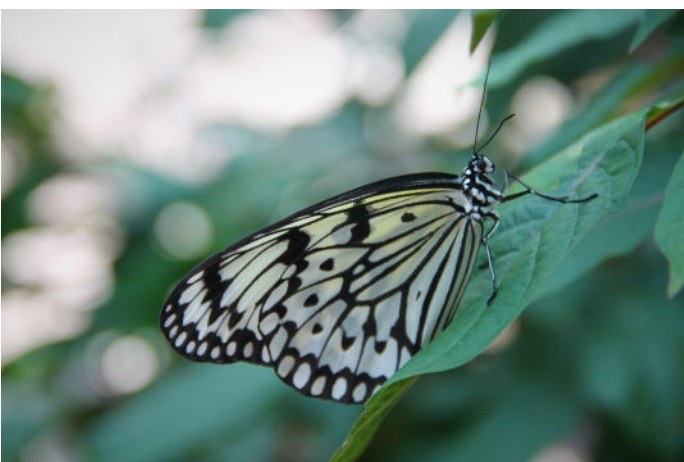
- Has misapplied, embezzled, or removed from the state, or is about to misapply, embezzle, or remove from the state, all or part of the property committed to the guardian's care;
- Has treated the ward cruelly, or has neglected to educate or maintain the ward as liberally as the means of the ward and condition of the ward's estate permit;
- Fails to return any account or report that is required by law to be made;
- Fails to obey any proper order of the court with respect to the performance of the guardian's duties;
- Is proved to have been guilty of gross misconduct or mismanagement in performance of duties;
- Becomes incapacitated, sentenced to the penitentiary, or otherwise becomes incapable of performing the duties of a guardian; or
- Interferes with the ward's progress or participation in programs in the community.

Including the Ward In Decision Making

A guardian should consider the ward's thoughts and feelings when making decisions. When discussing the situation with the ward, a guardian should:

- Talk with the ward;
- Listen carefully to what the ward is saying and trying to communicate;
- Remember that an incapacitated ward is an adult and should be given the respect that an adult deserves;
- Avoid talking about the ward with others as though the ward is not present.

It is the duty and responsibility of the guardian to make a final decision that is appropriate and in the best interest of the ward, even if the ward disagrees with the decision.



Special thanks to Gloria Bryant, Abigail Butts, and other staff members from the Harris County Probate Courts for your hard work and research which made this publication possible.

INFORMATION AND CONTACTS

Harris County Probate Courts 1-4

201 Caroline Street
6th and 7th Floors
Houston, Texas 77002

Probate Court No. 1

Honorable Jerry Simoneaux

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Probate Court No. 2

Honorable Pamela Medina

Office: 832-927-1402

Fax: 832-927-1432

Probate Court No. 3

Honorable Jason Cox

Office: 832-927-1403

Fax: 832-927-0010

Probate Court No. 4

Honorable James Horwitz

Office: 832-927-1404

Fax: 832-927-1499

Harris County

Probate Court 5

1115 Congress, Suite 558
Houston, Texas 77002

Probate Court No. 5

Honorable Kathleen S. Stone

Office: 832-927-1405

Harris County Clerk's Office

Probate Department
P.O. Box 1525
Houston, Texas 77251-1525
(713) 274-8585
<http://www.cclerk.hctx.net>

Physical Address

Harris County Civil Courthouse
201 Caroline, 8th Fl./Probate Dept.
Houston, Texas 77002

Judicial Branch

Certification Commission

205 W. 14th, Ste. 600
Austin, TX 78701
(512) 475-4368

Oversees the certification, registration, and licensing of guardians, court reporters, court reporter firms, process servers, and licensed court interpreters.

Department of Family and Protective Services

701 W. 51st Street
Austin, TX 78751
(512) 438-4800

Report Abuse Hotline:
1(800)252-5400 to report abuse, neglect, exploitation, or violation of personal rights.

Disability Rights Texas East Texas Regional Office

1500 McGowen, Suite 100
Houston, TX 77004
(713) 974-7691 (Voice)
(713) 974-7695 (Fax)
(866) 362-2851 (Video Phone)

Information on regional offices available at www.dfps.state.tx.us/

Visit us on the web: [Probate
Courts \(hctx.net\)](http://ProbateCourts(hctx.net))

IMPORTANT INFORMATION & DATES TO REMEMBER

STYLE OF GUARDIANSHIP: _____

RELATIVES ELECTING TO RECEIVE NOTICE: _____

INVENTORY DUE DATE: _____

ANNUAL REPORT DUE DATE: _____

ANNUAL ACCOUNTING DUE DATE: _____

ATTORNEY CONTACT INFO. : _____

DOCTOR'S INFORMATION: _____