

A SYSTEMS APPROACH TO GUARDIANSHIP MANAGEMENT

**Judge Patrick Ferchill
Tarrant County Probate Court Number Two
Fort Worth, Texas
U. S. A.**

National College of Probate Judges 2002 Fall Conference

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BIOGRAPHICAL INFORMATION

Education

B.B.A., Southern Methodist University, 1968
J.D. Degree, University of Texas School of Law, 1972

Professional

Judge, Tarrant County Probate Court Two, 1981 to present
Judge, Tarrant County Court at Law No. 1, 1979-81
Chief Judge, Fort Worth Municipal Court, 1977-78
Judge, Fort Worth Municipal Court, 1976-77
Tax Attorney, Civil Division, City of Fort Worth, 1975-76
Assistant City Attorney, Civil Division, City of Fort Worth, 1974-75
Fort Worth Municipal Court Prosecutor, 1973-74

Legal, Governmental and Civic Associations

State Bar of Texas
Tarrant County Bar Association
National Association of Probate Judges
Texas Association of Probate Judges
Tarrant County Probate Bar Association
Member, State-wide Advisory Council, Texas Commission on Alcohol and Drug Abuse, 1989 to present
Member, Mental Health Advisory Committee, Tarrant County Junior College District, 1989 to present
Texas Guardianship Association, past president and vice-president
Member, National Guardianship Foundation, 1999 to present
Co-Chair, National Guardianship Association 2003 Conference, Baltimore Maryland, U.S.A., October 27-29.

Personal

Married to Martha Cantey Hendricks Ferchill, two children: Beau, a graduate of Louisiana State University and Cantey, a student at Louisiana State University, Baton Rouge, Louisiana

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BIOGRAPHICAL INFORMATION

Education

B.A. Degree in Zoology, Texas Tech University
J.D. Degree, Creighton University School of Law

Professional

Tarrant County Probate Court Two Court Investigator
Solo Practitioner practicing in the areas of Probate, Family, Juvenile, Business and Environmental
Law
Fort Worth Municipal Court Judge
Associate, Law Offices of St. Clair Newbern

Admissions

U. S. District Court, Northern District of Texas
U. S. Fifth Circuit Court of Appeals

Legal Associations

State Bar of Texas
Tarrant County Bar Association
Women's Bar Section – Chair
Member Mental Health Association Community Advisory Committee – Long Term Care
Ombudsman Program
Member, Tarrant County Probate Bar Association
Member, Tarrant County Family Law Bar Association
Volunteer: Guardianship Services Inc. Guardianship Training

Author, *Behind Closed Doors – The Clandestine Problem of Child Pornography*, 21 Creighton
Law Review, no. 3, 1987-1988.

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Professional Experience

- 99- Present *Assistant Court Investigator, Tarrant County Probate Court #2*
Conducts Guardianship Investigations; provides case management; testifies
in
guardianship proceedings; trains court visitors; and provides guardianship
training to the community.
- 96- to 99 *Consultant /Contract Social Work*
Diversity training for Tarrant County Mental Health Mental Retardation
Services. Guardianship Assessments for Tarrant County Probate Court,
Medical Social Work for North Central Texas Home Care, Inc. .
- 7/91-9/95 *President of United Centers, Inc*
Responsible for overall management of the agency with 7 program sites,
development and management of \$1.5 million budget; supervision of 55
staff; and joint management of the agency with the Board of Directors
- 86-91 *Director of Outpatient Clinics and Medical Services at Tarrant County
Mental Health Mental Retardation Services-*
Clinical, management, and budgetary responsibilities for 7 Mental Health
Out Patient Clinics with \$3.9 million in resources; supervision of 73 staff;
negotiating and managing 23 contracts; and managing pharmacy and
laboratory services.
- 83-86 *Program Manager of the Aging Clinic and Case Management Services of
Tarrant County Mental Health Mental Retardation Services-*
Responsible for developing Case Management Services; clinical training
and supervision of staff; preparation and monitoring of budgets; and
training other Case Management programs throughout the state.
- 80-83 *Program Manager of Aging Clinic at Tarrant County Mental Health Mental
Retardation Services-*
Responsible for clinical training and supervision of staff; preparation of
budgets and contracts for purchase of service; development of budget; and
program evaluation.

Educational Background

Masters of Science in Social Work 1980, University of Texas at Arlington
Bachelor of Science in Social Work 1975, Kansas State University

Licenses

Licensed by Texas State Board of Social Worker Examiner as a Master Social Worker

Denise Inman Buchan, LMSW-ACP

Experience

May 2002 – to present **Tarrant County Probate Court No. 2** Fort Worth, TX

Court Visitor Program Manager

- Responsible for all open guardianship cases.
 - Provide guardianship training, case management and community resource/referral to guardians for the benefit of the incapacitated person.
 - Complete court visitor reports for successor guardians and proposed guardianships.
 - Supervise interns and volunteers who complete annual court visitor's reports for the court.
-

November 2001 – May 2002 **Value Options** Irving, TX

Clinical Care Manager

- Phone intake, assessment, referral and counseling.
 - Crisis counseling and clinical coordination of care with emergency and hospital admissions.
 - Review clinical information and treatment plans to ensure patients are receiving effective and appropriate care.
-

January 1999 – November 2001 **The Parenting Center** Fort Worth, TX

Director of Programs

- Responsible for identification, development and implementation of educational and clinical programs.
 - Supervision of therapists, program coordinators and support staff.
 - Oversight of daily operations, program assessment/planning with the board of directors and development of community contacts to promote collaboration with other organizations.
-

August 1995 – January 1999 **Alliance of Behavioral Providers** Arlington, TX

Employee Assistance Program (EAP) Manager/Counselor

- Phone intake/assessment/triage and counseling.
 - Direct supervision of EAP staff therapists.
-

Education

1993 – 1996 **University of Texas at Arlington** Arlington, TX

- Master of Science in Social Work

1977 – 1981 **Northern Arizona University** Flagstaff, AZ

- Bachelor of Science in Journalism-Public Relations
-

Licensure

Licensed Master Social Worker, Advanced Clinical Practitioner

MARTHA TRACY
Guardianship Auditor
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Martha Tracy has worked in the Probate Court system since 1981. She has worked directly for Judge Pat Ferchill in Tarrant County Probate Court Number Two since 1984. She has experience with all issues concerning probate and guardianship cases. In April of 2002, she became the first guardianship auditor for Probate Court Number Two. Her responsibilities include auditing all estate guardianships, attorney fee applications, inventories, guardians' requests for commissions and other documents relating to guardianship estates. Prior to her association with the Probate Court, she was a bilingual teacher in Austin, Texas.

ACKNOWLEDGEMENT

“A Systems Approach to Guardianship Management” was written by the joint efforts of the staff of Judge Patrick Ferchill’s Guardianship Office in Tarrant County Probate Court No. 2, Fort Worth, Tarrant County, Texas. Special thanks go to Paula Conley, Court Investigator, Arlene Byrd Shorter, Assistant Court Investigator, Denise Buchan, Program Manager, and Martha Tracy, Guardianship Auditor for their efforts. The staff wishes to acknowledge Judge Patrick Ferchill for his vision and efforts in creating this Guardianship Program.

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NOTE: All references to sections of the Texas Probate Code are available on the following website:

<http://www.capitol.state.tx.us/statutes/pr/pr0001300toc.html>

See Research

 Texas Statutes

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 Probate Code

 Chapter XIII. Guardianship for referenced sections.

A SYSTEMS APPROACH TO GUARDIANSHIP MANAGEMENT

In Texas probate courts a guardianship may be initiated in two ways. An attorney may file an application for guardianship on behalf of a client or the court itself may initiate a guardianship proceeding for an incapacitated person pursuant to the Texas Probate Code (Tex. Prob. Code Ann. §683). Once the guardianship is investigated and a guardian is appointed, the Probate Code mandates that the court monitor the established guardianship.

Judge Ferchill has created a guardianship department that uses a systems management approach to meet the mandates for guardianship in the probate code. The guardianship office is staffed by a Court Investigator who is an attorney, Assistant Court Investigator and Program Manager who are both Licensed Master Social Workers (Master of Science in Social Work) and a Guardianship Auditor who has many years of experience working with probate and guardianship issues.

I. GUARDIANSHIP STAFF

A. Court Investigator

The Court Investigator is responsible for overseeing all guardianship cases in Judge Ferchill's court and ensuring that all legal requirements and concerns are met in the investigation, establishment and monitoring of both private and court initiated guardianships in his court.

When the court has probable cause to believe that an incapacitated person within the county does not have a guardian, the court appoints a Guardian Ad Litem or Court Investigator to investigate and file an application for the appointment of a guardian of the person or estate or both. Tex. Prob. Code §683. In Judge Ferchill's court, the full time Court Investigator's role is to investigate the need for guardianship, determine whether a less restrictive alternative than guardianship is appropriate, file an application for guardianship for the incapacitated indigent person in a "court initiated guardianship," supervise the court visitor program and serve as the chief court visitor, investigate any complaints about a guardianship, file a report of findings and conclusions and perform other duties as assigned by the judge. Tex. Prob. Code §648A.

B. Assistant Court Investigator

The Assistant Court Investigator is a Licensed Master Social Worker. She is appointed as the Court Visitor by the Court to evaluate the proposed ward and assess his or her conditions in both court initiated and privately filed guardianship cases. As Court Visitor, she prepares a comprehensive written report that is sworn to and filed with the court within 14 days of her evaluation. Tex. Prob. Code §648.

The Assistant Court Investigator works with families, social workers, neighbors, doctors and friends of the proposed ward and provides resources for services and care. She may provide sources for less restrictive alternatives to guardianship. She may be called as

a witness in court hearings and is involved with the training of social work interns who make court visits to wards of established guardianships. She also works as a liaison between the court and interested persons including social workers in hospitals, nursing homes and state and private agencies who make referrals for guardianship to the court.

C. Program Manager

The court is required to review each guardianship annually to determine whether the guardianship should be continued, modified or terminated. Tex. Probate Code §672. The Program Manager, a Licensed Master Social Worker, maintains a database to monitor all of the 937 established guardianships in Judge Ferchill's court. She ensures that each guardian completes and files the mandatory Guardian's Annual Report. Tex. Prob. Code §743. The Program Manager also maintains the Court Visitor program to assess the conditions of the wards by sending a trained Court Visitor to personally visit the Ward annually and file a report with the court. Tex. Prob. Code §648. Judge Ferchill reviews the Guardian's Annual Report and the Court Visitor's Report to determine whether the guardianship should be continued, modified or terminated.

For the Court Visitor Program, the Program Manager recruits, trains and supervises social work interns who are pursuing a bachelor's or master's degrees in social work from several universities in the area. She also recruits, trains and supervises volunteers to make court visits. Each court visitor files a sworn comprehensive written report within 14 days of the visit which is reviewed by the Program Manager and sent to the court. Tex. Prob. Code §648.

The Program Manager or the Assistant Court Investigator also trains newly appointed guardians explaining their responsibilities. A resource book is provided to each guardian with annual report forms, referral information and the Program Manager's telephone number for questions or complaints. The Program Manager refers legal problems such as removal of a guardian or the appointment of a successor guardian to the Court Investigator as well as cases to be transferred or closed to maintain a current database.

D. Guardianship Auditor

The Guardianship Auditor has years of experience in the court with both probate and guardianship issues. The guardian of an estate or trustee of a managed trust must submit an inventory within 90 days after the guardian has qualified. Tex. Prob. Code §729. They must also file an annual accounting and a final accounting. Tex. Prob. Code §§ 741, 749. The Auditor is responsible for auditing those accounts and ensuring that they are timely filed. She sets delinquent cases on the Show Cause Docket and refers the audited cases to the Judge for court approval. She maintains and monitors the database of all guardianships of the estate and management trusts for Judge Ferchill's court. Currently she is monitoring approximately 350 estate guardianships and trusts.

II. COURT INITIATED GUARDIANSHIPS

A. Probable Cause

The court receives referrals of persons who may be incapacitated and in need of a guardianship from hospitals, doctors, nursing homes, friends, neighbors, families and private and public agencies. In order to initiate an investigation into the need for a guardianship, the court must have probable cause to believe that a person is incapacitated. To establish probable cause, the court requires that an interested person submit an information letter about the person believed to be incapacitated and a certificate from a physician based on a recent examination of that person. Tex. Prob. Code §§683, 687. The Information Sheet contains personal information about the proposed ward that is required to be included in the application for appointment of a guardian. Tex. Prob. Code §682. The Physician's Certificate must describe the nature and degree of incapacity, medical history, diagnosis and prognosis, ability to make and communicate responsible decisions and medications of the incapacitated person. A copy of the Information Sheet and Physician's Certificate are attached in the Appendix.

Once the Information Sheet and Physician's Certificate have been received, the Court Investigator reviews them for probable cause to believe that the person is incapacitated and to ensure that the documents provide the legally required information. The Court Investigator will also review the documents to determine whether a less restrictive alternative than guardianship is appropriate or whether a limited guardianship may promote and protect the well being of the incapacitated person. Tex. Prob. Code §§ 648A, 602.

B. Initiation of the Investigation

The Court Investigator, upon finding that there is probable cause to believe that PW is incapacitated and that there is no less restrictive alternative to guardianship, initiates an investigation by filing the Motion to Appoint Court Investigator and Court Visitor and submits the Order Appointing Court Investigator and Order Appointing Court Visitor to the Court. The Assistant Court Investigator is appointed as Court Visitor. Both the Court Investigator and the Court Visitor are given authority in the orders to review the proposed ward's financial records including, but not limited to, records of all bank accounts, investment accounts, retirement and employee benefit accounts, trust records, credit and debt records, and medical records, and psychological and intellectual testing records. Access to these records is important in assessing whether a proposed ward has an estate or is indigent and meets the criteria for a court-initiated guardianship. If the proposed ward is not indigent, the Court Investigator will file a Motion to Appoint Guardian ad Litem and submit an Order Appointing Guardian ad Litem. Once appointed, the Guardian ad Litem will file the application for appointment of a guardian of the person and estate.

If the Information Sheet indicates that the proposed ward or the proposed ward's property is in imminent danger, the Court Investigator will immediately file an application for a temporary and permanent guardianship of the person and/or estate for an indigent person. In cases where the proposed ward is not indigent, the Court Investigator will submit a Motion for Appointment of a Guardian ad Litem to file the application for a temporary and permanent guardianship and attorney fees and costs will be paid from the proposed ward's estate.

C. The Investigation by the Assistant Court Investigator

1. Assess Risk Factors that indicate a need for a Guardianship of the Person:

- Safety issues- wandering; improper use of stoves; leaving doors unlocked; familiarity with strangers; unsafe smoking; unsupervised; driving recklessly, uninsured vehicle, out of date vehicle inspections, and accidents.
- Hygiene- body odors; soiled clothing; and incontinence.
- Medical care- unaware of medical conditions; inability to understand medical condition and make appropriate treatment decisions; unaware of medications or not medicating properly; and refusal of recommended medical procedures.
- Living conditions – unsanitary; trash; odors; unlivable; setting not appropriate for individual's needs.
- Activities of daily living (bathing, dressing, feeding, ambulating, and toileting) - difficulty performing activities of daily living without assistance.

2. Assessing Risk Factors that indicate a need for Guardianship of the Estate:

- Bills- termination notices; delinquent; lost or misplaced.
- Monthly income- is not aware of types or amounts of checks; loses checks; family/friends are spending funds for themselves and not for person's care.
- Assets- not aware of assets, names of institutions managing assets, or total amount of assets; not aware of extent of property; in jeopardy of losing home because of unpaid property taxes; and assets are being spent, cashed in, or sold for the benefit of others.
- If in a care facility, café facility is not receiving payment for care; payment usually late or full payment not made; Nursing Home Medicaid Application not complete for failure to supply financial/asset information.

3. Less Restrictive Alternatives to Guardianship of the Person:

- Health care power of attorney for medical needs –In a written signed document, a person designates someone to make health care decisions such as surgical procedures, treatments, medications, and examinations in the event that he/she becomes incapacitated.
- Social Services/ Case Management- Find community, state, or federal programs that address medical needs, psychiatric needs, food, vocational needs, educational needs, transportation needs, socialization/recreational needs, personal care, housekeeping, and home repair services.
- Mental Health Commitment – Refer a person with acute psychiatric symptoms who is a danger to himself/herself or others to the court for commitment to involuntary psychiatric treatment.
- Alternative Housing – Locate residential facilities that address a person's need for structure and supervision. There are a variety of residential options: personal care homes, foster care, group homes, bed and boards, assisted living, and full-care nursing homes.

4. Less Restrictive Alternatives to Guardianship of the Estate:

- Designate a Representative Payee to receive benefit checks for the incapacitated person by applying to the government agency, Social Security, to receive and manage governmental benefits for the incapacitated person experiencing problems with money management.
- Statutory durable power of attorney for business affairs -In a written signed document, a person designates someone to manage his/her finances, property, and assets in the event that he/she becomes incapacitated.
- Money Management Programs- Local agencies will assist the incapacitated person with bill paying, budgeting, and money management.

5. The Court Visitor's Report.

Based on the investigation, the Court Visitor completes a comprehensive written report to be filed with the court containing the following information:

- A description of the nature and degree of capacity and incapacity of the proposed ward, including the proposed ward's medical history;
- A medical prognosis and a list of the treating physicians;
- A description of the living conditions and circumstances of the proposed ward;
- Names, addresses and telephone numbers of Proposed Ward's family members and relatives;
- A description of the social, intellectual, physical, and educational condition of the proposed ward;
- A statement that the court visitor has personally visited the proposed ward;
- A recommendation as to any modifications needed for the proposed guardianship including denial of the guardianship;
- A recommendation for the most suitable person to serve as guardian;
- Any income and the source of the income of the proposed ward;
- Any real or personal property owned by the proposed ward other than personal effects; and
- Any other information required by the court. (Tex. Prob. Code Ann. §648).

D. Appointment of a Guardian

1. The Application

Once the Assistant Court Investigator files the Court Visitor's Report confirming that there is no less restrictive alternative than guardianship, the Court Investigator drafts and files the Application for Appointment of Guardian of the Person for the indigent incapacitated person. The Application must be sworn to and state required information including the following:

- Proposed ward's name, date of birth, sex, address, property, income, next of kin and the person or institution having care and custody of proposed ward;
- Proposed guardian's name, address and relationship to proposed ward;

- Whether guardianship of the person or estate, or both is sought and facts requiring the appointment of the guardianship including the interest of the applicant in the appointment;
- The nature and degree of proposed ward's incapacity, the specific areas of protection and assistance being sought and the limitation of proposed ward's rights requested;
- The approximate value and description of proposed ward's property and income;
- The name and address of anyone to whom the proposed ward has granted a power of attorney and the type of power of attorney granted; and
- Facts showing that the court has venue over the guardianship proceeding.

Once the application is filed, the court clerk issues citation which is posted and personally served on the proposed ward. Others associated with the case are served according to the statute by personal service or by certified mail or they must file waivers. Tex. Prob. Code §633.

2. The Attorney ad Litem

The Court Investigator submits the Order Appointing Attorney ad Litem and Order Setting Hearing on Application for Guardianship for the Judge's approval. The court must appoint an attorney ad litem to represent the interests of the proposed ward. As stated in the Order Appointing Attorney ad Litem, the attorney ad litem is to be given access to all of the proposed ward's relevant medical, psychological and intellectual testing records as well as current records in the case. In order to be appointed attorney ad litem, an attorney must be certified by the State Bar of Texas by completing three hours of a course in guardianship law and procedure. The certification is valid for two to four years. Tex. Prob. Code §§646, 647A.

The duties of the Attorney ad Litem include the following:

- interview proposed ward within a reasonable time before the hearing;
- discuss with proposed ward to the greatest extent possible the following:
 - a. the law and facts of the case;
 - b. proposed ward's legal options regarding the disposition of the case; and
 - c. the grounds on which guardianship is sought;
- review the application for guardianship, certificates of current physical, medical, and intellectual examinations, and all of proposed ward's medical, psychological, and intellectual testing records;
- if applicable, file or review the proposal to establish a management trust and determine if the establishment of such a trust is in the best interest of the ward;
- represent proposed ward at the hearing to appoint a guardian. Tex. Prob. Code §647

3. The Guardian ad Litem

If the proposed ward directs the Attorney Ad Litem to contest the guardianship, the Attorney Ad Litem notifies the Court Investigator. A Guardian Ad Litem will be substituted

for the Court Investigator to avoid the conflict of have court staff involved in a contested proceeding. The Court Investigator submits an Order Appointing a Guardian ad Litem to the Judge for approval. The Guardian Ad Litem is appointed to represent the interests of the proposed ward and shall protect the proposed ward “in a manner that will enable the court to determine what action will be in the best interests of the incapacitated person.” Tex. Prob. Code §645. The Guardian Ad Litem will advocate for the best interests of the proposed ward in the trial. Both the Attorney Ad Litem and Guardian Ad Litem are paid from the ward’s estate or, if there are insufficient funds, they are paid from county funds.

4. The Hearing

At the hearing or trial for the appointment of a guardian, the Court Investigator or the Guardian ad Litem presents the required evidence to the court. The court must find the following by clear and convincing evidence:

- PW is an incapacitated person;
- It is in the best interest of PW to have the court appoint a guardian; and
- PW’S rights or his property will be protected by the appointment of a guardian.

The court must find by a preponderance of evidence that:

- Venue is proper;
- PW is totally without capacity to care for himself and to manage his property, or PW lacks the capacity to do some, but not all, of the tasks necessary to care for himself or to manage his property;
- The determination of PW’S incapacity is evidenced by recurring acts or occurrences within the preceding six-month period and not by isolated instances of negligence or bad judgment; and
- The guardian is eligible to serve. Tex. Prob. Code Ann. §684.

5. The Guardian

To be eligible to serve, the proposed guardian cannot be:

- A minor or incapacitated person;
- A non resident who does not have a resident agent;
- A person whose conduct is notoriously bad or a person who is found to be unsuitable by the court;
- A person who is a party to a lawsuit concerning the proposed ward, a person asserting a claim adverse to the proposed ward or proposed ward’s property, or a person indebted to the proposed ward;
- A person disqualified by the proposed ward in a Designation of Guardian Before Need Arises in accordance with the requirements of the Probate Code. Tex. Prob. Code §679(b); or
- A person incapable of properly and prudently controlling the ward or managing the ward’s estate. Tex. Prob. Code §681.

“Person” under the Texas Probate Code is a term that includes natural persons, corporations and guardianship programs. Tex. Prob. Code §601(21). Only one person

may be appointed guardian except a husband and wife may be appointed. Different persons may be appointed for guardian of the person and guardian of the estate. The court will appoint the eligible person who is best qualified to serve as guardian according to the circumstances and considering the best interests of the ward. If two or more eligible persons request to be appointed as guardian and one of them is the ward's spouse, preference is given to the spouse. If the spouse is not one of the eligible persons requesting appointment as guardian, preference is given to the eligible person nearest of kin to the ward. Otherwise, from the eligible persons requesting appointment, the court will appoint the eligible person who is best qualified to serve as guardian.

Once appointed by the court, the guardian of the person qualifies by taking the oath of guardian and posting a personal surety bond to be approved by the court. The guardian of the estate must also qualify by taking an oath and posting a corporate surety bond in an amount to cover the estimated value of all personal property belonging to the ward plus expected revenues anticipated for the succeeding 12 months. The corporate surety bond must also be approved by the court. Tex. Prob. Code §§702-705.

III. PRIVATELY FILED GUARDIANSHIPS

A. Management Process

Initiation of a guardianship case by a private attorney involves a different management process in the guardianship office. The attorney initiates the proceeding by filing an application for guardianship for his or her client who is the applicant. With the application, the attorney must also provide a Physician's Certificate stating the bases of the proposed ward's incapacity. These documents are forwarded to the Court Investigator who must review them to ensure that they meet the legal requirements discussed above. The Court Investigator must also determine whether a less restrictive alternative than guardianship is appropriate and file a report with the court stating her findings and conclusions. The Court Investigator may recommend that the person holding a durable power of attorney for the incapacitated person manage the incapacitated person's estate, recommend payment of funds into the registry of the court or suggest the establishment of a management trust in lieu of establishing a guardianship of the estate.

Along with the report, the Court Investigator submits an Order Appointing Attorney ad Litem, Order Appointing Court Visitor and Order Setting Hearing for the court's approval. The Assistant Court Investigator, appointed as Court Visitor, will investigate the contested cases. Once a guardian of the person and/or estate is appointed, the guardian of the person will undergo guardian training and guardianship will be monitored by the Program Manager. If a guardianship of the estate is established, the Guardianship Auditor will audit and monitor the guardianship of the estate, or if a management trust is established, it will be monitored and audited by the Guardianship Auditor.

B. Management Trusts

A less restrictive alternative to a guardianship of the estate for an incapacitated person is the establishment of a management trust. A guardian, attorney ad litem or guardian ad

litem in a guardianship proceeding may file an application for the establishment of a trust. The court where the guardianship is pending may enter an order creating a trust for the management of the incapacitated person's funds if the court finds that the creation of the trust is in the incapacitated person's best interest. The court must appoint a financial institution as trustee unless the value of the principal is \$50,000 or less and the appointment would be in the incapacitated person's best interest. If the value of the incapacitated person's funds exceeds \$50,000, the court may appoint a person other than a financial institution to serve as trustee if no financial institution is willing to serve as trustee and the appointment is in the incapacitated person's best interest. The order creating the management trust directs a person to turn over the assets to the trustee of the trust and includes the terms, conditions and limitations placed on the trust. Tex. Prob. Code §867. The trust is subject to the provisions of the Texas Trust Code. Tex. Prob. Code §869B.

Management Trusts are also audited and monitored by the Guardianship Auditor and the Trustee is required to file an Inventory and Appraisement and annual and final accountings.

One of the benefits of establishing a management trusts for a minor is that the funds can remain the trust until the minor turns 25 years of age. If the funds are managed through a guardianship of the estate for a minor or placed into the registry of the court, the funds must be released to the minor upon his or her 18th birthday.

C. Registry of the Court

When an incapacitated person including a minor is entitled to receive funds of \$100,000 or less and the amount of the funds is liquidated and uncontested, and the incapacitated person has no guardianship of the estate, the funds may be paid into the registry of the court for the benefit of the incapacitated person. The funds will be invested for the benefit of the incapacitated person and the clerk must report the status of the investment annually to the court. A custodian of the incapacitated person may file an application to use the funds in the registry for the benefit of the incapacitated person and must post a bond for twice the amount of the funds requested for the court's approval. The custodian must account for the use of the funds and submit a sworn report on the accounting for the court's approval. Funds placed into the registry of the court for a minor are released to the minor upon the minor's 18th birthday. Tex. Prob. Code §887.

IV. TEMPORARY GUARDIANSHIPS

A. Initiation of the Case

The Court Investigator or the Assistant Court Investigator may receive information that a person is incapacitated and the person or the person's property is in imminent danger. Once the information is confirmed in an Information Sheet and Physician's Certificate, the Assistant Court Investigator is appointed as Court Visitor to begin a preliminary investigation. The Court Investigator files a sworn written application for the appointment of a temporary guardian of the person and/or estate stating the following:

- PW'S name and address ;

- The alleged imminent danger to PW and to his property;
- The request for a guardian of the person and estate and the particular protection and assistance being requested;
- The facts and reasons supporting the allegations and requests;
- The name, address, and qualification of the proposed temporary guardians; and
- The name, address, and interest of the applicant. Tex. Prob. Code Ann. §875.

B. Appointment of Temporary Guardian

Once the application is filed, the Court Investigator presents the evidence to the Court in an ex parte hearing. An attorney Ad Litem who is appointed to represent the proposed ward is present. The Court Investigator must present substantial evidence that the proposed ward is incapacitated giving the court probable cause to believe that the person and/or the person's estate require the immediate appointment of a guardian. The temporary guardian is granted limited powers as the circumstances of the case require. The proposed ward is personally served citation to appear and answer the application for guardianship. A copy of the notice is also sent by certified mail to the incapacitated person's next of kin and to those persons holding powers of attorney for the proposed ward.

C. Attorney ad Litem

The duties of the attorney Ad Litem who is appointed to represent the proposed ward in the temporary guardianship proceedings are as follows:

- Interview the proposed ward within a reasonable time before the hearing;
- Discuss with proposed ward to the greatest extent possible the following:
 1. the law and facts of the case;
 2. proposed ward's legal options regarding the disposition of the case; and
 3. the grounds on which guardianship is sought;
- Review the application for guardianship, certificates of current physical, medical, and intellectual examinations, and all of proposed ward's medical, psychological, and intellectual testing records;
- If applicable, review the proposal to establish a management trust and determine if the establishment of such a trust is in the best interest of the ward;
- Represent the proposed ward at the court hearings.

D. Confirmation Hearing

A confirmation hearing is set within 10 days of the filing of the application for appointment of the temporary guardianship. If the proposed ward agrees to the temporary guardianship, the attorney Ad Litem will waive the confirmation hearing and the temporary guardianship may remain in effect for 60 days from the filing of the application. The Court Investigator will file a sworn application for the appointment of a permanent guardian of the person and estate if required before the expiration of the 60 days.

If the proposed ward opposes the guardianship, he or she has the right to receive prior notice of the confirmation hearing, be represented by counsel, be present for the hearing,

present evidence and confront and cross-examine witnesses and may have a closed hearing if requested. The court will appoint a guardian ad litem in place of the Court Investigator to present the case at the confirmation hearing. The guardian ad litem is the advocate for the proposed ward's best interests and will make an independent assessment of whether a temporary guardianship is necessary. At the hearing, both the attorney ad litem and guardian ad litem will present evidence and confront and cross-examine witnesses. At the conclusion of the evidence, the court determines if there is substantial evidence that the proposed ward is incapacitated, if there is imminent danger to proposed ward's physical health or safety and if proposed ward's estate will be seriously damaged or dissipated unless immediate action is taken. If so, the court appoints a temporary guardian of the person and/or estate by written order granting only those powers and duties that are necessary to protect the proposed ward against the imminent danger shown. (Tex. Prob. Code Ann. §875).

E. Temporary Guardian

Once a temporary guardian of the person and/or estate is appointed, the guardian of the person must take an oath and sign a personal surety bond. The guardian of the estate must also take an oath and file a corporate surety bond in the amount set by the judge based on the value of the proposed ward's estate and the nature of the real and personal property. The temporary guardian of the estate must file an inventory of all property belonging to the proposed ward and request and receive prior permission to spend any of the proposed ward's funds or sell or dispose of any of property belonging to the proposed ward.

The temporary guardianship may remain in effect for 60 days from the date the application was filed. If an application is filed for the conversion of the temporary guardianship to a permanent guardianship and is contested, the temporary guardianship remains in effect for the proposed ward until the conclusion of the hearing challenging or contesting the application. During the pendency of the temporary guardianship, the Assistant Court Investigator continues her investigation.

V. GUARDIAN TRAINING

Guardian training was established in 2000 in an effort to ensure that guardians were fully informed of their responsibilities towards the care and treatment of the incapacitated person and their reporting responsibilities to the court. A secondary purpose was to assure guardians that court staff were invested in their success as a guardian and were available for support, information, resources, and problem solving. Guardian training occurs in two stages- as a part of the investigation and immediately before or after the hearing.

A. During the Guardianship Investigation.

During guardianship investigations, guardian responsibilities are explained and proposed guardians are asked if they are willing or able to fulfill these responsibilities. Furthermore, potential guardians are asked if they are willing to participate in a 20 minute

guardian training before or after their hearing. Only those individuals who indicate they are willing to fulfill these responsibilities are considered as potential guardians.

B. Following the Appointment of a Guardian

Guardians participate in a 20 to 30 minute training session with the Program Manager or the Assistant Court Investigator immediately prior to or following the hearing to appoint a guardian. As a part of the appointment process, the trainer reviews the Guardian Handbook with the Guardian and the Guardian is given the manual for future use and reference. The trainer also thoroughly discusses limitations and restrictions of the guardian. Following is a review of that training process with the guardian and the components of the manual.

C. The Guardian Handbook

1. Duties of a Guardian of the Person

- Advocate for the Ward for appropriate medical care, residential needs, and financial benefits.
- Complete the Guardian of Person's Annual Report.
- Cooperate with the Court Visitor to discuss Ward's care during the last year.
- Report a change of address or telephone number for the ward or the guardian to the Court.
- Submit the Final Report to the Court when the incapacitated person dies or when a minor turns 18 years of age.

2. Maintaining Ward Information

Forms are provided in the handbook for the Guardian to keep important information for the incapacitated person such as names of care providers, medical appointments, visitation log, and telephone log.

3. Resources included in the Handbook

- How to Include the Ward in Decision Making
- Making Medical Decisions
- Managing Medications
- Tips for Interviewing the Staff in a Personal Care/Assisted Living Facilities
- Checklist for Selecting a Personal Care/Assisted Living Facilities
- Indicators of Poor Care in Personal Care/Assisted Living Facilities
- Nursing Home Staff
- Advocating for the Ward
- Helpful numbers- a list of community resources with telephone numbers categorized by problem or need to assist guardians with locating services for the incapacitated person.

4. Forms Included in the Handbook:

- a. **Guardian of Person Annual Report to be filled out by Guardian:**
 - Guardian is informed that the report will be mailed to them on the anniversary date of their appointment.
 - Guardian is informed that they will have 30 days to complete the report.
 - Each area of the report is reviewed and any questions are answered.
 - Guardian is informed that failure to complete the Report may result in a fine or removal as the guardian.
 - Guardian is informed that the report is read by staff as well as Judge Ferchill and must be approved by the Court.
 - Guardian is instructed how to request new letters of guardianship.
- b. **Declaration of Guardian In The Event Of Later Incapacity or Need Of Guardian**

The guardian fills out this form naming his/her preference for the appointment of a successor Guardian if the guardian is no longer able to serve.

 - Guardian is requested to discuss this form with other family members or friends who would be interested in being considered as a Successor guardian.
 - Guardian is informed the court must determine the suitability and eligibility of the potential successor guardian and that the judge must appoint the successor guardian.
 - Guardian is instructed to complete and return the form with the first Guardian of the Person Annual Report.
- c. **Final Report**
 - This report informs the court of the death of the incapacitated person or that a minor has reached the age of 18.
 - Guardian is instructed to call the court when the incapacitated person dies.
 - A Final Report is sent to the Guardian to complete and return with a copy of a death certificate.
 - Guardian is instructed to call the court when the incapacitated person turns 18. A Final Report is mailed to the Guardian to complete and return.

VI. MONITORING GUARDIANSHIPS OF THE PERSON

A. Requirement to Monitor Established Guardianships of the Person

Judge Ferchill is required, at least annually, to examine the well-being of each ward and determine whether the guardian is performing all of the required duties pertaining to the ward. Tex. Prob. Code §671. The court must also annually determine whether the guardianship should be continued, modified or terminated. Tex. Prob. Code §672. The Program Manager in Judge Ferchill's Guardianship Office has a management system

designed to provide the information required for these annual court determinations. Through the use of Annual Guardian of the Person Reports, annual court visits and Court Visitor's Reports, the Program Manager is able to collect and provide the necessary information to the court.

B. Case Management System

1. The Database

The access database is an indispensable tool in monitoring guardianship cases. In addition to maintaining current information on the guardian and ward, the database is used to track the anniversary date that each guardian must file the Annual Guardian of the Person Report. Each month a list of the cases which have reports due is generated from the database and those guardians are mailed the form for their report. The date that the guardian returns the completed report is also entered on the Database. The database is also used to track court visits to wards which are required annually. Court visits are made by the Program Manager, Assistant Court Investigator, interns and court volunteers. Statistics on cases also can be obtained from the database. New guardianship cases are listed in the database with the following information:

- Cause No.
- Anniversary Date of the Guardianship
- Ward's Name/Name of Facility or Private Home/Address/Phone#
- Ward's Date of Birth/Social Security #/ Ethnicity/Gender
- Incapacity
- Adult/Minor
- Guardian Name/Address/Phone #/Relationship to Ward
- Guardian of the Estate (Yes/No)
- Court Visit Date
- Guardian of the Person Report date
- Closed Date
- Reason Closed
- Name of Attorney Ad Litem
- Comments

After the case is entered in the database, a court visitor file is made consisting of the information letter, doctor's letter, initial court visitor's report on the investigation, application and order appointing the guardian. A cover sheet is generated that lists the name, address, and phone number of the guardian and ward, the anniversary date, cause number, and type of guardianship (person/estate) and the incapacity.

2. The Monitoring Process

- The Program Manager mails out the Annual Guardian of the Person Report (GPR) to the guardian one month before the report is due. The GPR is due annually during the anniversary month that the guardianship was established.

- The GOPR covers all areas of the guardianship, including the social, intellectual, physical functioning and living conditions of the ward.
- Guardian completes the report and mails it back to the court. The Program Manager then reviews each report to identify any areas of concern or unmet need for the ward.
- The Program Manager follows up with the guardian by phone or court visit to resolve problems and further assess the condition of the ward.
- A court visitor also is scheduled to meet with the guardian and ward during the anniversary month of the guardianship. Many times the court has received the GOPR and can then follow up with case management concerns during the annual court visit. Documentation is completed through a case management note or in the Court Visitor's Report.
- Examples of concerns identified in GOPR and Court Visits are
 - Lack of adequate guardian visitation
 - Ward wants to get married
 - Request by Guardian to resign
 - Quality of care concerns in nursing homes
 - Need for resources, counseling, supervised work or training programs, supervised social activities, transportation
- Once the Program Manager reviews the Annual Guardian of the Person Reports and Court Visit Reports and follows up on any concerns, the reports are submitted to Judge Ferchill for review. If approved, Judge Ferchill signs the attached Order Approving Guardian of the Person Report. He also dates and initials the Judge's Order on Annual Determination on an attached cover sheet entitled Annual Determination for Guardianship – TPC 672 and GPR Review Sheet, checking whether the guardianship is to be continued, modified or terminated.

C. Student Intern Program

1. Affiliating with a University

An integral part of a court visitor program is recruiting bachelor or master's level social work student interns to assist in completing annual court visits. Following are the steps necessary to become affiliated with a local university's social work program:

- Contact the Department of Field Instruction in the School of Social Work and talk with the person responsible for developing new field placements.
- Be prepared to discuss an overview of your program, what students will do for the court and whether a social worker is on staff in your department. A bachelor's social worker can supervise only bachelor level students. A master's level social worker can supervise bachelor or master's students.

- The university will send an Application for Affiliation for more detailed information about the program. The application covers who you are, what you do, who is served, funding, the population served, specific tasks students will do and who will provide supervision.
- The completed application is returned to the university to be reviewed by the field coordinator. **Universities do not want students to fill a job.** Universities want students to have a rich learning environment that includes direct contact with clients and exposure to administrative, court and community social work experiences under supervision.
- Once the application process is completed and approved by the university, a site visit is scheduled. A representative from the department of field instruction will want to meet with the designated student supervisor and court administrator. They also will want to tour the court and meet staff. The field representative will be evaluating what level of student is appropriate based on the internship tasks and supervision available.

***NOTE:** If you do not have a social worker on staff, the university **may** consider allowing you to contract with a licensed social worker, or have a social worker from another county department provide supervision. The supervisor would need to understand the program and be able to provide orientation, training and ongoing support to students.*

- Following the site visit, the field representative will present the Application for Affiliation and recommendations from the site visit to the Field Committee for review and approval. Field Committees usually meet two times per year; in the spring and fall.
- If the field committee approves the new site, a letter is sent stating that approval has been granted and the number of students/type (bachelor's or master's level) the university will place. A formal contract between the university and the county is enclosed for signature.
- In Tarrant County, the contract is reviewed by the District Attorney's Office and is then sent to the County Commissioners Court for review, approval and signature. Tarrant County has combined all internships in the county under one contract with the university.

Note: Now, when new internship programs are available for students in various county departments, the university reviews the program, supervision, etc., and if approved, the program is added to the original contract. This has streamlined the contracting process between the university and county.

- Once the contracting process is completed, the court visitor program is added to the list of internship positions available to students. Students are given access to this listing and can choose the internship of their choice.

Interns also are directed by field instructor staff to specific placements. In all cases, the student is required to set up an interview with the Program Manager who has the option as to whether the student is accepted. The interview process enables the student and supervisor to determine if the court visitor internship is an appropriate placement for both parties.

- Students in the social work program generally have required internships ranging from 240-400 hours per semester.

2. Student Interns

a. Why Student Interns are interested in the court internship program

- Flexibility in setting up court visits and a self-directed schedule is a benefit to many students who work and need to complete their internship hours in the evening and on weekends. For convenience, student interns are reimbursed for vehicle mileage accrued on court visits and free parking is provided.
- Positive student feedback is helpful in having future students request an internship placement in the court visitor's program.

b. Training and supervision

- When a student has expressed an interest in the court internship program, an interview is scheduled with the Program Manager. After the interview, if the student and Program Manager agree that the position is appropriate, a volunteer application and criminal background check is completed.
- Once accepted for the internship with the court, student interns are required to attend a 4-hour orientation and training for the court visitor program. This orientation covers the guardianship process, need for monitoring guardianships, administrative procedures and filling out reports for the court. Students observe the Program Manager complete a court visit and then they are observed conducting their first court visit. From this point they can check out files and schedule their visits.
- The Program Manager works with the Field Liaison from the university to ensure that the interns meet all aspects of the field placement requirements. The Program Manager completes a midterm and final evaluation for each student.
- Students meet for group supervision weekly with the Program Manager. During supervision, court visitor's reports are reviewed and discussed. When problems are identified, the student and Program Manager

determine a plan of action and the student follows up to complete all case management issues.

- Students also complete a weekly supervision form. This form helps the intern and Program Manager keep track of hours, identify problems in the placement and assure university requirements are being met.
- Students are generally required to complete an evaluation component as part of their internship. This is an opportunity for students to review the access database to look for trends, demographic and statistical information. These reports have been beneficial to the court in having updated information on open guardianship cases.

3. The Volunteer Program

a. Finding and Keeping Volunteers

Tarrant County has a Volunteer Coordinator who assists in finding volunteers who are interested in doing court visits. The coordinator lists volunteer opportunities on the Tarrant County website and by placing ads in the local newspaper. Tarrant County also is a member of the local Volunteer Center. This Center assists in directing volunteers to the county and also has a column in the newspaper each week advertising volunteer opportunities in the community. For the convenience of Volunteers, Tarrant County pays for vehicle mileage accrued on court visits and provides free parking.

The Retired Senior Volunteer Program (RSVP) has been the most successful source of volunteers for Court 1. This is an organization of seniors interested in various volunteer opportunities in the community.

Volunteers need nurturing, recognition and positive feedback from the supervisor to stay committed to the program. Volunteers are asked to make a one-year commitment to the court visitor's program.

b. Screening and Training

When a volunteer has expressed an interest in the court visitor program, an interview is scheduled. After the interview, if the volunteer and Program Manager agree that the position is appropriate, a volunteer application and criminal background check is completed.

Volunteers in the court visitor program are also required to attend the 4-hour orientation and training. This orientation covers the guardianship process, need for monitoring guardianships, administrative procedures and filling out reports for the court. Volunteers observe the Program Manager complete a court visit and then they are observed conducting their first court visit. From this point volunteers can check out files and set up their visits.

VII. MONITORING GUARDIANSHIPS OF THE ESTATE

After a guardian of the estate is appointed for an incapacitated person, the case information is forwarded to the Guardianship Auditor. The Auditor enters the Ward's guardianship estate information into the auditor's database to monitor the case. The Auditor audits the annual and final accountings and ensures that the following legal requirements are timely satisfied:

A. Guardian Must Qualify After Appointment by the Court

- A signed Oath is filed with the Court. Tex. Prob. Code §§700-701.
- A Corporate Surety Bond in the amount set by the Court to protect the assets of the estate is issued by a bond company and is filed and approved by the court. Tex. Prob. Code §§702-705.

B. Inventory and Appraisal

The Inventory and Appraisal is due not later than the 90th day after the guardian has qualified unless the court grants an extension of time. It must be verified and must list all the assets that have come into the guardian's possession. The inventory must include:

- The nature of the property: community or separate
- If property is held in common with others
- Proper legal description on the real property
- Location of cash assets
- List of claims owed to the estate
- Affidavit of guardian must be attached
- Affidavit must state that the inventory is a true and complete statement. Tex. Prob. Code §§729-733.

C. Annual Accounts

The Annual Accounting is a verified and detailed list of all property that has come into the guardian's or trustee's possession since the filing of the inventory. It is due not later than the 60th day after the expiration of 12 months from the date that the guardian qualifies and must remain on file for 10 days. The accounting must include:

- The period covered which must be at least 12 months
- Itemized receipts and disbursements
- Cash on hand which must be properly verified at the close of the period
- Securities must be properly verified
- Confirmation of safekeeping attached

- Account balances
- Information that bond is sufficient for the estate (no bond is required for the management trust)
- Information that Ratification has been sought for any unauthorized action
- Tax and bond information. Tex. Prob. Code §§741, 742.

D. Settling Guardianships of the Estate

A guardianship of the estate must be settled when:

- A minor ward dies or turns 18.
- Incapacitated ward dies or is restored.
- Estate of ward becomes exhausted.
- Foreseeable income accruing is so negligible that to maintain guardianship would be burdensome.
- Assets have been placed in management trust.
- The court determines for any other reason that a guardianship for the ward is no longer necessary. Tex. Prob. Code §745.

E. Final Accounts

In order to close the guardianship estate, the verified account for final settlement must be filed, citation must be issued to the ward if still living and to all persons interested in the estate, notice to creditors must be published and proof filed, objections and exceptions must be considered at a hearing, and the final account must be approved by the court. The guardian must deliver any remaining part of the estate to the ward, to the personal representative of the deceased ward's estate or to the person legally entitled to the property. The final account must include the following:

- Reason for closing
- Period covered
- Receipts and disbursements
- Assets remaining
- Tax and bond information
- Disposition of the property:
 - Was there a Will?
 - Is Administration necessary?
 - Will Heirship be determined?
 - Waivers must be filed by distributees
- Request for Ratification for any unauthorized action. Tex. Prob. Code §§749, 751, 752

F. Show Cause Proceedings

When a guardian fails to submit an oath or bond, inventory or required accountings, a Show Cause order will be issued requiring both the attorney of record and the client to appear for failure to obey the court's order. Usually the accounting will be filed prior to the hearing. Sometimes the judge will remove the guardian and appoint a successor guardian and the process begins again. Tex. Prob. Code §744.

TARRANT COUNTY PROBATE COURT NO. 2

JUDGE
PAT FERCHILL



GUARDIANSHIP OFFICE

COURT INVESTIGATOR
PAULA CONLEY



**ASSISTANT COURT
INVESTIGATOR**
ARLENE SHORTER

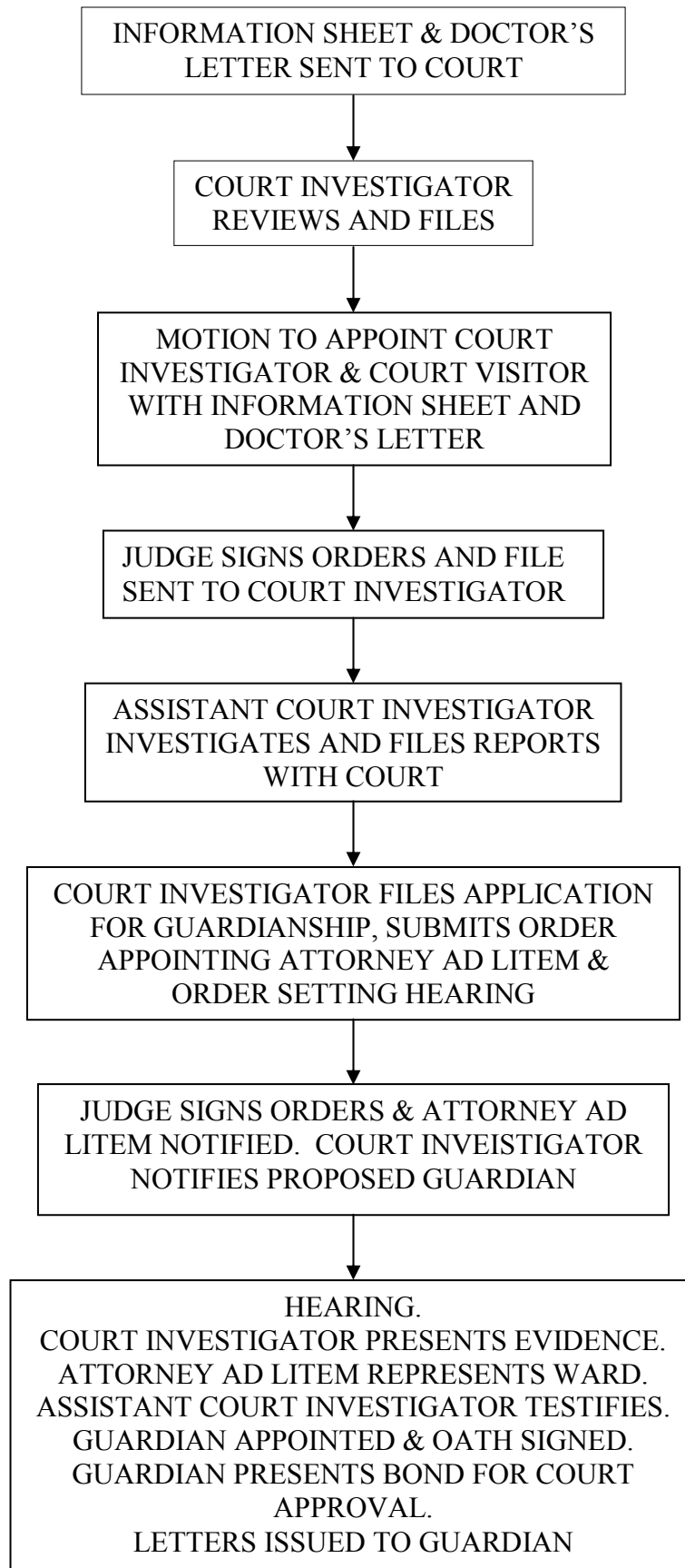
CASE MANAGER
DENISE INMAN

**GUARDIANSHIP
ESTATE AUDITOR**
MARTHA TRACY

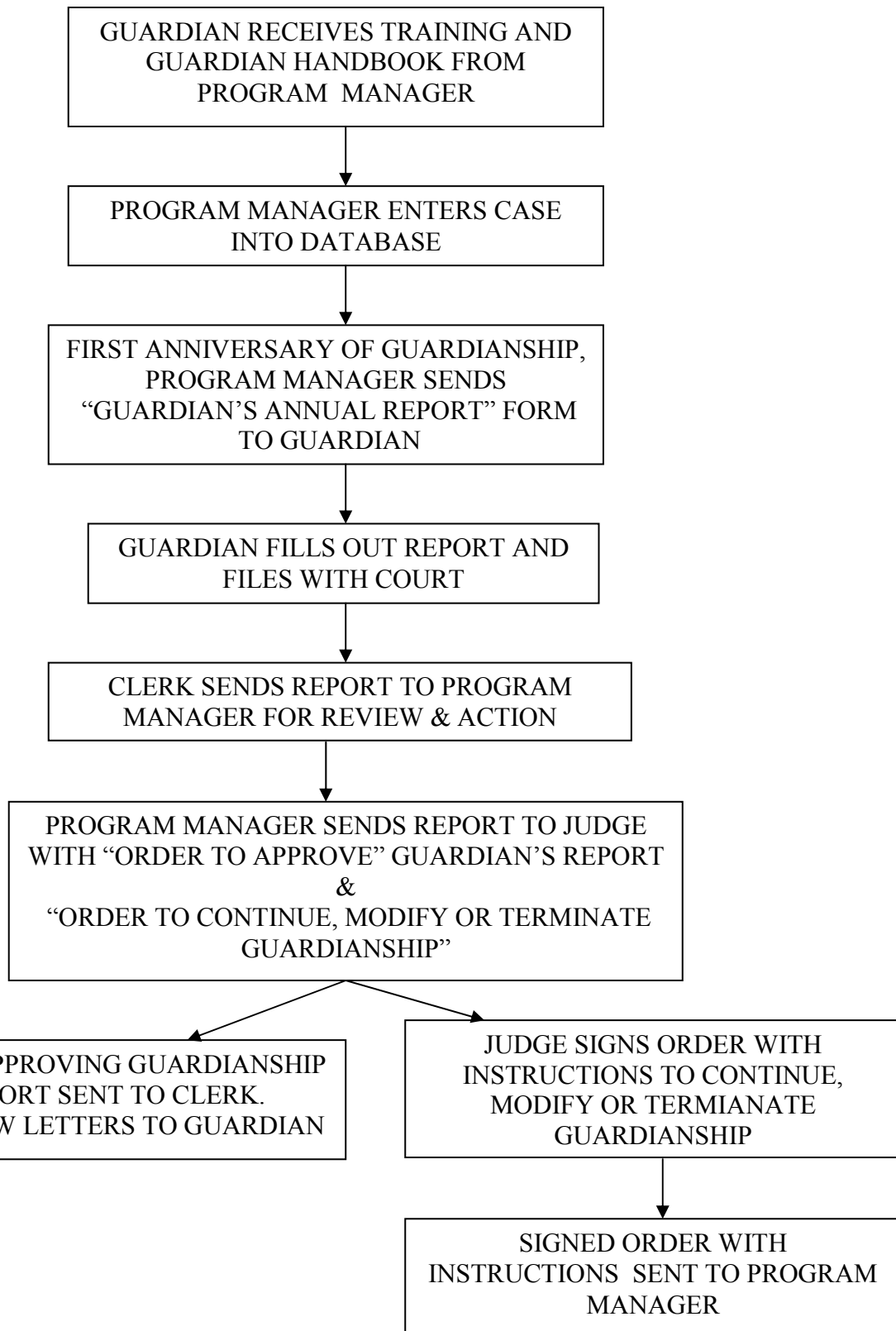


INTERNS & VOLUNTEERS

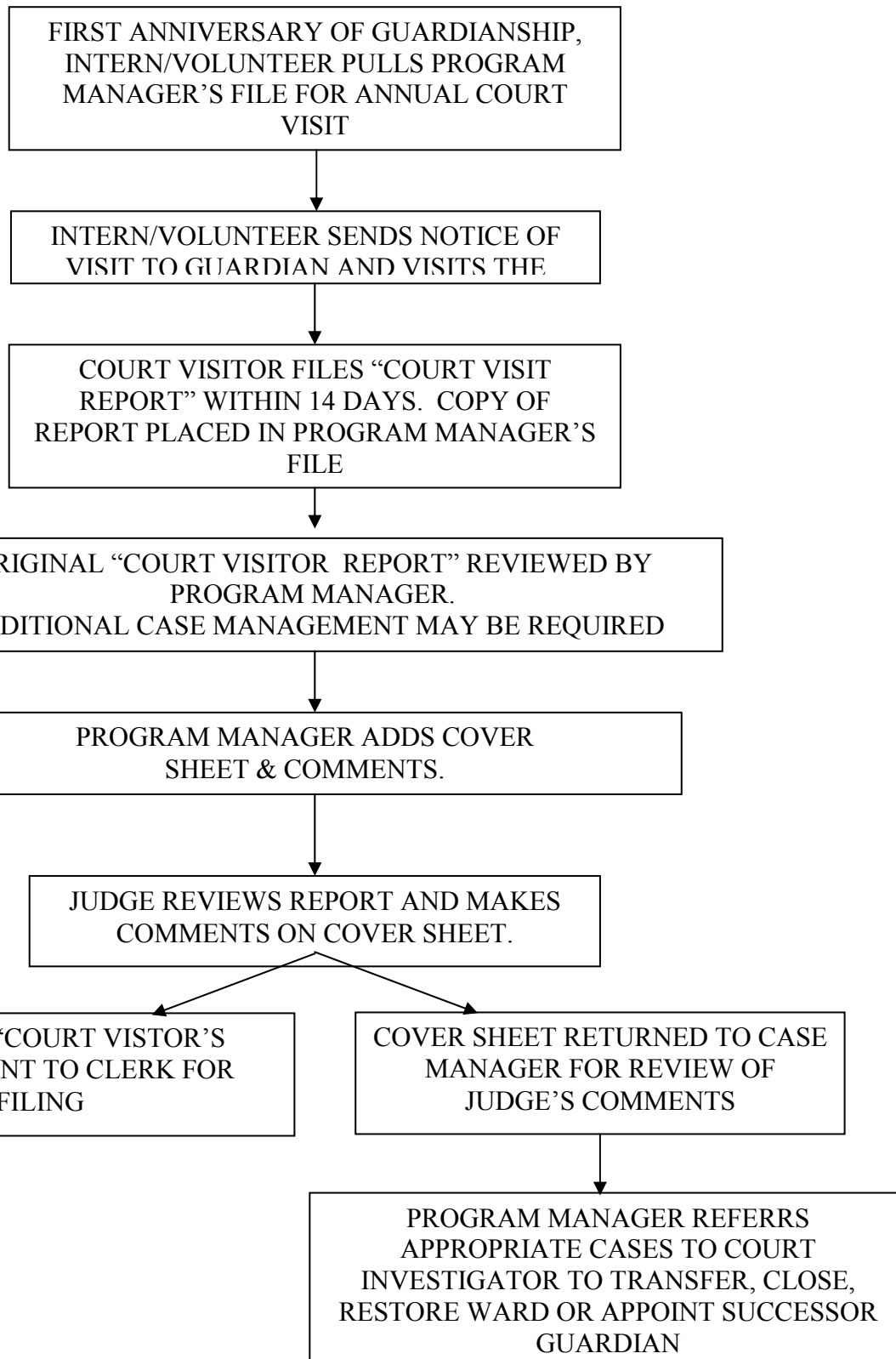
COURT INITIATED GUARDIANSHIPS



MONITORING GUARDIANSHIPS OF THE PERSON



GUARDIANSHIP COURT VISITOR PROGRAM



No. _____

IN THE MATTER OF THE IN THE PROBATE
GUARDIANSHIP OF COURT NO. TWO
, OF TARRANT
AN INCAPACITATED PERSON COUNTY, TEXAS

COURT VISITOR'S REPORT FOR A PROPOSED WARD

STATE OF TEXAS
COUNTY OF TARRANT

On this day, the undersigned, known to me to be the Court Visitor in this matter, personally appeared before me, and after being duly sworn, stated the following:

1. I, , was appointed as a Court Visitor in this matter by Court Order dated , 200 .
2. I personally visited, , the Proposed Ward(the "PW"), on , 200 , who is years of age and is living at the following address:

I am filing this report not later than the 14th day after the date on which I visited and evaluated the PW.

3. A description of the nature and degree of the PW's capacity and incapacity, including the medical history of the PW if reasonably available, is as follows:

Medical History:

Medications:

4. The medical prognosis of the PW, and the date of such prognosis, is as follows:

5. A list of the treating physicians of the PW is as follows:

6. A description of the social condition of the PW is as follows: **(also list names, addresses and phone numbers of known family members not listed on the information letter)**

7. A description of the living conditions and circumstances of the PW is as follows:

8. A description of the intellectual and educational condition of the PW is as follows:

9. A description of the physical condition of the PW is as follows:

10. List all assets of PW other than personal effects including any funds in Nursing Home Trust Accounts:

11. List all income of PW:

12. The following is my recommendation as to the need for a guardianship in this case:

- a. PW does/does not understand guardianship.
- b. PW is/is not incapacitated.
- c. PW does/does not need a guardian.
- d. PW will/will not consent to guardianship or PW is unable to express an
opinion.
- e. A guardian is needed to make the following decisions for PW:
 - placement decisions
 - medical decisions
 - financial decisions

f. The following rights of PW should be removed:

the right to drive

the right to vote

the right to dispose of property

the right to marry

g. Other comments:

13. I make the following recommendations concerning a guardian in this case:

PW expressed a preference for the following person (s) to serve as guardian:

PW did not express a preference as to who should serve as guardian. Court Visitor has determined that the following person is the most suitable to serve as guardian:

The person PW selected as guardian was not suitable, and the following person(s)is/are who I deem to be the most suitable person to be guardian:

No suitable person was found to serve as guardian so Court Visitor is recommending Guardianship Services Inc.

a. Name:

Address:

Phone:

DOB:

Relationship to PW:

b. Other comments:

I hereby swear, under penalty of perjury, that the information contained in this report is accurate to the best of my knowledge.

SIGNED this ____ day of _____, 200__.

Court Visitor

SUBSCRIBED AND SWORN TO BEFORE ME UNDER PENALTY OF
PERJURY by _____, Court Visitor, on this ____ day of
_____, 200__, to certify which
witness my hand and seal of office.

Notary Public, State of Texas

**COURT INITIATED GUARDIANSHIP POLICY
FOR ADULTS IN TARRANT COUNTY PROBATE COURTS**

Section 683 of the Texas Probate Code provides:

"If a court has probable cause to believe that a person domiciled or found in the county in which the court is located is an incapacitated person, and the person does not have a guardian in this state, the court shall appoint a guardian ad litem or court investigator to investigate and file an application for the appointment of a guardian of the person or estate, or both, of the person believed to be incapacitated."

The Tarrant County Probate Courts have implemented the following procedure to comply with this statute.

1. INFORMATION LETTER. The Court must receive a **fully completed** information letter on the attached form from a concerned party such as Adult Protective Services, a hospital, a nursing home, a relative or a friend of the proposed incapacitated person. The information letter should be sent to Tarrant County Probate Courts, 100 Weatherford, Fort Worth, TX 76196, or faxed at 817-884-3178 or 817-212-7550. **Original** documents must follow faxes.

2. DOCTOR'S LETTER or DMR. With the Information Letter, the Court must also receive a letter on the attached Doctor's Letter Form which must be signed by a physician (M.D. or D.O.) licensed to practice medicine in Texas. The doctor's letter must be dated within **3 months** of the information letter and based upon an examination conducted within **3 months** of the information letter. If the sole reason that the person may be incapacitated

is due to Mental Retardation, please do not submit the Doctor's Letter Form. Instead, please submit a **Determination of Mental Retardation (DMR)** based on a examination which has been completed within **3 months** of the date that it is submitted to the Court. A doctor or psychologist licensed by Texas or certified by the Texas Department of Mental Health and Mental Retardation must perform the examination.

3. ASSIGNMENT TO A COURT. Once these letters are received, the request will be assigned to either Probate Court No. One ("Court One") or Probate Court No. Two ("Court Two"). The Court will then appoint a Court Investigator or a Guardian Ad Litem to investigate the circumstances and file an application for the appointment of a guardian of the person or estate, or both, of the proposed ward, if necessary.

a. In Court Two, the Court Investigator will be appointed to those cases in which the proposed ward does not have sufficient assets to pay for a guardianship action if one is necessary. A Court Visitor will be assigned to contact the person completing the information letter, meet with the proposed ward and complete a Court Visitor's Report.

b. In Court One, a Guardian ad Litem will be appointed to every case. In Court Two, a Guardian ad Litem will be appointed to those cases in which the proposed ward has sufficient assets to pay for a guardianship action if one is necessary and to cases involving imminent danger.

COURT INITIATED GUARDIANSHIP TAKES AT LEAST SIX WEEKS FROM THE DATE THE COURT RECEIVES BOTH LETTERS

4. DUTIES OF GUARDIAN AD LITEM OR COURT INVESTIGATOR. The duties of a Guardian Ad Litem or a Court Investigator upon such appointment are as follows:

- a. personally interview the proposed ward ("PW");
- b. interview the party who filed the letter concerning PW as well as the known relatives of PW;
- c. consider less restrictive alternatives to guardianship;
- d. consider necessity of temporary guardianship;
- e. file application for guardianship, if necessary;
- f. file a report with Court if no application filed;
- g. locate person to serve as guardian or contact Volunteer Guardians;
- h. notify family members as required by TPC 633;
- i. visit with attorney ad litem concerning application;
- j. ensure that PW is properly served and that citation time has run prior to hearing;
- k. set date for hearing (Court One only)
- l. prepare Order Appointing Guardian, Oath & Bond;
- m. attend hearing on application;
- n. assist guardian in obtaining bond and letters; and
- o. represent the **best interest** of PW.

5. UPON FILING OF APPLICATION. If a Guardian Ad Litem or a Court Investigator files an application for temporary or permanent guardianship, the Court will appoint an

Attorney Ad Litem to represent and **advocate on behalf of PW**. PW will then be served a copy of the application by the Sheriff. Court Two will also set a date for a hearing on the application.

6. DUTIES OF ATTORNEY AD LITEM. The duties of the Attorney Ad Litem are as follows:

- a. review the application for guardianship, certificates of physical, medical and intellectual examination and all PW's relevant medical, psychological and intellectual testing records;
- b. personally interview PW;
- c. discuss with PW the laws and facts of the case, the proposed ward's legal options regarding disposition of the case and the grounds on which guardianship is sought;
- d. ascertain whether PW wants to oppose the guardian or the guardianship (if PW can't communicate, AAL is to act in PW's best interests);
- e. file an answer and a report that states whether PW objects to guardianship, the proposed guardian, or both, and send a copy of the report to the Court Investigator;
- f. visit with Guardian Ad Litem or Court Investigator concerning application;
- g. advocate on behalf of PW at the hearing.

Questions concerning this policy or the status of your case should be addressed to the Court Investigators:

**Court One, BARRIE ALLEN 817-884-2189; or
Court Two, PAULA CONLEY 817-884-3395.**

COURT INITIATED GUARDIANSHIP INFORMATION LETTER

Today's Date: _____

Judge Steve M. King, Probate Court No. 1
Judge Pat Ferchill, Probate Court No. 2
Tarrant County Courthouse
100 Weatherford
Fort Worth, TX 76196-7752

Dear Judge:

I request the Court to investigate the need for a guardian for the following person:

Name:

Address:

Phone:

Social Security No.:

Date of Birth:

Race/Ethnicity: _____

Circle: Male Female

This person is: _____ living in a private residence
_____ a client at a nursing facility
_____ a patient in a hospital

This person is: _____ my friend
_____ my relative. Relationship:
_____ my client. Please list your title and employer's name:

Please list this person's living spouse, parents, all adult siblings and all children
(please put an **asterisk** by person who has expressed a willingness to be appointed as guardian and list **his/her SS#** and **date of birth**).

Spouse's name:

Address & Phone:

Children's names:

Addresses & Phones:

Parents' names:

Addresses & Phones:

Siblings' names:

Addresses & Phones:

Next of Kin's names:
Addresses & Phones:

Friends' names:
Addresses & Phones:
The person **does** / **does not** have a guardian in Texas.

The person **is** / **is not** a resident of Tarrant County. Is the person located in Tarrant County? **Yes** / **No**

The person **has**/ **has not** executed a **power of attorney** to the following person (attach copy if possible):

Name:
Address:

Phone:

The **nature and degree of the person's incapacity** is as follows:

I am aware of the following **facts** that indicate that the person needs a guardian:

The person has the following **assets and income**:

Real Estate:
Value:

Bank Accounts:
Value:

Other Assets:
Value:

Monthly Income:
Sources:

Is the person in **imminent danger** of serious impairment to his/her **physical health or safety** unless immediate action is taken? **Yes** / **No** If yes, explain:

Is the person in **imminent danger** of having his/her **estate seriously damaged** or dissipated unless immediate action is taken? **Yes / No** If yes, explain:

I hereby swear that this information is true and correct to the best of my knowledge.

Signed: _____

Printed Name: _____

Address: _____

Daytime Phone: _____

Home Phone: _____

**FORM DOCTOR'S LETTER FOR USE IN
TARRANT COUNTY PROBATE COURTS**

Date: _____, 200__

Physician's Name: _____

Physician's Address: _____

Phone No.: _____

Judge Steve M. King, Probate Court No. 1; or
Judge Pat Ferchill, Probate Court No. 2
Tarrant County Courthouse
100 Weatherford
Fort Worth, TX 76196

Re: In the Matter of the Guardianship of _____, an
Incapacitated Person

Dear Judge King or Ferchill:

I am a physician currently licensed in the State of Texas. I have been the doctor for _____ ("Proposed Ward") since _____, _____. **I examined the Proposed Ward on _____, 200__.** Based upon that examination and my observations, it is my opinion that the Proposed Ward is an **"incapacitated person"** because he/she (**check the following items that apply**):

- ___ suffers from a physical condition;
- ___ suffers from a mental condition;
- ___ is substantially unable to provide food, clothing or shelter for himself/herself;
- ___ is substantially unable to care for his/her
own physical health; or
- ___ is substantially unable to manage his/her own financial affairs.

____ If I have checked this item, it is because I believe that the Proposed Ward is not an "incapacitated person" and that none of the items listed above apply.

The extent of the Proposed Ward's incapacity is described in my answers to the following questions:

1. What is the general **nature and degree of the incapacity**?

2. What is the Proposed Ward's **medical history** as it is related to the incapacity?

3. What is the **prognosis**, including the estimated severity, of the incapacity?

4. How and in what manner does the Proposed Ward's physical or mental health affect the Proposed Ward's ability to make or communicate responsible decisions concerning himself or herself?

5. Does any **current medication** affect the demeanor of the Proposed Ward?_____ Would this medication affect the Proposed Ward's ability to participate fully in a court proceeding?_____ Please describe these medications.

6. Is **dementia** a diagnosis of the Proposed Ward's incapacity?_____ If yes, please describe the precise physical and mental conditions underlying this diagnosis.

7. Is **mental retardation** the basis of the Proposed Ward's incapacity?

8. Is the Proposed Ward capable of operating a **motor vehicle**?

9. Is the Proposed Ward capable of making informed decisions concerning matters decided by a **public vote**?

10. Is the Proposed Ward capable of making informed decisions concerning his or her **marital status**?

11. It is my opinion that the Proposed Ward is **incapable** of personally handling or making decisions concerning the following matters which are **marked NO** below, and that the Proposed Ward is **capable** of personally handling and making decisions concerning the following matters which are **marked YES** below:

- _____ a. to handle a bank account; if YES, should the Court limit the amount in such account? _____
- _____ b. to contract and incur obligations.
- _____ c. to collect and file suit on debts, rentals, wages and other claims due Proposed Ward.
- _____ d. to pay, compromise and defend claims made against the Proposed Ward.
- _____ e. to apply for governmental services.
- _____ f. to apply for and to receive funds from governmental sources.
- _____ g. to enroll in public or private residential care facilities.
- _____ h. to hire employees such as nurses.
- _____ i. to apply for psychological and psychiatric tests and evaluation.
- _____ j. to consent to future disclosure of psychological and medical records.
- _____ k. to consent to future medical and dental treatment and testing.
- _____ l. to make a decision concerning a job.
- _____ m. to execute a Will or Power of Attorney
- _____ n. to make gifts of real or personal property.
- _____ o. other _____

12. THEREFORE, it is my opinion that the Proposed Ward is incapacitated as stated in this letter and that a guardian should be appointed and granted the powers necessary to act on the Proposed Ward's behalf and to make decisions for the Proposed Ward concerning the matters which are marked NO in item 11 above (**cross out paragraph if PW is not incapacitated**).

FURTHERMORE, (answer **YES** to one of the following):

_____ by responding NO to all the matters listed above,
it is my opinion that the Proposed Ward is
totally incapacitated.

_____ by responding both YES and NO to the matters listed above, it is my opinion that the Proposed Ward is **partially incapacitated.**

Please include any additional information about the Proposed Ward that might assist the Court in making its determination on the back of this page or on an additional page.

Signed: _____
Physician's Signature

Printed Name: _____

Rev. 6/5/00

No. _____

IN THE MATTER OF
THE GUARDIANSHIP OF
_____,
AN INCAPACITATED PERSON

IN THE STATUTORY
PROBATE COURT NO. TWO
OF TARRANT COUNTY,
TEXAS

**GUARDIAN OF THE PERSON'S ANNUAL REPORT ON THE
CONDITION OF A MINOR INCAPACITATED PERSON**

INSTRUCTIONS: Please fill out the report as thoroughly as possible. Place a check mark in the appropriate boxes and give details if necessary. If you are unsure or the information is not available please indicate N/A. When completed, have this report notarized and return to the Court.

A. Information About Incapacitated Person ("IP")

1. IP's Name: _____

2. Age: _____ Date of Birth: _____

3. Incapacity:

Is the IP's Minor status his or her only incapacity? ☐ Yes ☐ No

If "No," please describe IP's secondary incapacitation(s): _____

4. IP's residence is: ☐ Guardian's home ☐ Group home ☐ State School

☐ Other (describe): _____

5. Name of Residence (if applicable): _____

IP's Address: _____

Phone No. (if any): _____

6. List date IP moved to present residence: _____

7. Has IP changed residences within last 12 months? ☐ Yes ☐ No

If "Yes", state the reason for the move: _____

B. Information About Guardian of the Person

1. Guardian's Name: _____
2. Address: _____

3. Has the Guardian's address changed in the last year? ☐ Yes ☐ No
4. Home Phone No.: _____ Work Phone No.: _____
5. Relationship to IP: ☐ Family _____ ☐ Friend ☐ No Relation
(Relation) (Volunteer)

C. Visitation/Phone Contact

1. IP ☐ Does ☐ Does Not live with the Guardian.
(If the IP "Does" live with the Guardian, you may skip the rest of section "C.")
2. List the number of times you personally visited IP during the last 12 months: _____
3. List date of your last personal visit to IP: _____
If you have not visited IP frequently, have you had telephone contact? ☐ Yes ☐ No
4. How often is telephone contact? _____
5. List date of last telephone contact? _____
6. Who is the main telephone contact? _____

D. Information About IP's Medical Condition

1. During the past year, IP's **mental health** has:
☐ Remained the same ☐ Improved ☐ Deteriorated
Describe: _____

2. During the past year, IP's **physical health** has:
☐ Remained the same ☐ Improved ☐ Deteriorated
Describe: _____

3. During the past year, IP has been treated or evaluated by the following:
Physician Name: _____
Describe: _____
Psychiatrist or Psychologist Name: _____

Describe: _____

Social or other Case Workers Name: _____

Describe: _____

Dentist Name: _____

Describe: _____

Other Name: _____

Describe: _____

4. Does IP have a **primary doctor**? ☐ Yes ☐ No

Primary Doctor Name: _____

Address: _____ Phone: _____

5. I believe my IP has the following **unmet medical needs**: _____

6. What is being done to address these unmet needs? _____

E. Information About IP's Social Conditions

1. During the past year, IP engaged in the following activities: (Describe)

☐ Educational

Name of School: _____

Address: _____

IP's Current Grade: _____

Please give a statement of IP's progress in school: _____

☐ Recreational: _____

☐ Social: _____

☐ Occupational: _____

☐ No activities available. Why?: _____

☐ IP refuses or is unable to participate. Why?: _____

2. Does the IP have a driver's license? ☐ Yes ☐ No

If "Yes," is the IP covered by auto liability insurance? ☐ Yes ☐ No

3. Has the IP encountered any significant events in the past year which should be brought to the attention of the Court? ☐ Yes ☐ No

Describe: _____

4. What accomplishments, successes, goals, if any, has the IP achieved this year? _____

5. I believe my IP has the following **unmet social needs**: _____

6. What is being done to address these unmet needs? _____

F. Information About IP's Living Conditions

1. I rate my IP's **living arrangements** as: (check one)

☐ Excellent

☐ Average

☐ Below Average

If Below Average is marked, please explain: _____

2. I believe my IP is ☐ Content ☐ Unhappy with his or her living arrangements.

3. I believe my IP has the following **unmet basic needs**: _____

4. What is being done to address these unmet needs? _____

G. Information About IP's Assets and Income

1. Does the IP have a Guardianship of the Estate?

☐ Yes

☐ No

2. Is the IP entitled to any court-ordered child support that has not been received?

☐ Yes

☐ No

If "Yes," please explain: _____

3. List source and amount of any other benefits you receive on IP's behalf: _____

4. List any assets of IP, other than personal effects, that you possess and that you have not listed on Guardian of the Estate's Annual Account: _____

H. Additional Information

1. My **powers** as Guardian should:

☐ Remain the same

☐ Be decreased as follows: _____

☐ Be increased as follows: _____

3. I believe the Court should be aware of the following **additional information** that concerns my IP: _____

****NOTE:** Please attach a **recent photograph** of the IP to this Annual Report**

I hereby **swear** that the answers set forth above are true and correct to the best of my knowledge and belief, and that I am giving such answers subject to the penalties of making a false affidavit or declaration.

Signature of Guardian

Signature of Co-Guardian (if applicable)

SWORN TO AND SUBSCRIBED before me by _____
_____ on this ____ day of _____, 20____.

Notary Public, State of _____
Name (print): _____
My commission expires: _____

REV 1/00

No. _____

IN THE MATTER OF
THE GUARDIANSHIP OF
_____,
AN INCAPACITATED PERSON

IN THE STATUTORY
PROBATE COURT NO. TWO
OF TARRANT COUNTY,
TEXAS

**GUARDIAN OF THE PERSON'S ANNUAL REPORT ON THE
CONDITION OF AN ADULT INCAPACITATED PERSON**

INSTRUCTIONS: Please fill out the report as thoroughly as possible. Place a check mark in the appropriate boxes and give details if necessary. If you are unsure or the information is not available please indicate AN/A.≡ When completed, have this report notarized and return to the Court.

A. Information About Incapacitated Person ("IP")

1. IP's Name: _____

2. Age: _____ Date of Birth: _____

3. Incapacity:

☐ Mental Retardation ☐ Chronic Mental Illness ☐ Head Injury ☐ Stroke

☐ Alzheimer's Dementia ☐ Other: (describe) _____

List any secondary medical conditions: _____

4. IP's residence is: ☐ Guardian's home ☐ IP's own home ☐ Nursing home

☐ Group home ☐ State School ☐ other:(describe) _____

5. Name of Residence (if applicable): _____

Address: _____

Phone No. (if any): _____

6. List date IP moved to present residence: _____

7. Has IP changed residences within last 12 months? ☐ Yes ☐ No

If "Yes", state the reason for the move: _____

B. Information About Guardian of the Person

1. Guardian's Name: _____
2. Address: _____

3. Has the Guardian's address changed in the last year? ☐ Yes ☐ No
4. Home Phone No.: _____ Work Phone No.: _____
5. Relationship to IP: ☐ Family _____ ☐ Friend ☐ No Relation
(Relation) (Volunteer)

C. Visitation/Phone Contact

1. IP ☐ Does ☐ Does Not live with the Guardian.
(If the IP "Does" live with the Guardian, you may skip the rest of section "C.")
2. List the number of times you personally visited IP during the last 12 months: _____
3. List date of your last personal visit to IP: _____
If you have not visited IP frequently, have you had telephone contact? ☐ Yes ☐ No
4. How often is telephone contact? _____
5. List date of last telephone contact? _____
6. Who is the main telephone contact? _____

D. Information About IP's Medical Condition

1. During the past year, IP's **mental health** has:
☐ Remained the same ☐ Improved ☐ Deteriorated
Describe: _____

2. During the past year, IP's **physical health** has:
☐ Remained the same ☐ Improved ☐ Deteriorated
Describe: _____

3. During the past year, IP has been treated or evaluated by the following:
Physician's Name: _____
Describe: _____
Psychiatrist's or Psychologist's Name: _____

Describe: _____

Social or other Case Worker's Name: _____

Describe: _____

Dentist's Name: _____

Describe: _____

Other Name: _____

Describe: _____

4. Does IP have a **primary doctor**? ☐ Yes ☐ No

Primary Doctor's Name: _____

Address: _____ Phone: _____

5. I believe my IP has the following **unmet medical needs**: _____

7. What is being done to address these unmet needs? _____

E. Information About IP's Social Conditions

1. During the past year, IP engaged in the following activities: (Describe)

☐ Recreational: _____

☐ Educational: _____

☐ Social: _____

☐ Occupational: _____

☐ None available: _____

☐ IP refuses or is unable to participate: _____

2. What accomplishments, successes, goals, if any, has the IP achieved this year? _____

3. I believe my IP has the following **unmet social needs**: _____

4. What is being done to address these unmet needs? _____

F. Information About IP's Living Conditions

1. I rate my IP's **living arrangements** as: (check one)

☐ Excellent

☐ Average

☐ Below Average

If Below Average is marked, please explain: _____

2. I believe my IP is ☐ Content ☐ Unhappy with his or her living arrangements.

3. I believe my IP has the following **unmet basic needs**: _____

4. What is being done to address these unmet needs? _____

G. Information About IP's Assets and Income

1. Does the IP have a Guardianship of the Estate? ☐ Yes ☐ No

2. Does the IP have a Trust account? ☐ Yes ☐ No

3. Does IP receive Supplemental Security Income (SSI)? ☐ Yes ☐ No

If "Yes," how much per month? \$ _____

List name of Payee: _____

4. Does IP receive Social Security benefits? ☐ Yes ☐ No

If "Yes," how much per month? \$ _____

List name of Payee: _____

5. List source and amount of any other benefits you receive on IP's behalf: _____

6. List any assets of IP, other than personal effects, that you possess and that you have not listed on Guardian of the Estate's Annual Account: _____

7. Do you handle IP's assets using a Power of Attorney? ☐ Yes ☐ No

If "Yes," please attach a copy of Power of Attorney to this Annual Report.

H. Additional Information

1. Has IP **regained capacity** to make decisions as would a reasonably prudent person in any of the areas over which you have been given power to make decisions for IP as Guardian? ☐ Yes ☐ No

If “Yes,” please describe:

2. My **powers** as Guardian should:

☐ Remain the same

☐ Be decreased as follows:

☐ Be increased as follows:

3. I believe the Court should be aware of the following **additional information** that concerns my IP: _____

****NOTE:** Please attach a **recent photograph** of the IP to this Annual Report******

I hereby **swear** that the answers set forth above are true and correct to the best of my knowledge and belief, and that I am giving such answers subject to the penalties of making a false affidavit or declaration.

Signature of Guardian

Signature of Co-Guardian (if applicable)

SWORN TO AND SUBSCRIBED before me by

_____ on this ____ day of _____, 20____.

Notary Public, State of _____
Name (print): _____
My commission expires: _____

REV 1/00

No. _____

IN THE MATTER OF THE
GUARDIANSHIP OF
_____,
INCAPACITATED PERSON

IN THE PROBATE
COURT NO. TWO
OF TARRANT
COUNTY, TEXAS

COURT VISITOR'S REPORT: MINOR

The following information is given under oath:

A. Visitor Information

Name of Visitor: _____

Date of Appointment: _____

Date of Personal Visit: _____

Circle one: **Annual Visit** **Visit on Complaint:** (For visits on complaints, visitor is to complete entire CV report form and attach separate sheet detailing complaints and findings)

B. MINOR's Information

Name: _____ Age: _____

Facility Name (if any): _____

Address: _____

_____ Phone: _____

Ethnicity: _____ Gender: _____ Case Management: YES / NO

Is minority the Minor's only incapacity? _____

If not, what other incapacities does the Minor have? _____

C. Guardian Information

Name: _____

Relation to Minor: _____

Address: _____

_____ Phone: _____

Date of last "Guardian of the Person Annual Report" completed: _____

If report is past due, please offer assistance to the Guardian with the completion of the annual report.

D. Visitation by Guardian

Does IP live with the Guardian? _____ **If no, answer below:**

Date of Guardian's most recent visit: _____

Number of visits by Guardian in last 12 months: _____

Is Minor able to verbally communicate? _____

According Minor, date of Guardian's most recent visit: _____

According to Minor, # of Guardian's visits in last 12 months: _____

If Guardian doesn't visit frequently, does he/she maintain Telephone contact? _____

How often? _____

Comments: _____

E. Nature & Degree of Incapacity/ Medical History

List any major medical problems of the Minor: _____

Secondary medical problems: _____

Injuries to or hospitalizations within the last 12 months:

Comments: _____

F. Medical Prognosis

If the Minor is mentally retarded or suffers from medical problems, what is the probable course of these problems:

Date of Minor's last medical exam: _____

Date of Minor's last dental exam: _____

What dental treatment was recommended or received (if any)? _____

Date of Minor's last eye exam: _____

List Minor's medications: _____

List Minor's health insurance providers: _____

Comments:

G. Treating Physicians

Primary Care Physician's Name: _____

Address: _____

Phone: _____

Date of primary care physician's last visit: _____

List any other physicians: _____

Is Minor be happy with these physicians? _____

Comments:

H. Living Conditions

Type of residence: _____

If private home, list name (s) and relationship of occupants to IP:

Length of time at current residence: _____

Condition of residence: _____

Does Minor have his/her own room? _____

Is the room appropriately furnished? _____

Is the room air-conditioned? _____ heated? _____

Any offensive odors? _____

Is residence appropriate for Minor's needs? _____

Comments:

I. Social Conditions

Does Minor participate in social activities? _____

List activities, if any: _____

Is transportation to activities being provided? _____

Is Minor allowed adequate contact with peers? _____

Does Minor have a child care provider? _____, If so, Name and address of child care provider: _____

Is Minor satisfied with child care provider? _____

Has Minor ever been abused? _____ If yes, or you have reason to believe the answer may be yes, please discuss with COURT INVESTIGATOR.

Is Minor well behaved? _____

Is Minor aware of the consequences of misbehavior? _____

What discipline methods are used? _____

What are the Minor's household responsibilities? _____

Does the Minor receive an adequate allowance? _____

Does the Minor feel he/she is treated fairly? _____

List any paid employment of the Minor: _____

Hour per week Minor spends on job: _____

Comments: _____

J. Intellectual/ Educational /Work Conditions

Does Minor attend School? _____ Grade level _____

Name, Address & Phone of School _____

Does Minor receive Special Education? _____

Teacher's name _____

List Minor's GPA: _____ Minor's class rank: _____

Minor's extra-curricular activities: _____

Does Minor drive a car? _____ If so, does the Minor have liability insurance? _____

Does Minor work? _____ If so, where and doing what: _____ How many hours a week? _____

Comments: _____

K. Physical Conditions

Does Minor appear clean? _____ appropriately dressed? _____

clothing clean? _____ hair clean and appropriate? _____

Does IP need glasses? _____ a hearing aid? _____

Is IP able to walk unassisted? _____ exercise? _____

If so, is IP getting adequate exercise? _____

Comments:

M. Recommendations

1. _____ Guardian's powers should not be altered.
2. _____ Guardian's powers should be decreased.
3. _____ Guardian's powers should be increased.
4. _____ Guardianship should be removed because Ward
is 18 years old.
5. _____ Guardian wishes to resign.
6. _____ Guardian should be removed.
7. _____ Guardianship should be transferred.

Explanation: (for items 2 - 7)

N. Persons Consulted During Visit (relation to IP and their telephone number)

I hereby swear, under penalty of perjury, that this report is accurate to the best of my knowledge.

SIGNED this ____ day of _____, 200_.

Court Visitor

SUBSCRIBED AND SWORN TO BEFORE ME UNDER PENALTY OF
PERJURY by _____, Court Visitor, on this ____ day of
_____, 200_.

Notary Public, State of Texas

No. _____

IN THE MATTER OF THE
GUARDIANSHIP OF
_____,
AN INCAPACITATED PERSON

IN THE PROBATE
COURT NO. TWO
OF TARRANT
COUNTY, TEXAS

COURT VISITOR'S REPORT: ADULT

The following information is given under oath:

A. Visitor Information

Name of Visitor: _____

Date of Appointment: _____

Date of Personal Visit: _____

Circle one: **Annual Visit** **Visit on Complaint:** (For visits on complaints, visitor is to complete entire CV report form and attach separate sheet detailing complaints and findings)

B. Incapacitated Person ("IP") Information

Name: _____ Age: _____

Facility Name (if any): _____

Address: _____

_____ Phone: _____

Ethnicity: _____ Gender: _____ Case Management: YES / NO

Nature of Incapacity: _____

C. Guardian Information

Name: _____

Relation to IP: _____

Address: _____

_____ Phone: _____

Date last "Guardian of the Person Annual Report" completed: _____

If report is past due, please offer assistance to Guardian with the completion of the annual report.

D. Visitation by Guardian

Does IP live with the Guardian? _____ **If no, answer below:**

Date of Guardian's most recent visit: _____

Number of visits by Guardian in last 12 months: _____

Is IP able to verbally communicate? _____

According to IP, date of Guardian's most recent visit: _____

According to IP, # of Guardian's visits in last 12 months: _____

If Guardian doesn't visit frequently, does he/she maintain Telephone contact? _____

How often? _____

Comments:

E. Nature & Degree of Incapacity/ Medical History

Date IP was last examined by a physician: _____

Medical Diagnoses: _____

List IP's medications: _____

Probable course of the IP's major medical problem:

☐ Stable ☐ Improving ☐ Deteriorating

Significant weight gain or loss? ____ No ____ Yes ____ Explain: _____

Injuries to or hospitalizations within the last 12 months:

Identify if receiving service and describe : Dental: _____

Speech Therapy _____ Physical Therapy _____

Occupational Therapy _____

Comments:

F. Treating Physicians

Primary Care Physician's Name: _____

Address: _____

_____ Phone: _____

Date of primary care physician's last visit: _____

List any other physicians: _____

Does IP appear to be happy with these physicians? _____

Comments:

G. Living Conditions

Type of residence: _____

If private home, list name (s) and relationship of occupants to IP:

Length of time at current residence: _____

Condition of residence: _____

Does IP have his/her own room? _____

Is the room appropriately furnished? _____

Is the room air-conditioned? _____ heated? _____

Any offensive odors? _____

Is residence appropriate for IP needs? _____

Comments:

H. Social Conditions

Can IP participate in planned activities? _____

List planned activities, if any: _____

Does IP go to a senior citizen or adult day care facility? _____

Estimated # of different visitors each month: _____

Is transportation to activities being provided? _____

Comments:

I. Intellectual Conditions

Is IP aware of the current date? _____

Does IP know where he/she is located? _____

Can IP communicate verbally? _____

List other means of communication: _____

Does IP respond to his/her name? _____

Is IP's intellectual functioning declining? _____

Comments:

J. Physical Conditions

Is IP's body clean? _____ appropriately dressed? _____

clothing clean? _____ hair clean and appropriate? _____

Is IP continent of urine and feces? _____

Does IP have bedsores? _____ Are they properly dressed? _____

Does IP need glasses? _____ a hearing aid? _____

Is IP able to walk unassisted? _____ exercise? _____

If so, is IP getting adequate exercise? _____

Comments:

K. Educational/Employment Conditions

Is IP able to read? _____ to write? _____

Is IP attending educational classes? _____

If so, give name of school or class and program of study:

Does IP work? _____ If Yes, state employer/workshop: _____

Hours worked: _____ Type of work: _____

Comments:

L. Recommendations

1. _____ Guardian's powers should not be altered.
2. _____ Guardian's powers should be decreased.
3. _____ Guardian's powers should be increased.
4. _____ Guardianship should be removed because Ward
_____ has regained total capacity.
5. _____ Guardian wishes to resign
6. _____ Guardian should be removed.
7. _____ Guardianship should be transferred
8. _____ Guardianship should be closed

Explanation: (for items 2 - 8)

M. Persons Consulted During Visit (relation to IP and their telephone number)

I hereby swear, under penalty of perjury, that this report is accurate to the best of my knowledge.

SIGNED this ____ day of _____, 200__.

Court Visitor

SUBSCRIBED AND SWORN TO BEFORE ME UNDER PENALTY OF PERJURY by _____, Court Visitor, on this ____ day of _____, 200__.

Notary Public, State of Texas