

**Guardianship Certification Board  
Board Meeting  
May 18, 2007  
11:00 a.m.  
Texas Center for the Judiciary  
1210 San Antonio, 8th Floor, Austin, Texas**

- I. Roll Call
- II. Administrative Director's Report
- III. Employment Issues – Director of Guardianship Certification Program
- IV. Legislative Update – 80<sup>th</sup> Legislature, Regular Session
- V. Certification Exam Update
- VI. Proposed Amendments to Rules Governing Guardianship Certification
  - A. Criminal history information
  - B. Provisional certification
- VII. Application Forms and Processes
- VIII. Committee Assignments
- IX. Public Comment
- X. Schedule for Future Meetings

The Board may meet in closed session on any agenda item listed, in accordance with the Board's Public Meetings Policy.

S.B. No. 505

## AN ACT

relating to access to criminal history record information by the Guardianship Certification Board.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1406 to read as follows:

Sec. 411.1406. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: GUARDIANSHIP CERTIFICATION BOARD. (a) In this section, "board" means the Guardianship Certification Board established under Chapter 111.

(b) The board is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant for or the holder of a certificate issued by the board.

(c) Criminal history record information obtained by the board under Subsection (b):

(1) may be used by the board for any purpose related to the issuance, denial, suspension, revocation, or renewal of a certificate issued by the board;

(2) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the information; and

(3) shall be destroyed by the board after the information is used for the authorized purposes.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 505 passed the Senate on March 29, 2007, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 505 passed the House on April 13, 2007, by the following vote: Yeas 143, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House  
Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

S.B. No. 506

## AN ACT

relating to provisional certification for certain guardians.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (b) and (d), Section 111.016, Government Code, are amended to read as follows:

(b) The board shall:

- (1) administer and enforce this chapter;
- (2) develop and recommend proposed rules and procedures to the supreme court as necessary to implement this chapter;
- (3) set the amount of each fee prescribed by Section 111.042, subject to the approval of the supreme court;
- (4) establish the qualifications for obtaining:
  - (A) certification or recertification under Section 111.042; and
  - (B) provisional certification under Section 111.0421;
- (5) issue certificates to:
  - (A) individuals who meet the certification requirements of Section 111.042; and
  - (B) individuals who meet the provisional certification requirements of Section 111.0421; and
- (6) perform any other duty required by this chapter or other law.

(d) The board shall maintain:

- (1) a complete record of each board proceeding; and
- (2) a complete record of each certification, including a provisional certificate, issued, renewed, suspended, or revoked under this chapter [~~Section 111.042~~].

SECTION 2. Subchapter C, Chapter 111, Government Code, is amended by adding Section 111.0421 to read as follows:

Sec.111.0421.PROVISIONAL CERTIFICATE. (a)Notwithstanding Section 111.042(a), the board may issue a provisional certificate to an individual who:

- (1) does not meet the qualifications for obtaining certification under Section 111.042; and
- (2) possesses the qualifications for provisional certification required by rules adopted by the supreme court.

(b) An individual who holds a provisional certificate may provide guardianship services in this state only under the supervision of an individual certified under Section 111.042.

(c) The supreme court may adopt rules and procedures for issuing a provisional certificate under this section that, at a minimum, must:

- (1) ensure compliance with the standards adopted under Section 111.041; and
- (2) provide that the board establishes qualifications for obtaining and maintaining the certification.

SECTION 3. Section 697B, Texas Probate Code, is amended by adding Subsection (e) to read as follows:

(e) In this section, "certified" includes holding a provisional certificate under Section 111.0421, Government Code.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as

provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.

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President of the Senate

Speaker of the House

I hereby certify that S.B. No. 506 passed the Senate on March 29, 2007, by the following vote: Yeas 30, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 506 passed the House on April 13, 2007, by the following vote: Yeas 143, Nays 0, two present not voting.

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Chief Clerk of the House

Approved:

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Date

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Governor

# SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

**FIFTY-FIRST DAY**

(Monday, April 30, 2007)

The Senate met at 1:51 p.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The President announced that a quorum of the Senate was present.

The Reverend I. Jonathan Ogujiofor, Saint Simon of Cyrene Episcopal Church, Fort Worth, offered the invocation as follows:

Almighty God, we know that unless You build the house, those who build labor in vain, and unless You watch over the city, the watchman stays awake in vain. Therefore I pray that You come and work in the hearts of these men and women whom You have called to the highest obligation of duty to the peoples of this State of Texas. Bestow upon them special favor of Thy wisdom and courage to guide the destiny of our great state, so that in firm reliance on Thy merciful providence, the peoples of this State of Texas may continue to be the object of divine benediction and blessings. In the name of God almighty we pray. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of Friday, April 27, 2007, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

#### **CO-AUTHOR OF SENATE BILL 415**

On motion of Senator Lucio, Senator Zaffirini will be shown as Co-author of **SB 415**.

#### **CO-AUTHOR OF SENATE BILL 537**

On motion of Senator West, Senator Zaffirini will be shown as Co-author of **SB 537**.

#### **CO-AUTHOR OF SENATE BILL 703**

On motion of Senator Deuell, Senator Zaffirini will be shown as Co-author of **SB 703**.

April 30, 2007

FINANCE — CSSB 377, CSSB 2033, CSSJR 65

JURISPRUDENCE — CSHB 2352

EDUCATION — CSSB 365, CSSB 1572, CSSB 1802, CSHB 1505

NATURAL RESOURCES — CSHB 3, CSSB 357, CSSB 1173, CSSB 1280, CSSB 1281, CSSB 1282, CSSB 1324, CSSB 1562, CSSB 1589, CSSB 2007

STATE AFFAIRS — CSHB 34, CSHB 402, HB 770, HB 1003, HB 1006, HB 1071, HB 1560, CSHB 1987, CSHB 2188, HB 2839, HB 862, CSSB 354, CSSB 971, CSSB 972, CSSB 1298, CSSB 1647

FINANCE — SJR 29, SB 407, SB 666, SB 1087, SB 1296

EDUCATION — CSSB 101

STATE AFFAIRS — CSSB 1884

INTERGOVERNMENTAL RELATIONS — HB 398, HB 679, HB 1390, SB 2020, SB 2026

SIGNED BY GOVERNOR

April 5, 2007

SB 190, SB 272, SCR 35

April 25, 2007

SB 462, SB 505, SB 506, SB 670, SCR 15, SCR 31, SCR 36, SCR 53, SCR 56

SENT TO GOVERNOR

April 30, 2007

SB 271, SB 526, SB 673, SB 849, SB 884, SB 1340, SB 1375, SB 1405, SB 1672, SCR 44, SCR 55, SCR 59, SCR 66

S.B. No. 507

## AN ACT

relating to reimbursement of members of the Guardianship Certification Board for certain expenses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (g), Section 111.011, Government Code, is amended to read as follows:

(g) The members of the board serve for staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year. Board members serve without ~~[are not entitled to receive]~~ compensation but are entitled to ~~[or]~~ reimbursement for travel expenses and other actual and necessary expenses incurred in the performance of official board duties, as provided by the General Appropriations Act.

SECTION 2. Subsection (b), Section 111.012, Government Code, is amended to read as follows:

(b) Notwithstanding any other law, the Office of Court Administration shall:

- (1) provide administrative assistance, services, and materials to the board, including budget planning and purchasing;
- (2) accept, deposit, and disburse money made available to the board;
- (3) pay the salaries and benefits of the director;
- (4) reimburse the travel expenses and other actual and necessary expenses of the director incurred in the performance of a function of the board, as provided by the General Appropriations Act; ~~and~~
- (5) reimburse the travel expenses and other actual and necessary expenses of board members incurred in the performance of official board duties, as provided by the General Appropriations Act; and
- (6) provide the board with adequate computer equipment and support.

SECTION 3. This Act takes effect September 1, 2007.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 507 passed the Senate on March 29, 2007, by the following vote: Yeas 30, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 507 passed the House on April 18, 2007, by the following vote: Yeas 144, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House  
Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor

# SENATE JOURNAL

EIGHTIETH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

**FIFTY-SIXTH DAY**

(Monday, May 7, 2007)

The Senate met at 1:42 p.m. pursuant to adjournment and was called to order by Dean Whitmire.

The roll was called and the following Senators were present: Averitt, Brimer, Carona, Deuell, Duncan, Ellis, Eltife, Estes, Fraser, Gallegos, Harris, Hegar, Hinojosa, Jackson, Janek, Lucio, Nelson, Nichols, Ogden, Patrick, Seliger, Shapiro, Shapleigh, Uresti, Van de Putte, Watson, Wentworth, West, Whitmire, Williams, Zaffirini.

The Presiding Officer announced that a quorum of the Senate was present.

Senator Eddie Lucio, Jr., offered the invocation as follows:

Our dear heavenly Father, we bow our heads today to thank You for the opportunity to serve our fellow man in our elected capacities. Please heal the suffering of those who have lost loved ones, homes, and businesses to the storms that have plagued our country recently. At this time we invoke Your guidance for the work we perform here each day, and ask forgiveness when we err. Please bless our families, close personal friends, and districts while we toil in Austin. We also pray for those who are ill and in need of medical care, in particular, for those who suffer catastrophic illnesses. We ask this in humility and in the name of Thy savior, Jesus Christ. Amen.

Senator Wentworth moved that the reading of the Journal of the proceedings of Friday, May 4, 2007, be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

## **CO-AUTHORS OF SENATE BILL 49**

On motion of Senator Zaffirini, Senators Gallegos and Van de Putte will be shown as Co-authors of **SB 49**.

## **CO-AUTHOR OF SENATE BILL 1176**

On motion of Senator Ellis, Senator Van de Putte will be shown as Co-author of **SB 1176**.

## **PHYSICIAN OF THE DAY**

Senator Nelson was recognized and presented Dr. Dale Ragle of Dallas as the Physician of the Day.

The Senate welcomed Dr. Ragle and thanked him for his participation in the Physician of the Day program sponsored by the Texas Academy of Family Physicians.



SIGNED BY GOVERNOR

May 4, 2007

SB 192, SB 213, SB 229, SB 325, SB 339, SB 343, SB 362, SB 369, SB 456,  
SB 507, SB 657, SB 679, SB 740, SB 844, SCR 50

SENT TO SECRETARY OF STATE

May 7, 2007

SCR 52

SENT TO GOVERNOR

May 7, 2007

SB 44, SB 123, SB 370, SB 671, SB 699, SB 1041, SB 1077, SB 1089, SB 1106,  
SB 1236, SB 1447, SB 1470, SB 1500, SB 1694, SB 1752, SB 1832, SCR 51,  
SCR 54

**Guardianship Certification Board**  
**Proposed Amendments to Rules Governing Guardianship Certification**  
**Criminal History Information**

In Section VI, the proposed amendment adds new subsection (g) and re-numbers current subsection (g) as subsection (h).

**VI. REQUIREMENTS FOR CERTIFICATION**

To qualify for certification, the applicant must pay all required fees, comply with the application procedures herein, and must:

- (a) Be at least twenty-one (21) years of age;
- (b) Be a high school graduate or possess the GED equivalent;
- (c) Have two years of relevant work experience related to guardianship or the following educational or training requirements:
  - 1) a minimum of a bachelors degree conferred by a college or university accredited by an organization recognized by the Texas Higher Education Coordinating Board in a field related to guardianship, including but not limited to medical, mental health and mental retardation, law, business, accounting, social work, sociology, psychology, human services, protective services, and criminal justice fields, or
  - 2) completion of a course curriculum or training specifically related to guardianship approved by the Board;
- (d) Meet one of the following criteria:
  - 1) have successfully completed an examination approved by the Board covering Texas law and procedure related to guardianship, and any other examination required and approved by the Board testing knowledge of guardianship issues, or
  - 2) be currently certified by and in good standing with the National Guardianship Foundation and have successfully completed an exam approved by the Board covering Texas law and procedure related to guardianship issues;
- (e) Attest under penalty of perjury as to whether he or she has ever been adjudged guilty of or entered a plea of no contest in return for a grant of deferred adjudication to a felony, crime of moral turpitude, or any offense listed in sections 22.01 (assault), 22.011 (sexual assault), 22.02 (aggravated assault), 22.021 (aggravated sexual assault), 22.04 (injury to a child, elderly individual, or disabled individual), 22.041 (abandoning or endangering a child), 22.07 (deadly conduct), 22.08 (terroristic threat), and 32.45 (misapplication of fiduciary property) of the Texas Penal Code; and
- (f) Attest under penalty of perjury as to whether he or she:
  - 1) has ever been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, or conversion; or
  - 2) has ever been found civilly liable in an action, or settled a claim, involving allegations of fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, or conversion on the applicant's part.
- (g) The applicant must obtain his or her criminal history record from the Department of Public Safety by fingerprint, state, and FBI search and cause such record to be sent to the Board.
- (gh) If the applicant has ever been adjudged guilty of or pleaded no contest to any crime described in Section VI(e) above, or been relieved of guardian responsibilities, been found civilly liable, or settled a claim as described under Section VI(f)(1) or (2) above, the applicant must describe with particularity the circumstances and provide any related documentation requested by the Board.

In Section VII, the proposed amendment makes changes to subsection (a).

**VII. REQUIREMENTS FOR RE-CERTIFICATION**

To be eligible for re-certification, the certified guardian must pay all required fees, apply within the required time, and meet the following requirements:

- (a) ~~Reaffirmation.~~ The certified guardian must ~~reaffirm to the matters set out in~~ comply with subsections (e), and (f), and (g) of Section VI (relating to Requirements for Certification) of these rules.
- (b) Continuing Education. During each two year certification period, the certified guardian must complete at least six hours per year of continuing education and guardianship training by completing a course that has been approved by the Board under Section XIII (relating to Approval of Continuing Education). The six hours shall include a minimum of one hour of ethics. The above two-year continuing education requirement must also include a minimum of one hour of legislative update.
  - 1) Continuing education must be earned to satisfy the requirements prior to the expiration of the certificate. The certified guardian must list on the application for re-certification the dates, locations, sponsors, number of regular credits and number of ethics credits earned for sufficient continuing education courses to satisfy this requirement. Nothing herein shall be deemed to waive late fees under Section V.
  - 2) A certified guardian may carry forward for the following year's requirement up to two hours of continuing education earned in excess of the minimum six hours, but ethics hours may not be carried forward.
  - 3) The certified guardian must obtain documentation of attendance or completion of a continuing education activity from the sponsoring entity and submit the documentation to the Board along with the certified guardian's application for re-certification.
  - 4) A certified guardian may also earn continuing education credit by speaking at a seminar, teaching a course or authoring a book or article and obtaining approval for this activity under Section XIII (relating to Approval of Continuing Education).

## RULES GOVERNING GUARDIANSHIP CERTIFICATION

### I. PURPOSE

The purpose of these rules is to provide a mechanism to certify individuals who provide guardianship services in Texas and to ensure that these individuals meet minimum qualifications, have a minimum level of knowledge and perform their responsibilities in a professional and competent manner.

### II. DEFINITIONS

- (a) "Attest" means to confirm as true under oath.
- (b) "Board" means the Guardianship Certification Board.
- (c) "Certified guardian" means a person who is certified to provide guardianship services in this state by the Guardianship Certification Board.
- (d) "Corporate fiduciary" has the meaning assigned by Section 601 of the Texas Probate Code.
- (e) "Director" means the director of the Guardianship Certification Board.
- (f) "Engaged in the business of providing guardianship services" means to perform, offer to perform, or advertise the performance of guardianship services for compensation.
- (g) "Guardian" has the meaning assigned by Section 601 of the Texas Probate Code.
- (h) "Guardianship program" means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.
- (i) "Guardianship services" means conducting, performing, or administering such duties or powers as prescribed by the Texas Probate Code or under a court order in a guardianship matter.
- (j) "Incapacitated person" has the meaning assigned by Section 601 of the Texas Probate Code.
- (k) "Minimum Standards for Guardianship Services" means the Minimum Standards for Guardianship Services promulgated under Section 111.041 of the Texas Government Code.
- (l) "Private professional guardian" means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.
- (m) "Provisionally-certified guardian" means a person who has received provisional certification to provide guardianship services in this state from the Guardianship Certification Board.
- (~~nn~~) "Review Committee" means a committee appointed by the Chair of the Board to review the denial of an application for certification, provisional certification, or re-certification or to review a petition that has been filed with the Board to initiate disciplinary action against a certified guardian.
- (o) "Supervisor" means a certified guardian who has notified the Board that he or she will be responsible for overseeing an applicant for provisional certification.

**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- (#p) “Volunteer” means a person who renders guardianship services on behalf of a guardianship program and who does not receive compensation that exceeds the authorized expenses the person incurs in performing those services.
- (o) “Ward” has the meaning assigned by Section 601 of the Texas Probate Code.

**III. CERTIFICATION AND RE-CERTIFICATION**

- (a) To provide guardianship services in this state, the following individuals must be certified by the Board pursuant to Section 111.042, Texas Government Code:
  - 1) an individual who is a private professional guardian;
  - 2) an individual who will provide guardianship services to a ward of a private professional guardian or the Texas Department of Aging and Disability Services on the guardian’s or department’s behalf; and
  - 3) an individual, other than a volunteer, who will provide guardianship services to a ward of a guardianship program on the program’s behalf.
- (b) Notwithstanding subsection (a), an individual who must be certified but does not meet the requirements for certification under Section VI(c) or (d) of these rules may provide guardianship services in this state if the person obtains provisional certification pursuant to Section XIV.
- (bc) Notwithstanding any other provision of these rules:
  - 1) pursuant to section 696B of the Texas Probate Code, a family member or friend of an incapacitated person is not required to be certified under these rules to serve as the person’s guardian, and
  - 2) an employee of the United States Veterans Administration appointed to serve as a guardian for an incapacitated person under section 601(14)(C) of the Texas Probate Code is not required to be certified under these rules to serve as the person’s guardian.
- (ed) The Board shall certify all individuals in accordance with these rules. Criteria not rationally related to the performance of guardianship services shall not be used to deny certification.
- (de) Upon certification, the individual will be issued a certificate, which will be valid for two years according to the provisions of Section V(d). New certificates will be issued for successive two-year periods upon timely and satisfactory completion of the re-certification process.

**IV. DUTIES OF THE BOARD**

The Board shall develop or oversee the following:

- (a) Approval of the application process used for guardian certification, provisional certification, and re-certification.
- (b) Determination as to whether applicants have met the requirements for certification, provisional certification, or re-certification.
- (c) Approval of training and continuing education courses related to meeting certification or re-certification requirements.

**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- (d) Approval of waivers or modification of specific certification requirements for good cause.
- (e) Establishment of criteria relative to denial, suspension or revocation of certification.
- (f) Determination of all requests for review of denials of certification, provisional certification, and re-certification.
- (g) Review and determination of all complaints submitted to the Board regarding the conduct of certified guardians and provisionally-certified guardians.
- (h) Maintenance of all appropriate records relative to certification.

**V. APPLICATION PROCEDURE**

- (a) Application Forms. Applications for certification, provisional certification, and re-certification shall be made in writing on forms provided by the Board. In appropriate circumstances, the Board may require the applicant to submit information in addition to that called for on the application forms.
- (b) Fees. All fees connected with certification and re-certification shall be set by the Board with the approval of the Supreme Court and are non-refundable. A schedule of fees shall be published on the Board's web site.
  - 1) Application Fee. Each applicant must submit a non-refundable application fee along with the completed application form. No application will be processed until the application fee has been paid. However, an employee of the Texas Department of Aging and Disability Services who is applying for a certificate to provide guardianship services to a ward of the department is exempt from payment of the application fee.
  - 2) Examination Fee. Each applicant must submit a non-refundable examination fee to take the examination approved by the Board that affirms competency in Texas guardianship matters. The fee must be paid by the date established in the examination schedule.
  - 3) Re-certification Fee. Each application for re-certification must be accompanied by a non-refundable re-certification fee. However, an employee of the Texas Department of Aging and Disability Services who is applying for re-certification to provide guardianship services to a ward of the department is exempt from payment of the re-certification fee. No re-certification application may be processed until the re-certification fee, if applicable, has been paid.
  - 4) Late Fee. Each late application for re-certification must be accompanied by a non-refundable late fee.
- (c) Application Procedures. Upon receipt of a completed application form, Board staff shall review and accept the application if:
  - 1) the application form has been completed;
  - 2) the applicant meets the requirements for certification or provisional certification;  
and
  - 3) the appropriate application fee has been paid.
- (d) Application for Re-certification. Certification shall expire on the second anniversary of the date the certificate is issued. Re-certification shall expire every two years

**PROPOSED – MAY 18, 2007  
PROVISIONAL CERTIFICATION AMENDMENTS**

thereafter on the same day and month of the original certification. Applications for re-certification accompanied by the appropriate fee must be filed at least ninety (90) days before the certification expires; applications filed after this deadline but within ninety (90) days after the certification expires will be subject to a late fee. Re-certification applications filed more than ninety (90) days after the certification expires shall be denied and the certification process must begin anew.

- (e) Application for Provisional Certification. In addition to the other information required on the application form, an applicant for provisional certification must identify the applicant's supervisor on the application form. The supervisor must sign the application form.
- (ef) Expiration of Certification. Upon expiration of a certified guardian's certification, the guardian must immediately provide written notice of the expiration to each court in which the guardian has been appointed pursuant to section 693 of the Texas Probate Code and, if the guardian provides guardianship services on behalf of the Department of Aging and Disability Services or a guardianship program, to each of those organizations on whose behalf the guardian provides guardianship services.

**VI. REQUIREMENTS FOR CERTIFICATION**

To qualify for certification, the applicant must pay all required fees, comply with the application procedures herein, and must:

- (a) Be at least twenty-one (21) years of age;
- (b) Be a high school graduate or possess the GED equivalent;
- (c) Have two years of relevant work experience related to guardianship or the following educational or training requirements:
  - 1) a minimum of a bachelors degree conferred by a college or university accredited by an organization recognized by the Texas Higher Education Coordinating Board in a field related to guardianship, including but not limited to medical, mental health and mental retardation, law, business, accounting, social work, sociology, psychology, human services, protective services, and criminal justice fields, or
  - 2) completion of a course curriculum or training specifically related to guardianship approved by the Board;
- (d) Meet one of the following criteria:
  - 1) have successfully completed an examination approved by the Board covering Texas law and procedure related to guardianship, and any other examination required and approved by the Board testing knowledge of guardianship issues, or
  - 2) be currently certified by and in good standing with the National Guardianship Foundation and have successfully completed an exam approved by the Board covering Texas law and procedure related to guardianship issues;
- (e) Attest under penalty of perjury as to whether he or she has ever been adjudged guilty of or entered a plea of no contest in return for a grant of deferred adjudication to a felony, crime of moral turpitude, or any offense listed in sections 22.01 (assault), 22.011 (sexual assault), 22.02 (aggravated assault), 22.021 (aggravated sexual assault), 22.04 (injury to a child, elderly individual, or disabled individual), 22.041

**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- (abandoning or endangering a child), 22.07 (deadly conduct), 22.08 (terroristic threat), and 32.45 (misapplication of fiduciary property) of the Texas Penal Code; and
- (f) Attest under penalty of perjury as to whether he or she:
    - 1) has ever been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, or conversion; or
    - 2) has ever been found civilly liable in an action, or settled a claim, involving allegations of fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, or conversion on the applicant's part.
  - (g) If the applicant has ever been adjudged guilty of or pleaded no contest to any crime described in Section VI(e) above, or been relieved of guardian responsibilities, been found civilly liable, or settled a claim as described under Section VI(f)(1) or (2) above, the applicant must describe with particularity the circumstances and provide any related documentation requested by the Board.

**VII. REQUIREMENTS FOR RE-CERTIFICATION**

To be eligible for re-certification, the certified guardian must pay all required fees, apply within the required time, and meet the following requirements:

- (a) Reaffirmation. The certified guardian must reattest to the matters set out in subsections (e) and (f) of Section VI (relating to Requirements for Certification) of these rules.
- (b) Continuing Education. During each two year certification period, the certified guardian must complete at least six hours per year of continuing education and guardianship training by completing a course that has been approved by the Board under Section XIII (relating to Approval of Continuing Education). The six hours shall include a minimum of one hour of ethics. The above two-year continuing education requirement must also include a minimum of one hour of legislative update.
  - 1) Continuing education must be earned to satisfy the requirements prior to the expiration of the certificate. The certified guardian must list on the application for re-certification the dates, locations, sponsors, number of regular credits and number of ethics credits earned for sufficient continuing education courses to satisfy this requirement. Nothing herein shall be deemed to waive late fees under Section V.
  - 2) A certified guardian may carry forward for the following year's requirement up to two hours of continuing education earned in excess of the minimum six hours, but ethics hours may not be carried forward.
  - 3) The certified guardian must obtain documentation of attendance or completion of a continuing education activity from the sponsoring entity and submit the documentation to the Board along with the certified guardian's application for re-certification.
  - 4) A certified guardian may also earn continuing education credit by speaking at a seminar, teaching a course or authoring a book or article and obtaining approval



**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

for this activity under Section XIII (relating to Approval of Continuing Education).

**VIII. BOARD DETERMINATION**

If the applicant has complied with the application process, the Board shall grant certification, provisional certification, or recertification unless denial is made in accordance with Section IX. The Board may conduct further investigation or require additional information from the applicant or other sources. In appropriate circumstances, the Board may grant or deny certification, provisional certification, and re-certification based on the further information it receives.

**IX. REVIEW AND APPEAL OF CERTIFICATION DENIAL**

- (a) Denial. The Board may deny an application for certification, provisional certification, or re-certification only if the applicant fails to meet the standards set forth in Section VI (relating to Requirements for Certification), ~~or~~ Section VII (relating to Requirements for Re-Certification), or Section XIV (relating to Provisional Certification), as applicable, or if the applicant has met any of the disciplinary criteria set forth in Section XI (relating to Disciplinary Criteria). The Board must furnish to the applicant a written statement that includes the reason(s) for denying the application.
- (b) Review of denial. Within fifteen (15) days after receipt of notice that the Board has denied an application for certification, provisional certification, or re-certification, the applicant may petition the Board for review of the denial. If a petition for review is timely received, the Director will notify the Board Chair, who will appoint three Board members to a Review Committee to address the petition. The Board Chair shall also designate one of the Review Committee members to be Review Committee Chair. The General Counsel of the Office of Court Administration or the General Counsel's designee shall serve as counsel to the Review Committee. The Review Committee will act by majority vote.
- (c) Response; Failure to Submit Response. At the same time the Director notifies the Board Chair of the denial, the Director will notify the applicant in writing that the applicant may submit a written response to the denial within fifteen (15) days of receipt of the notice. If the applicant fails to submit a written response within the required time, absent good cause such failure constitutes a default, and the review shall be dismissed without further action by the Review Committee or the Board.
- (d) Review and Recommendation by Review Committee. The Review Committee Chair will schedule at least one meeting to review the denial and response. Additional meetings may be held as deemed necessary. While the Review Committee may seek additional information in its discretion, it has no obligation to do so. The Review Committee is not an investigatory body and will generally render its recommendation to the Board based on the submissions of the Board staff and applicant. The recommendation of the Review Committee must be in writing and must be furnished to the applicant at the same time it is furnished to the Board.

**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- (e) Hearing. If the Review Committee recommends denial of the application for certification, provisional certification, or re-certification, the applicant may request a hearing. Such request must be made not less than fifteen (15) days after the date the applicant receives a copy of the Review Committee's recommendation.
- 1) Hearing Date and Location. If the applicant timely requests a hearing, the date and location of the hearing will be determined by the Board. The hearing must be held within one hundred twenty (120) days after the date the Board receives a timely request for hearing, unless the Board extends the hearing date for good cause.
  - 2) Notice of Hearing; Requirements. The Board shall give notice of the hearing to the applicant. The notice must include a statement of the time, place, and nature of the hearing; a reference to the particular sections of the statutes and rules involved; and a short statement of the reasons the application was denied.
  - 3) Costs of Attending Hearing. The applicant is responsible for applicant's costs of preparing for and attending the hearing, including any costs associated with witnesses called on the applicant's behalf.
  - 4) Applicant's Rights at Hearing. At the hearing, the applicant will be permitted to testify; present evidence; respond to questions from the Board; and examine and cross-examine witnesses who are also present. The applicant may be represented by legal counsel at the hearing.
  - 5) Conduct of the Hearing; Burden of Proof. The Board may establish rules for the conduct of the hearing. Formal rules of evidence will not apply. Testimony of witnesses must be given under penalty of perjury. The burden of proof shall be on the applicant to show why the denial of the application was erroneous. The burden of proof shall be by a preponderance of the evidence.
  - 6) Board Counsel. The General Counsel of the Office of Court Administration or the General Counsel's designee shall serve as counsel to the Board.
  - 7) Board Action. The Board will act by majority vote of Board members attending the meeting.
- (f) Default. If the applicant fails to appear at the hearing:
- 1) upon proof that notice of the hearing was given to applicant, the Board may proceed in the applicant's absence on a default basis; and
  - 2) the factual allegations in the denial of the application may be deemed admitted.
- (g) Final Decision. The Board shall notify the applicant in writing of its decision not more than forty-five (45) days after the conclusion of the hearing.
- (h) Applicability of section. This section does not apply to a disciplinary action resulting from a complaint filed and processed under Section XII (relating to Complaints; Disciplinary Procedure).

**X. RESPONSIBILITIES OF THE CERTIFIED GUARDIAN; REPORTING REQUIREMENTS**

- (a) Standards and Rules. A certified guardian must comply with these rules and with the Minimum Standards for the Provision of Guardianship Services.

**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- (b) Response. A certified guardian must respond to requests for information from the Board or the Director pertaining to renewal of certification, complaints alleging misconduct by the certified guardian, investigative inquiries by the Board or Director, and any audits or reviews of the certified guardian's practice. The certified guardian must respond to such requests for information within the time prescribed in the request. Such times must not be unreasonably short.
- (c) Change of Name or Address. A certified guardian shall notify the Board in writing of any change in name or business name, business or home physical address, or business or home telephone number within thirty (30) days of any change.
- (d) Notice to Board. A certified guardian shall immediately notify the Board if:
  - 1) the guardian is indicted, formally charged, adjudged guilty of, or enters a plea of no contest in return for a grant of deferred adjudication to any offense listed in Section VI(e);
  - 2) any of the proceedings listed in Section VI(f) is initiated;
  - 3) events or circumstances would require any changes to the attestation required by Section VI(f); or
  - 4) the guardian is removed as a guardian under Section 761 of the Texas Probate Code.
- ~~(e) Copy of Certification to Court. A certified guardian shall file a copy of the guardian's certification in each cause in which the guardian is appointed.~~ Documents Filed with Court. Each document prepared by or on behalf of a certified guardian and filed with a court shall include the certified guardian's certification number.
- (f) Not later than January 31 of each year, each private professional guardian and guardianship program must provide to the Board the following information for the preceding year:
  - 1) the total number of wards served by the private professional guardian or guardianship program, as applicable;
  - 2) the total amount of money received from the State of Texas for the provision of guardianship services; and
  - 3) the total amount of money received from any other public source, including a county or the federal government, for the provision of guardianship services.
- (g) In addition to the information required in subsection (f), not later than January 31 of each year, each private professional guardian must provide to the Board the following information for the preceding year:
  - 1) for each guardianship in which the private professional guardian served as a guardian, the name of the ward and the docket number and court having jurisdiction of the guardianship;
  - 2) the aggregate fair market value of the property of all wards that was managed by the private professional guardian;
  - 3) whether the private professional guardian was removed as a guardian by the court or resigned as a guardian in a particular case, and, if so, a description of the circumstances causing the removal or resignation, and the style of the suit, the docket number, and the court having jurisdiction over the proceeding; and

**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- 4) reaffirmation of subsections (e) and (f) of Section VI (relating to Requirements for Certification) of these rules.
- (h) Information that must be submitted under subsections (f) and (g) must be submitted on appropriate forms and in the manner determined by the Board.

**XI. DISCIPLINARY CRITERIA**

- (a) The Board may deny, suspend or revoke certification or provisional certification, or impose other disciplinary action, if the applicant, ~~or~~ certified guardian, or provisionally-certified guardian has:
  - 1) Failed to comply with any of these rules;
  - 2) Failed to comply with any of the Minimum Standards for the Provision of Guardianship Services;
  - 3) Failed to pay any applicable fee established by the Board;
  - 4) Failed to meet the requirements for certification, provisional certification, or re-certification established by the Board;
  - 5) Been adjudged guilty of or entered a plea of no contest in return for a grant of deferred adjudication to a felony, crime of moral turpitude, or any offense listed in sections 22.01 (assault), 22.011 (sexual assault), 22.02 (aggravated assault), 22.021 (aggravated sexual assault), 22.04 (injury to a child, elderly individual, or disabled individual), 22.041 (abandoning or endangering a child), 22.07 (deadly conduct), 22.08 (terroristic threat), and 32.45 (misapplication of fiduciary property) of the Texas Penal Code;
  - 6) Been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, assault, battery, abuse, neglect, breach of trust, breach of fiduciary duty, or conversion.
  - 7) Been relieved of responsibilities as a guardian or fiduciary by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, assault, battery, abuse, neglect, breach of trust, breach of fiduciary duty, or conversion.
  - 8) Been found liable in a subrogation action by an insurance or bonding agent or in a subrogation action brought by an interested party.
  - 9) Failed to notify the Board of a violation of any of the provisions set forth in subsections (e) and (f) of Section VI (relating to Requirements for Certification).
  - 10) Engaged in conduct that poses a substantial threat to the well-being of a ward or the ward's estate.
- (b) The Board may suspend or revoke certification or provisional certification if the certificate was granted:
  - 1) Contrary to these rules and the requirements for certification set forth in Section VI (relating to Requirements for Certification) or the requirements for Provisional Certification set forth in Section XIV (relating to Provisional Certification); or
  - 2) To an individual who is not eligible to acquire a certificate or provisional certificate or who has made any false representations or misstatement of material fact to the Board.

**PROPOSED – MAY 18, 2007  
PROVISIONAL CERTIFICATION AMENDMENTS**

- (c) Denial of an application for certification, provisional certification, or recertification shall be in accordance with Section IX. Except for denial of certification, provisional certification, or recertification, actions by the Board under this section shall be taken in accordance with the procedures set out in Section XII.

**XII. COMPLAINTS; DISCIPLINARY PROCEDURE**

- (a) Initiation of Process. Any person (“Petitioner”), including the Director, may petition the Board to initiate disciplinary procedures against a certified guardian or provisionally-certified guardian (“Respondent”).
- (b) Content of the Petition. The Petition must be submitted to the Board in writing and must include:
  - 1) The name and pertinent contact information of the Petitioner and the Respondent;
  - 2) An allegation of the existence of one or more of the disciplinary criteria set forth in Section XI (relating to Disciplinary Criteria);
  - 3) An adequate factual basis for the allegation(s); and
  - 4) Any necessary documentation or other supporting materials or information.
- (c) Initial Review of Petition. If a Petition filed by a person other than the Director does not conform to the requirements of subsection (b) of this section, the Director shall notify the Petitioner that the Petition will not be considered. If a Petition filed by the Director does not conform to the requirements of subsection (b) of this section, the Board Chair shall notify the Director that the Petition will not be considered. The Petitioner may re-file an amended Petition.
- (d) Review Committee. Once a Petition is determined to conform to the requirements of subsection (b), the Director will notify the Board Chair, who will appoint three Board members to a Review Committee to address the Petition. The Board Chair shall also designate one of the Review Committee members to be Review Committee Chair. The General Counsel of the Office of Court Administration or the General Counsel’s designee shall serve as counsel to the Review Committee. The Review Committee will act by majority vote.
- (e) Notice; Answer.
  - 1) Notice to Respondent. At the same time the Director notifies the Board Chair, the Director will also inform the Respondent in writing that a Petition has been submitted, provide the Respondent with a copy of the Petition, including all supporting materials, as well as a copy of these Rules, and direct that the Respondent submit a written Answer to the Petition, to be received by the Board within fifteen (15) days after the Respondent’s receipt of the notice.
  - 2) Failure to Submit Answer. If the Respondent fails to submit an Answer within the required time, absent good cause shown, such failure will constitute default, and all facts alleged in the Petition may be taken as true. If the Review Committee believes that such default has occurred, it will recommend to the Board whether any sanctions should be imposed. Absent good cause for the failure to timely submit an Answer, the Board shall enter an order of default and determine any sanctions to be imposed.

**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- (f) Review and Recommendation by Review Committee.
  - 1) Review by Review Committee. The Review Committee Chair will schedule at least one meeting to review the Petition and Answer, if any. Additional meetings may be held as deemed necessary by the Review Committee. The Review Committee may seek additional information in its discretion, but it has no obligation to do so. The Review Committee is not an investigatory body and will generally render its recommendation to the Board based on the submissions of the Petitioner and Respondent.
  - 2) Review Committee's Recommendation. The Review Committee must make a recommendation to the Board within thirty (30) days after the Review Committee receives the Answer. The recommendation of the Review Committee must be in writing and must be furnished to the Respondent at the same time it is furnished to the Board. However, if the Review Committee requests additional information from the Petitioner or Respondent, its recommendation is due fifteen (15) days after it receives the additional information.
- (g) Hearing. If the Review Committee recommends disciplinary action, or if the Board does not adopt a recommendation from the Review Committee to dismiss the Petition, the Respondent may request a hearing. The request must be made no later than fifteen (15) days after the date the Respondent receives the Review Committee's recommendation.
  - 1) Hearing Date and Location. If the Respondent timely requests a hearing, the date and location of the hearing will be determined by the Board. The hearing must be held within one hundred twenty (120) days from the date the Board receives a timely request for hearing, unless the Board extends the hearing date for good cause.
  - 2) Notice of Hearing; Requirements. The Board shall give notice of the hearing to the Petitioner and the Respondent. The notice must include a statement of the time, place, and nature of the hearing; a reference to the particular sections of the statutes and rules involved; and a short statement of the disciplinary action recommended. The Board must also provide the Respondent a copy of the Review Committee's recommendation.
  - 3) Costs of Attending Hearing. The Respondent is responsible for Respondent's costs of preparing for and attending the hearing, including any costs associated with witnesses called on the Respondent's behalf. The Petitioner is responsible for Petitioner's costs of preparing for and attending the hearing.
  - 4) Respondent's Rights at Hearing. At the hearing, the Respondent will be permitted to testify; present evidence; respond to questions from the Board; and examine and cross-examine witnesses who are also present. The Respondent may be represented by legal counsel at the hearing.
  - 5) Conduct of the Hearing; Burden of Proof. The Board may establish rules for the conduct of the hearing. Formal rules of evidence will not apply. Testimony of witnesses must be given under penalty of perjury. The burden of proof shall be

**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- on the Petitioner to show why disciplinary action should be imposed. The burden of proof shall be by a preponderance of the evidence.
- 6) Board Counsel. The General Counsel of the Office of Court Administration or the General Counsel's designee shall serve as counsel to the Board.
  - 7) Board Action. The Board will act by majority vote of Board members attending the meeting.
  - (h) Default. If the Respondent fails to appear at the hearing:
    - 1) upon proof that notice of the hearing was given to Respondent, the Board may proceed in the Respondent's absence on a default basis; and
    - 2) the factual allegations in the Petition may be deemed admitted.
  - (i) Board Decision. The Board shall notify the Respondent and the Petitioner in writing of its decision not more than forty-five (45) days after the conclusion of the hearing. The written notification shall include an explanation of the basis for the decision and the Board's decision as to any disciplinary action to be imposed, including reprimand, suspension, revocation, or other disciplinary action.
  - (j) Publication. The Board may publish or otherwise provide public notice of the final result of any disciplinary proceeding or action.
  - (k) Correspondence. All correspondence and notices herein sent by or to the Petitioner or Respondent should be made by regular and certified mail to ensure receipt of the item served.

**XIII. APPROVAL OF CONTINUING EDUCATION**

- (a) A continuing education activity must be an organized program of learning dealing with matters that are directly related to the guardianship profession, the services guardians provide, and the legal process involved in guardianship proceedings. A continuing education activity should increase participants' understanding of the Texas judicial system, the responsibilities of a certified guardian and the certified guardian's impact on the judicial process and the public. In this Section XIII, the term "certified guardian" includes a provisionally-certified guardian.
- (b) Subject to the requirements contained in Section VII(b) (relating to Requirements for Re-Certification), continuing education activities should include one or more of the following subjects:
  - 1) guardianships;
  - 2) trust administration;
  - 3) powers of attorney;
  - 4) mental or physical health or geriatric health;
  - 5) ethics for guardians, including cooperation with lawyers, judges and fellow guardians and courtesy to all litigants;
  - 6) Texas statutes, rules and case law relevant to the guardianship profession;
  - 7) the role and responsibilities of the certified guardian under the Texas Probate Code, rules adopted by the Supreme Court relating to guardianship certification and the Minimum Standards for the Provision of Guardianship Services adopted by the Board; and

**PROPOSED – MAY 18, 2007  
PROVISIONAL CERTIFICATION AMENDMENTS**

- 8) management issues, including financial planning and accounting.
- (c) The following do not qualify as continuing education activities under these rules:
  - 1) attendance or participation at professional or association business meetings, general sessions or policy making sessions;
  - 2) service on a committee or council or as an officer in a professional organization;
  - 3) activities completed to satisfy the requirements of a disciplinary action; and
  - 4) any activity completed as ordered by a judicial officer.
- (d) The Board will publish on its web site a list of courses that are approved by the Board as continuing education activities. Any such activities that are used by a certified guardian to satisfy the requirements of Section VII(b) must meet the requirements of subsections (a) and (b) above.
- (e) Continuing education activities conducted by entities that have not been approved by the Board may be approved by the Board upon written request for approval made by a certified guardian.
  - 1) The request for approval must be made on a form provided by the Board and must include a sample brochure or course outline that describes the content of the program, identifies the presenters, indicates the time devoted to each subject and the date and location of the program.
  - 2) The request for approval will be reviewed and approved or denied by the Director. A certified guardian may appeal the Director's denial of a request for approval by submitting a written appeal to the Board within fifteen (15) days of notification of the denial.
  - 3) The Board shall review the denial at its next regularly scheduled meeting. The requesting guardian must be notified of the Board's decision not less than fifteen (15) days after the Board's decision.
- (f) A certified guardian may request up to six hours of continuing education credit during each 2-year certification period for teaching courses, speaking at seminars, or authoring books or articles related to the subject matter specified in Section XIII(b). The certified guardian must submit an application for teaching credit on a form provided by the Board. Credit for preparation and presentation may be provided on the basis of hour-for-hour credit for each hour spent preparing the article or book or making the presentation.

**XIV. PROVISIONAL CERTIFICATION**

- (a) Application for Provisional Certification. An individual who does not meet the requirements for certification in Section VI(c) or (d) may apply for provisional certification in writing on the forms provided by the Board.
- (b) Requirements for Provisional Certification. To be eligible for provisional certification, an applicant must meet all requirements in Section VI other than those listed in (c) and (d). Provisional certification shall expire on the second anniversary of the date the certificate is issued.
- (c) Responsibilities of Provisionally-Certified Guardian.



**PROPOSED – MAY 18, 2007**  
**PROVISIONAL CERTIFICATION AMENDMENTS**

- 1) A provisionally-certified guardian may provide guardianship services in this state only under the supervision of a certified guardian supervisor.
  - 2) A provisionally-certified guardian must comply with these rules and with the Minimum Standards for Guardianship Services.
  - 3) Change of Name or Address. A provisionally-certified guardian shall notify the Board in writing of any change in name or business name, business or home physical address, or business or home telephone number within thirty (30) days of any change.
  - 4) Notice to Board. A provisionally-certified guardian shall immediately notify the Board if:
    - A. the provisionally-certified guardian obtains a different supervisor;
    - B. the provisionally-certified guardian is indicted, formally charged, adjudged guilty of, or enters a plea of no contest in return for a grant of deferred adjudication to any offense listed in Section VI(e);
    - C. any of the proceedings listed in Section VI(f) is initiated;
    - D. events or circumstances would require any changes to the attestation required by Section VI(f); or
    - E. the provisionally-certified guardian is removed as a guardian under Section 761 of the Texas Probate Code.
  - 5) Documents Filed with Court. Each document prepared by or on behalf of a provisionally-certified guardian and filed with a court shall include the provisionally-certified guardian's certification number and the name and certification number of his or her supervisor.
  - 6) A provisionally-certified guardian must comply with the continuing education requirements in Section VII(b).
- (d) Responsibilities of Supervisor.
- 1) A supervisor shall:
    - A. assume primary responsibility for guiding the provisionally-certified guardian's work and for supervising, generally and directly, as necessary, the quality of the provisionally-certified guardian's work;
    - B. meet face-to-face with each provisionally-certified guardian at least once every two weeks;
    - C. assist the provisionally-certified guardian in activities to the extent the supervisor considers it necessary and appropriate;
    - D. ensure the provisionally-certified guardian is familiar with the provisions of these rules and the Minimum Standards for Guardianship Services; and
    - E. monitor the provisionally-certified guardian's compliance with these rules and the Minimum Standards for Guardianship Services.
  - 2) A supervisor may not supervise more provisionally-certified guardians than a reasonably prudent supervisor operating under substantially similar circumstances would supervise at one time.

PROPOSED – MAY 18, 2007  
PROVISIONAL CERTIFICATION AMENDMENTS

- 3) A supervisor whose certification expires, is revoked, or is suspended may not continue as a supervisor and must notify all provisionally-certified guardians under that person's supervision that the person may not continue as a supervisor.
- 4) A supervisor shall immediately notify the Board, or cause notice to be sent to the Board, if the supervisor ceases to supervise a provisionally-certified guardian.
- (e) Prohibition on Representation as a Certified Guardian. The supervisor and provisionally-certified guardian may not state, represent, or imply that the provisionally-certified guardian is a certified guardian.
- (f) Expiration of Provisional Certification. A provisionally-certified guardian may be provisionally certified for only one two-year period. Upon expiration of a provisionally-certified guardian's certification, the guardian must immediately provide written notice of the expiration to each court in which the guardian has been appointed pursuant to section 693 of the Texas Probate Code and, if the guardian provides guardianship services on behalf of the Department of Aging and Disability Services or a guardianship program, to each of those organizations on whose behalf the guardian provides guardianship services.

# Draft



## Guardianship Certification Board 205 W. 14<sup>th</sup> Street, Suite 600, Tom C. Clark Bldg, Austin, Texas 78701

**\$25.00**  
**Application Fee**  
Must accompany this application

### Application for Provisional Certification

1. Name	Last	First	M.I.	Suffix	2. Date of Birth	mm/dd/yyyy
3. Address	Home	Street	City	State	Zip	Phone
	Work	Street or P.O. Box	City	State	Zip	Phone
	Email Address			Other Phone (e.g., cell)		FAX
4. Education	High School	High School Name		High School Location		Graduation Date: mm/dd/yyyy
		<b>Or</b> Equivalency Type		Date: mm/dd/yyyy		
<p>5. Have you ever been adjudged guilty of or entered a plea of no contest in return for a grant of deferred adjudication to any felony or misdemeanor other than juvenile offenses or misdemeanor traffic offenses?</p> <p><input type="checkbox"/> No    <input type="checkbox"/> Yes – Provide a certified copy of the charging instrument, judgment, and disposition, including dates, charges, court, court location, and any other pertinent information.</p>						
<p>6. Have you ever been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, or conversion?</p> <p><input type="checkbox"/> No    <input type="checkbox"/> Yes – Provide details (attach separate sheet if necessary):</p>						
<p>7. Have you ever been found civilly liable in an action, or settled a claim, involving allegations of fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, or conversion on your part?</p> <p><input type="checkbox"/> No    <input type="checkbox"/> Yes – Provide details (attach separate sheet if necessary):</p>						
<p>8. Under Board rules, a provisionally certified guardian may provide guardianship services <b>only under the supervision of a certified guardian supervisor</b>. My certified guardian supervisor is:</p>						
Name	Last	First	M.I.	Suffix	Certification Number:	
Address	Street or P.O. Box		City	State	Zip	Phone
<p>Signature of Certified Guardian Supervisor: _____</p>						

**Applicant's Certification**

I certify under penalty of perjury that the information provided in this application is true and correct. I have read and understand the Guardianship Certification Board's Rules Governing Guardianship Certification and Minimum Standards for Guardianship Services and agree to comply with the current and subsequent Rules and Minimum Standards. I understand that if I am provisionally certified, I may provide guardianship services in Texas **only under the supervision of a certified guardian supervisor**. I also understand that the fee submitted with this application is non-refundable. I understand that if I am provisionally certified, I will have a continuing obligation under Rule XIV(c) of the Rules Governing Guardianship Certification to notify the Board if there is a change in circumstances.

*(Must be signed before a Notary Public)*

Applicant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,

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

**Mail:**

- 1) Your completed, signed, and notarized application form, and
- 2) A check or money order in the amount of \$25.00 payable to the Office of Court Administration to:

Office of Court Administration  
Guardianship Certification Board  
P.O. Box 12066  
Austin, Texas 78711-2066

**Hand Deliver:**

Alternatively, you may deliver your original application and fee to the Office of Court Administration, 205 West 14th Street, Suite 600, Austin, Texas.

**Faxed or e-mailed applications are not acceptable.**

**DRAFT**

**TEXAS GUARDIANSHIP CERTIFICATION BOARD  
INSTRUCTION SHEET FOR APPLICATION FOR PROVISIONAL CERTIFICATION**

1. To provide guardianship services in Texas, you must be certified if you are a private professional guardian, if you provide services to a ward of a private professional guardian or the Department of Aging and Disability Services, or if you are an individual providing services to a ward of a guardianship program on behalf of the program. If you are a volunteer for a guardianship program, or a family member or friend of the ward, you do not need to be certified.
2. If you do not meet the experience, education, or examination requirements for certification (have two years of relevant experience related to guardianship OR a four-year degree in a field related to guardianship AND pass an exam on Texas guardianship law and the National Guardianship Foundation Registered Guardian exam), you may qualify for provisional certification. To qualify for provisional certification, you must be at least 21 years old and have a high school diploma or GED equivalent. You must also meet certain criminal history and other requirements set out in Rule VI, Rules Governing Guardianship Certification. Under Board rules, if you are provisionally certified, you may provide guardianship services only under the supervision of a certified guardian supervisor.
3. Complete the Application for Provisional Certification. You may attach a resume, but you must fill out the form completely. Be sure to provide the requested information about your certified guardian supervisor and obtain that person's signature on the form.
4. Sign your application in front of a notary public.
5. Note that the Board has decided to require applicants to obtain their criminal history record from the Texas Department of Public Safety (DPS) by fingerprint search. The Board is requiring a state search and a national (FBI) search, both of which will be conducted through DPS. You will be required to obtain your criminal history record and have it sent to the Board once legislative and rule changes are finalized. You may send your completed, notarized application for provisional certification to the Board before those changes are final, but the Board will not process the application until it has received your criminal history information. The Board will notify you when the legislative and rule changes are complete. DPS has contracted with Fingerprint Applicant Services of Texas (FAST) to provide fingerprinting services. For a list of locations and hours of operation, please visit [www.L1id.com](http://www.L1id.com). FAST will take your photograph and fingerprints and submit them to DPS electronically. The charge for the fingerprinting service is \$9.95; the charge for a state criminal history record search is \$15.00; and the charge for an FBI search is \$24.00, for a total of \$48.95. All fees are paid to FAST at the time your fingerprints are taken.
6. Mail your completed application for provisional certification and the \$25.00 application fee to:  
Office of Court Administration  
Guardianship Certification Board  
P.O. Box 12066  
Austin, Texas 78711-2066  
  
Alternatively, you may deliver your application and fee to 205 West 14th Street, Suite 600, Austin, Texas. Faxed or e-mailed applications are not acceptable.
7. Upon receipt, Board staff will review your application. You will be notified if it is complete, or if any required information or documentation is missing. The Board reserves the right to request further information from you during the provisional certification process.
8. You will be notified when your application for provisional certification is approved or denied. If your application is denied, you will be informed of the reason(s) for denial and will have the right to appeal a denial of provisional certification as set forth in Rule IX, Rules Governing Guardianship Certification.
9. Provisional certification is valid for two years and may not be extended or renewed beyond that two-year period. To continue providing guardianship services after expiration of your provisional certification, you must obtain certification by filing an application for certification and meeting the requirements set forth in Rule VI, Rules Governing Guardianship Certification.
10. Your provisional certification may be suspended or revoked by the Board at any time for the reasons set forth in Rule XI, Rules Governing Guardianship Certification.