

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

February 20, 2009

11:00 a.m.

Office of Court Administration
205 W. 14th St., Sixth Floor
Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on February 20, 2009 at 11:08 a.m. The meeting was held at the Office of Court Administration in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

ATTENDANCE OF MEMBERS

Lesley Ondrechen, Guardianship Certification Program Director at the Office of Court Administration, called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair
Barry Anderson
Jason Armstrong
Garth Corbett
Carol Patrice Dabner
Susan Eason
Don Ford III

Phillip A. Grant
Marlane Meyer
Gina Patterson
Kathy Strong
Patti Turner
Robert Warach

Phillip A. Grant, Kathy Strong and Robert Warach attended via telephone conference call. Leah Cohen and Dr. Raymond Costello did not participate. Others present were Lesley Ondrechen, Guardianship Certification Program Director and Katie Bond, Assistant General Counsel, of the OCA. Members of the public present at the meeting were Alex Jones and Dr. Barbara Scobey of the Texas Department of Aging and Disability Services (DADS).

MINUTES OF OCTOBER 24, 2008 MEETING

Upon motion by Ms. Meyer and second by Mr. Anderson, the minutes of the Board's October 24, 2008 meeting were approved as submitted.

DIRECTORS' REPORTS

The director informed the Board that Justice Dale Wainwright is now its liaison on the Supreme Court. She also mentioned that due to a change in staffing at OCA, there is a new contact person for travel vouchers. She reminded the Board that as of January 1, 2009, mileage reimbursement decreased to 55¢ per mile.

Ms. Ondrechen reported that as of February 17, 2009, 215 guardians are certified and 73 are provisionally certified. She also reported that a certified guardian in Austin, Rosetta Williams,

died earlier in the week. She noted that since the Board's last meeting, 16 people have moved from provisional certification to certification.

The director told the Board that the Supreme Court's general counsel has been in contact with the Governor's office regarding the re-appointment of public member Grant. Ms. Ondrechen will attempt to ascertain the status of Mr. Grant's re-appointment.

The director reported that she had listened to a webcast on "Why States Should Enact the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act" earlier in the month. The webcast has been archived, and the PowerPoint presentation is also available. As previously reported to the Board, Judge Guy Herman had indicated the Act will be studied in the coming interim before any recommendation is made about adopting the Act in Texas.

Ms. Ondrechen told the Board she had been invited to speak to the Harris County Protective Services Guardianship Program staff next week, focusing on continuing education and re-certification. She noted the Texas Guardianship Association's spring conference will be held April 13-15 in San Angelo.

The director reported on an inquiry she had received from Amy Rigby, a court investigator in Harris County who has served on the Guardianship Advisory Board, about receiving continuing education credits for service on boards. She had responded that the national continuing education credits are different from Texas, but that Ms. Rigby was welcome to comment to the Rules Committee and/or the Board.

Finally, Ms. Ondrechen told the Board that Judge Ferchill favors raising the limit from \$50,000 to \$200,000 for trusts under Probate Code 867. The director asked if Board members were aware of any private professional guardians who serve as trustees under Probate Code Section 867, and none were. The Board discussed the ramifications of changing the statute, and noted some financial institutions that are willing to administer smaller trusts.

UPDATE ON 81ST LEGISLATIVE SESSION

The Chair addressed the Board regarding data collection pursuant to laws regulating the purchase of firearms. Federal law requires states to go back twenty years in collecting information on those declared incapacitated and mental health commitments on applicants for a gun license. Representative Naishtat and Senator Ellis are potential sponsors for a Texas law, which proposes going back ten years. States can lose federal funding if they do not comply. Mr. Jones commented that the proposed state legislation would add certain categories to the federal database of prohibited persons (e.g., adjudicated incapacitated under a guardianship or subject of a mental health or mental retardation commitment).

The director reported that there is a Senate and House sponsor for the four proposed bills regarding guardianship certification. Senator Uresti's staff has reported the bills will be filed by February 23. She summarized House Bill 128, which would require entities that issue

professional licenses to verify an applicant's ability to work in the U.S., and noted it has been referred to the Licensing and Administrative Procedures Committee.

Ms. Bond advised the Board that guardianship certification bills will be heard by the House Judiciary and Civil Procedure Committee and the Senate Jurisprudence Committee. For the benefit of those Board members who agreed to be available to testify, she noted the Committees meet on Mondays and Wednesdays, respectively.

The Chair told the Board about two bills that would affect guardianship procedures. House Bill 889 changes capacity assessment for mental retardation (certificate of medical examination would replace determination of mental retardation, and more detail would be required in the certificate for all types of incapacity). Senate Bill 559 would require two files on every decedent's estate, one public and one with financial information for the court's use only. While not included in the introduced version of the bill, this requirement could apply to guardianship estates.

She also reported on Senate Bill 319, which would eliminate Probate Code Section 128A, requiring an executor to notify all interested parties. The bill has been heard by the Senate Jurisprudence Committee.

Ms. Bond noted a bill requiring justices of the peace in urban areas to be attorneys (House Bill 29 and Senate Bill 320, with different population requirements). Mr. Jones reported on House Bill 704 (companion Senate Bill 984), which would extend the court's jurisdiction for a person in extended foster care to age 21, if the person consents or the court determines the person is incapacitated. The Chair reminded the Board to be aware of the legislative session events; Ms. Bond told the Board that Committee hearings can be watched live over the internet through the Texas Legislature Online website. The director noted the last day to file new bills is March 13. The Chair informed the Board that the Probate Code codification being presented to the legislature this session relates to decedents' estates and powers of attorneys. Guardianship will be studied in the coming interim, and will be considered by the legislature for codification in 2011. All codification would be effective in 2012.

ATTENDANCE AT BOARD MEETINGS

The Chair addressed the Board on personal attendance at meetings. Board policy allows attendance in person or by conference call. The statute requires a member to attend half of the regularly scheduled meetings, and does not specify whether attendance is by conference call or in person. Ms. Bond noted the statute allows the Board to excuse the absences of members who do not meet threshold of attendance.

The Chair asked the Board to consider whether some amount of personal attendance should be required. After discussion, Mr. Ford moved to adopt a Board policy requiring personal attendance at two of each year's four regularly scheduled Board meetings. After further discussion, Mr. Ford amended his motion to add the Board may consider and excuse the in-

person absences if a member is not in compliance. Ms. Meyer seconded the amended motion, and it carried.

The Board recessed at 12:06 p.m., and re-convened at 12:51 p.m.

REQUIRED ANNUAL REPORTING

The director summarized the reports received from private professional guardians, guardianship programs, DADS and county clerks. She will prepare a more detailed analysis for the Board's next meeting, including the possibility of using the reports to identify the counties served by each private professional guardian and guardianship program. The director will send the chair a list of counties which did not file a report

The Chair mentioned new monthly reporting forms, by which clerks report certain information to the OCA. She told the Board about some of the changes affecting probate cases, including the number of guardianships filed. The new forms go into effect September 1, 2010.

CERTIFICATION EXAMINATION PROCEDURES

Ms. Ondrechen advised the Board that the OCA's contract with the Center for Guardianship Certification, which administers the required national and Texas-specific exams on behalf of the Board, expires on August 31, 2009. OCA is working on a Request for Proposals for a new contract. The director suggested the Board consider its examination requirements. The Board discussed requiring both national and Texas exams, or requiring only a Texas exam. The consensus of the Board was to refer the matter to the Rules Committee. It will address the issue of whether to continue to require a national exam, and make a recommendation to the Board at its next regularly scheduled meeting.

CONSIDERATION OF APPLICATION FOR CERTIFICATION AND APPLICATION FOR PROVISIONAL CERTIFICATION FORMS

The director noted proposed changes to the applications to comply with a recent change to Rule VI(f)(3), and to clarify that all work experience should be provided, whether or not it relates to the provision of guardianship services. She noted no change was made to the instruction sheet for provisional certification, but the certification instructions were amended to clarify when a new criminal history report is required from an applicant who is provisionally certified at the time the application is made. The Board made some nonsubstantive formatting changes to the application forms, and approved the forms and the instructions for posting to its website.

PROPOSED CHANGES TO RULES GOVERNING GUARDIANSHIP CERTIFICATION

Mr. Ford reported on two meetings of the Rules Committee. He advised the Board that Ms. Bond recommended, and the Committee concurs, waiting to submit proposed rule changes to the Supreme Court until after the legislative session.

He told the Board that the Committee considered changing the continuing education requirement from six hours each year to 12 hours for the two-year certification period at its meeting earlier

that morning, and recommends the change to Rule VII(b). Mr. Ford summarized the proposals to amend Rules III(f), V(c)(2), VI(f)(2), which will incorporate the proposed addition submitted as new subsection (f)(4), and XII(g)(8). The Board discussed the last proposal, which requires recusal of Disciplinary Review Committee members from considering or voting on the matter at the hearing. Each member gave his or her opinion on recusal, and no consensus was reached.

Mr. Ford suggested changing the function of the Disciplinary Review Committee from reviewing a complaint and making a recommendation to the Board to a screening committee. The Board discussed that change, including the authority of the Committee to dismiss a complaint, whether the full Board would consider each complaint, and when a hearing could be held. The Board referred all proposals back to the Rules Committee for further review.

RE-CERTIFICATION

Consideration of Re-Certification Application Form

The Board made nonsubstantive formatting changes, and then approved the form and instructions for posting to the Board's website.

Reminder Letters

The director discussed the draft letter, noting that the exact dates an applicant for re-certification must submit the application (90 days before expiration) and when an application for re-certification will be denied (90 days after expiration) will be part of each reminder letter. The Board adopted the letter as submitted.

Expiration of Certification

After discussion, the consensus of the Board was to notate expired certifications on its website as "expired, but eligible for late renewal" when they are within 90 days after expiration. On the 91st day following expiration, the certified guardian will be removed from the list if no application for re-certification has been filed.

Re-Certification Form Letter

The Board reviewed the form letter drafted by the director, and approved it as submitted.

PUBLIC COMMENT

Mr. Jones commented during the legislative update portion of the meeting. Dr. Scobey and Mr. Jones commented during discussion of the certification examination requirements. No other public comment was made.

ADJOURNMENT

On motion by Ms. Dabner and second by Ms. Meyer, the meeting was adjourned at approximately 2:37 p.m.

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

March 16, 2009

2:30 p.m.

Office of Court Administration

205 W. 14th St., Sixth Floor

Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on March 16, 2009 at 2:38 p.m. The meeting was held at the Office of Court Administration in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

ATTENDANCE OF MEMBERS

Lesley Ondrechen, Guardianship Certification Program Director at the Office of Court Administration, called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair
Leah Cohen
Dr. Raymond Costello
Carol Patrice Dabner
Susan Eason
Don Ford III

Phillip A. Grant
Marlane Meyer
Gina Patterson
Patti Turner
Robert Warach

All members present attended via telephone conference call. Barry Anderson, Jason Armstrong, Garth Corbett and Kathy Strong did not participate. Others present were Lesley Ondrechen, Guardianship Certification Program Director and Katie Bond, Assistant General Counsel, of the OCA. Member of the public present at the meeting was Rosa Black of the Texas Department of Aging and Disability Services (DADS).

The director gave a brief legislative update for the Board's information. She gave the status of four Senate bills affecting guardianship certification, and summarized two House bills: one to adopt the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, and one to establish a Legislative Committee on Aging. The Chair added that a committee of judges has been formed to study those bills and make recommendations to the legislature. No discussion took place and the Board took no action.

CERTIFICATION EXAMINATION REQUIREMENTS

Judge Burwell reminded the Board that it addressed whether to continue to require a national and state exam at its February 20 meeting, and referred the matter to the Rules Committee. Because of timing factors - the current Exam Services Contract expires on August 31, 2009 and a new

request for proposals is required - the Board is re-addressing the issue at this time, rather than waiting for a recommendation from the Rules Committee.

Ms. Bond noted that OCA staff has begun working on a request for proposals. The Board's decision on whether to continue to require a national exam, in addition to the Texas-specific exam, will affect how the request for proposal is structured.

There was a lengthy discussion, including conflicting areas of national and Texas law; the need for more questions if a Texas-only exam is given; cost concerns; vendors for a small testing group; and other states' exam requirements. Ms. Bond noted that the request for proposals could be structured to ask proposers to propose two alternatives: for a Texas-only exam and for a Texas and national exam.

Ms. Bond also suggested another option would be to go forward with a request for proposals under the current examination requirements, and award a contract for a two year period. This option would give the Board additional time to study the issue and make its decision.

There was further discussion, including feasibility of preparing a Texas-only exam in the required time frame and the possibility of a one-year contract. Ms. Meyer moved, and Mr. Warach seconded, that the Board require a Texas-only exam. The motion carried.

The Chair asked the Rules Committee to make any necessary changes to the Rules Governing Guardianship Certification. Ms. Bond stated a rule change may be done to clarify the change to a Texas-only exam, but is not required. She noted that if fees are changed as a result of the procurement process, the new fees must be approved by the Supreme Court.

The director suggested setting an effective date for the new exam requirement. The Chair recommended, and the Board concurred, making the new requirement effective September 1, 2009.

Judge Burwell, Ms. Turner and Ms. Patterson volunteered to be on the screening committee to review proposals that are submitted. Ms. Cohen remarked she is a private professional guardian certified by the Board, and did not want to take any action that could interfere with the procurement process.

PUBLIC COMMENT

No public comment was made.

ADJOURNMENT

On motion by Ms. Meyer and second by Ms. Turner, the meeting was adjourned at approximately 3:40 p.m.

Texas Legislature Online Actions

Bill: SB 1053**Legislative Session:** 81(R)**Author:** Uresti

Relating to the appointment or removal of guardians of incapacitated persons

Actions: (descending date order)

Viewing Votes: Most Recent Senate Vote

Description	Comment	Date ▼	Time	Journal Page
H Reported favorably w/o amendment(s)		05/06/2009		
H Recommended to be sent to Local & Consent		05/06/2009		
H Considered in formal meeting		05/06/2009		
H Left pending in committee		04/27/2009		
H Considered in public hearing		04/27/2009		
H Referred to Judiciary & Civil Jurisprudence		04/20/2009		1597
H Read first time		04/20/2009		1597
H Received from the Senate		04/16/2009		1271
S Reported engrossed		04/16/2009		1141
S Record vote		04/16/2009		1061
S Passed		04/16/2009		1061
S Read 3rd time		04/16/2009		1061
S Record vote		04/16/2009		1061
S Three day rule suspended		04/16/2009		1061
S Vote recorded in Journal		04/16/2009		1061
S Read 2nd time & passed to engrossment		04/16/2009		1061
S Laid before the Senate		04/16/2009		1061
S Placed on local & uncontested calendar		04/16/2009		
S Co-author authorized		04/15/2009		1016
S Committee report printed and distributed		03/30/2009	02:01 PM	
S Recommended for local & uncontested calendar		03/30/2009		
S Reported favorably w/o amendments		03/30/2009		756
S Testimony taken in committee		03/25/2009		
S Considered in public hearing		03/25/2009		
S Scheduled for public hearing on . . .		03/25/2009		
S Referred to Jurisprudence		03/13/2009		476
S Read first time		03/13/2009		476
S Filed		02/20/2009		
S Received by the Secretary of the Senate		02/20/2009		

Texas Legislature Online Actions

Bill: SB 1055**Legislative Session:** 81(R)**Author:** Uresti

Relating to reporting and applicaton requirements regarding certain public and private guardians

Actions: (descending date order)

Viewing Votes: Most Recent Senate Vote

Description	Comment	Date ▼	Time	Journal Page
H Left pending in committee		04/30/2009		
H Testimony taken/registration(s) recorded in committee		04/30/2009		
H Considered in public hearing		04/30/2009		
H Scheduled for public hearing on . . .		04/30/2009		
H Referred to Human Services		04/16/2009		1267
H Read first time		04/16/2009		1267
H Received from the Senate		04/09/2009		1182
S Reported engrossed		04/09/2009		1013
S Record vote		04/09/2009		986
S Passed		04/09/2009		986
S Read 3rd time		04/09/2009		986
S Record vote		04/09/2009		986
S Three day rule suspended		04/09/2009		986
S Vote recorded in Journal		04/09/2009		986
S Read 2nd time & passed to engrossment		04/09/2009		986
S Laid before the Senate		04/09/2009		986
S Placed on local & uncontested calendar		04/09/2009		
S Committee report printed and distributed		03/30/2009	02:04 PM	
S Recommended for local & uncontested calendar		03/30/2009		
S Reported favorably w/o amendments		03/30/2009		756
S Testimony taken in committee		03/25/2009		
S Considered in public hearing		03/25/2009		
S Scheduled for public hearing on . . .		03/25/2009		
S Referred to Jurisprudence		03/13/2009		476
S Read first time		03/13/2009		476
S Filed		02/20/2009		
S Received by the Secretary of the Senate		02/20/2009		

Texas Legislature Online Actions

Bill: SB 1056**Legislative Session:** 81(R)**Author:** Uresti

Relating to authorizing a criminal justice agency to disclose certain criminal history record information to the Guardianship Certification Board and offices of the county clerk.

Actions: (descending date order)

Viewing Votes: Most Recent Senate Vote

Description	Comment	Date ▼	Time	Journal Page
H Left pending in committee		04/30/2009		
H Testimony taken/registration(s) recorded in committee		04/30/2009		
H Considered in public hearing		04/30/2009		
H Scheduled for public hearing on . . .		04/30/2009		
H Referred to Human Services		04/16/2009		1267
H Read first time		04/16/2009		1267
H Received from the Senate		04/09/2009		1182
S Reported engrossed		04/09/2009		1013
S Record vote		04/09/2009		986
S Passed		04/09/2009		986
S Read 3rd time		04/09/2009		986
S Record vote		04/09/2009		986
S Three day rule suspended		04/09/2009		986
S Vote recorded in Journal		04/09/2009		986
S Read 2nd time & passed to engrossment		04/09/2009		986
S Laid before the Senate		04/09/2009		986
S Placed on local & uncontested calendar		04/09/2009		
S Committee report printed and distributed		03/30/2009	02:02 PM	
S Recommended for local & uncontested calendar		03/30/2009		
S Reported favorably w/o amendments		03/30/2009		756
S Testimony taken in committee		03/25/2009		
S Considered in public hearing		03/25/2009		
S Scheduled for public hearing on . . .		03/25/2009		
S Referred to Jurisprudence		03/13/2009		476
S Read first time		03/13/2009		476
S Filed		02/20/2009		
S Received by the Secretary of the Senate		02/20/2009		

Texas Legislature Online Actions

Bill: SB 1057**Legislative Session:** 81(R)**Author:** Uresti

Relating to criminal history record information relating to persons who are certified to provide guardianship services.

Actions: (descending date order)Viewing Votes: [Most Recent Senate Vote](#)

Description	Comment	Date ▼	Time	Journal Page
H Left pending in committee		04/30/2009		
H Testimony taken/registration(s) recorded in committee		04/30/2009		
H Considered in public hearing		04/30/2009		
H Scheduled for public hearing on . . .		04/30/2009		
H Referred to Human Services		04/20/2009		1597
H Read first time		04/20/2009		1597
H Received from the Senate		04/16/2009		1271
S Reported engrossed		04/16/2009		1141
S Record vote		04/16/2009		1061
S Passed		04/16/2009		1061
S Read 3rd time		04/16/2009		1061
S Record vote		04/16/2009		1061
S Three day rule suspended		04/16/2009		1061
S Vote recorded in Journal		04/16/2009		1061
S Read 2nd time & passed to engrossment		04/16/2009		1061
S Laid before the Senate		04/16/2009		1061
S Placed on local & uncontested calendar		04/16/2009		
S Co-author authorized		04/15/2009		1016
S Committee report printed and distributed		03/30/2009	01:50 PM	
S Recommended for local & uncontested calendar		03/30/2009		
S Reported favorably as substituted		03/30/2009		756
S Testimony taken in committee		03/25/2009		
S Considered in public hearing		03/25/2009		
S Scheduled for public hearing on . . .		03/25/2009		
S Referred to Jurisprudence		03/13/2009		477
S Read first time		03/13/2009		477
S Filed		02/20/2009		
S Received by the Secretary of the Senate		02/20/2009		



TEXAS GUARDIANSHIP CERTIFICATION BOARD

205 WEST 14TH STREET, SUITE 600 • TOM C. CLARK BUILDING • (512) 463-1625 • FAX (512) 463-1648
P. O. BOX 12066 • AUSTIN, TEXAS 78711-2066

CHAIR
JUDGE GLADYS BURWELL, Galveston
VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

February 9, 2009

Petition to Initiate Disciplinary Procedures

This petition is being filed in accordance with Rule XII of the Rules Governing Guardianship Certification. By submitting this petition, I am asking the Board to act on my complaint against the certified guardian(s) named below.

1. Information about you, the person filing the complaint. You are known as the Petitioner.

Your name: Lesley Martin Ondrechen, Director, Guardianship Certification Program
Office of Court Administration

Your address: P.O. Box 12066 City: Austin State: Texas Zip: 78711-2066

Daytime Phone Number: 512/475-2873 Alternate Phone Number: 512/463-1625

Fax Number: 512/463-1648
(be sure to include the area code for all phone numbers provided)

Email Address: lesley.ondrechen@courts.state.tx.us

I prefer that the Board contact me by e-mail regarding this petition. Yes No
(Note: even if you check the e-mail preference, the Rules require that certain correspondence must be sent to you by certified and by regular mail.)

2. Information about the certified or provisionally certified guardian of whom you are complaining. This person is called the Respondent.

Respondent's name: Amy Janeyé Smith Respondent's Certification Number: PG-0081

Address: [REDACTED] City: [REDACTED] State: Texas Zip: [REDACTED]

Daytime Phone Number: _____ Alternate Phone Number: [REDACTED]

Fax Number: _____
(be sure to include the area code for all phone numbers provided)

Petition to Initiate Disciplinary Procedures

Page 2

Email Address: [REDACTED]

3. Reason(s) for Your Complaint (Disciplinary Criteria):

Cite Rule or Minimum Standard the guardian is alleged to have violated (attach separate sheet if necessary). Rules Governing Guardianship Certification and the Minimum Standards for Guardianship Services are available from the Board's website, <http://www.courts.state.tx.us/gcb/rules.asp>.

Rule XIV(c)(3): provisionally certified guardian must notify the Board of new business or home contact information within thirty (30) days of the change.

Rule XIV(c)(1): provisionally certified guardian may provide services only the direction of a certified guardian supervisor

Rule XIV(c)(4)(A): provisionally certified guardian must notify the Board immediately if a different certified guardian supervisor is designated

4. Facts:

Describe fact situation leading to alleged violation (attach separate sheet if necessary).

Provisionally certified guardian's employer, Friends For Life, notified me on September 9, 2008 that Ms. Smith had left its employ. I was also informed that the individual designated as her certified guardian supervisor would no longer act in that capacity as of September 9, 2008.

Ms. Smith was contacted by letter (September 9, 2008; September 29, 2008 and October 15, 2008), by telephone (December 3, 2008 and December 15, 2008) and by e-mail (January 26, 2009). She did not respond to the letters, to the voice-mail telephone messages or to the e-mail.

5. Documents:

Provide a list of any supporting documents attached.

Copies of notification from former employer, letters and e-mail referenced above.

The petition will be submitted, along with any supporting documents, to the Board's chair with a copy to the respondent. The petition will be considered by a Disciplinary Review Committee, which will make a recommendation to the Board.

Respectfully submitted,

L. M. Ondrechen

Lesley Martin Ondrechen
Director, Guardianship Certification Program

Lesley Ondrechen

From: Tracey [tracey@friendsforlife.org]
Sent: Tuesday, September 09, 2008 1:13 PM
To: Lesley Ondrechen
Subject: RE: approval of continuing education

This email is to make you aware that Janeye Smith is no longer an employee of Friends for Life Guardianship Program, please remove our staff from her supervision.

Tracey Kelley

Guardianship Program

p. 254.772.8100 ext 114

Confidentiality Notice

This email and the documents accompanying this email contain confidential information, belonging to the sender, which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this email in error, please delete and notify us by calling FRIENDS FOR LIFE at 254.772.7600 immediately.

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friends@friendsforlife.org h www.friendsforlife.org

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Version: 7.5.524 / Virus Database: 270.6.19/1662 - Release Date: 9/9/2008

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TEXAS GUARDIANSHIP CERTIFICATION BOARD

205 WEST 14TH STREET, SUITE 600 • TOM C. CLARK BUILDING • (512) 463-1625 • FAX (512) 463-1648
P. O. BOX 12066 • AUSTIN, TEXAS 78711-2066

CHAIR
JUDGE GLADYS BURWELL, Galveston
VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

September 9, 2008

Amy Janeyé Smith
[REDACTED]

Dear Ms. Smith:

I received notice from Friends for Life that you are no longer employed by them. In addition, I was notified that your designated certified guardian supervisor will no longer act in that capacity for you.

Rule X(c) of the Rules Governing Guardianship Certification provides that a certified guardian must notify the Board of any change in business and business address, within thirty days of the change. In addition, Rule XIV(c)(1) of the Rules Governing Guardianship Certification provides that a provisionally certified guardian may provide guardianship services only under the supervision of a certified guardian supervisor. You must designate a new certified guardian supervisor and notify the Board, as required by Rule XIV(c)(4)(A). You may not provide guardianship services until such time as you designate a new certified guardian supervisor and you provide notice of that designation to the Board.

Please respond to this letter within ten days of receipt with the required information. If you have any questions, or if I may be of assistance to you, please contact me. My direct phone number is 512/475-2873, and my e-mail address is lesley.ondrechen@courts.state.tx.us.

Sincerely,

L. M. Ondrechen

Lesley Martin Ondrechen
Director, Guardianship Certification Program

:lmo



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P. O. BOX 12066 • AUSTIN, TEXAS 78711-2066

CHAIR

JUDGE GLADYS BURWELL, Galveston
VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

September 29, 2008

Amy Janeyé Smith
[REDACTED]

Dear Ms. Smith:

I wrote to you on September 9, 2008 advising that your former employer notified me that you are no longer employed by them. I asked that you provide me with your new business contact information, as required by Rule X(c) of the Rules Governing Guardianship Certification. I also advised that you may not continue to provide guardianship services until such time as you designate a new certified guardian supervisor. A copy of my September 9 letter is enclosed for your reference.

To date, I have not received a reply from you. Please respond to this letter within ten days of receipt. If you do not reply, the Board may take further action, which may include suspension or revocation of your provisional certification.

If you have any questions, or if I may be of assistance to you, please contact me. My direct phone number is 512/475-2873, and my e-mail address is lesley.ondrechen@courts.state.tx.us.

Sincerely,

L. M. Ondrechen

Lesley Martin Ondrechen
Director, Guardianship Certification Program

:lmo



TEXAS GUARDIANSHIP CERTIFICATION BOARD

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JUDGE GLADYS BURWELL, Galveston
VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

October 15, 2008

Amy Janeyé Smith
[REDACTED]

Dear Ms. Smith:

I wrote to you on September 9, 2008 and September 29, 2008 advising that your former employer, Friends for Life, had informed me that you are no longer employed by them. I asked that you provide me with your new business contact information, as required by Rule XIV(c)(3) of the Rules Governing Guardianship Certification. (The applicable rule was misquoted as Rule X(c) in my previous correspondence.)

I was also notified that your designated certified guardian supervisor would no longer act in that capacity. I advised you that you must designate a new certified guardian supervisor, and that you may not provide guardianship services until such time as you make that designation and notify the Board (Rule XIV(c)(4)(A)).

To date, I have not received a reply from you. Please respond to this letter within ten days of receipt. If you do not reply, a petition asking the Board to initiate disciplinary procedures will be filed (see Rule XI and Rule XII).

If you have any questions, or if I may be of assistance to you, please contact me. My direct phone number is 512/475-2873, and my e-mail address is lesley.ondrechen@courts.state.tx.us.

Sincerely,

L. M. Ondrechen

Lesley Martin Ondrechen
Director, Guardianship Certification Program

:lmo

Lesley Ondrechen

From: Lesley Ondrechen
Sent: Monday, January 26, 2009 11:49 AM
To: [REDACTED]
Subject: provisional certification

Attachments: smith ltrs 01-26-09.pdf



smith ltrs
1-26-09.pdf (544 K)

attn: Amy Janeye Smith

Dear Ms. Smith,

I was notified by your former employer, Friends For Life, that you had left its employ. Since September 2008, I have attempted to contact you regarding your provisional certification.

I attach copies of my letters dated September 9, September 29 and October 15, 2008. I left voice-mail messages at telephone number 903/360-1429 on December 3 and December 15, 2008. To date, I have not received a reply from you. If you do not respond to this e-mail, a petition asking the Board to initiate disciplinary procedures will be filed.

Thank you for your prompt attention to this matter.

Lesley Martin Ondrechen
Director, Guardianship Certification Program, Office of Court Administration
512/475-2873
lesley.ondrechen@courts.state.tx.us



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VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

February 9, 2009

By Certified Mail 7008 2810 0000 6898 [REDACTED] and by Regular First Class Mail

Amy Janeyé Smith
[REDACTED]

Dear Ms. Smith:

In accordance with Rule XI of the Rules Governing Guardianship Certification, you are hereby notified that a petition to initiate disciplinary proceedings has been filed with the Guardianship Certification Board. The petition names you as the respondent. Copies of the petition, supporting documents and the Rules Governing Guardianship Certification are enclosed.

Please submit a written answer to the petition to my attention at the post office box address shown above. Your answer must be received within fifteen (15) days of receipt of this notice. If you do not submit an answer within the required time, unless good cause is shown, it will constitute a default.

A Disciplinary Review Committee will be convened to address the petition. You will be notified in writing of the date, time and place of the meeting of the Disciplinary Review Committee.

Please let me know if you have any questions. My direct telephone number is 512/475-2873.

Sincerely,

Lesley Martin Ondrechen
Director, Guardianship Certification Board

:lmo

cc: Chair, Guardianship Certification Board (w/encl)

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W. J. P. P.
2-9-09

Sent To *Smith*

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PS Form 3800, August 2006

See Reverse for Instructions



Guardianship Certification Board

P.O. Box 12066
Austin, Texas 78711

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1. Article Addressed to:

Amy Janeyé Smith



2. Article Number

(Transfer from service label)

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PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

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A. Signature

X

Agent

Addressee

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C. Date of Delivery

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If YES, enter delivery address below: No

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Registered

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C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes



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~~Amy Janeyé Smith~~

EA
3-11-09

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SECRETARY OF STATE



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VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

March 12, 2009

By Certified Mail 7008 2810 0000 6898 [REDACTED] and by Regular First Class Mail

Amy Janeyé Smith
[REDACTED]

Dear Ms. Smith:

A Petition for Disciplinary Review was filed with the Guardianship Certification Board on February 9, 2009. You were notified by certified and by regular first class mail. I did not receive an answer within the required fifteen days. Unless you can show good cause for your lack of response, this constitutes a default under Rule XII(e)(2) of the Rules Governing Guardianship Certification, and all facts alleged in the petition may be taken as true.

The Disciplinary Review Committee of the Guardianship Certification Board will consider the Petition to Initiate Disciplinary Proceedings on March 24, 2009 at 11:00 a.m. CDT. You are encouraged to attend the Committee meeting on March 24. It will be held in the Office of Court Administration, Tom C. Clark Building, 205 West 14th Street, 6th Floor Conference Room, Austin, Texas. Please check in with the receptionist on the 6th floor for access to the meeting room.

As required by Rule XII(k), this notice is being sent by certified mail and by regular first class mail.

Please let me know if you have any questions. My direct telephone number is 512/475-2873.

Sincerely,

L. M. Ondrechen

Lesley Martin Ondrechen
Director, Guardianship Certification Board

:lmo

cc: Guardianship Certification Board Disciplinary Review Committee

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City, State, ZIP+4

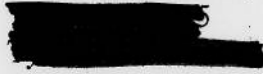
PS Form 3800, August 2006

See Reverse for Instructions

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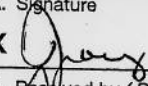
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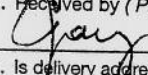
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Amy Janeyé Smith


2. Article Number
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 X  Agent
 Addressee

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 Registered Return Receipt for Merchandise
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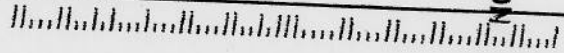
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MAR 23 2009

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CHAIR
JUDGE GLADYS BURWELL, Galveston
VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRICHEN

March 25, 2009

By Certified Mail 7008 2810 0000 6898 [REDACTED] and by Regular First Class Mail

Amy Janeyé Smith
[REDACTED]

Dear Ms. Smith:

At its meeting on March 24, the Disciplinary Review Committee of the Guardianship Certification Board considered the Petition for Disciplinary Action filed on February 9, 2009. I sent you a copy of the petition and notice of the Committee meeting. You were given the opportunity to respond, but you did not file a written answer to the petition nor attend the meeting.

The Committee voted to recommend that your provisional certification be suspended until such time as you comply with Rule XIV(c)(3) and (c)(4)(A) of the Rules Governing Guardianship Certification. You must provide the Board with your current business name, address and phone number and notify the Board of your new designated certified guardian supervisor.

In addition, as indicated in the petition, Rule XIV(c)(1) provides that, as a provisionally certified guardian you may not provide guardianship services except under the direction of a certified guardian supervisor. If you are no longer in the guardianship field, you may wish to surrender your provisional certification.

On behalf of the Committee, I am sending this letter to notify you of the Committee's recommendation. By copy of this letter, I am notifying the Guardianship Certification Board of the Committee's recommendation, as required by Rule XII(f)(2).

Because the Committee has recommended disciplinary action, you have the right to request a hearing. The request must be made no later than fifteen days after you receive this notice of the Committee's recommendation. (Rule XII(g))

The Board will consider the Committee's recommendation at a future Board meeting. You will be notified of the date and time for that meeting.

Amy Janeyé Smith
March 25, 2009
Page 2

Please contact me if you have any questions. My direct phone number is 512/475-2873.

Sincerely,

L. M. Ondrechen

Lesley Martin Ondrechen
Director, Guardianship Certification Board

:lmo

cc: Guardianship Certification Board

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Amy Janeyé Smith



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X

- Agent
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4. Restricted Delivery? (Extra Fee) Yes

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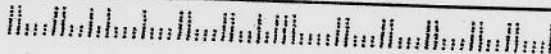


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Friendship Certification Board
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Austin, Texas 78711-2066





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P. O. BOX 12066 • AUSTIN, TEXAS 78711-2066
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CHAIR
JUDGE GLADYS BURWELL, Galveston
VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

May 4, 2009

By Certified Mail 7008 2810 0000 6898 [REDACTED] and by Regular First Class Mail

Amy Janeyé Smith
[REDACTED]

Dear Ms. Smith:

In my letter dated March 25, 2009, I informed you that the Disciplinary Review Committee of the Guardianship Certification Board recommended suspension of your certification because of your failure to comply with Rule XIV(c)(3) and (c)(4)(A) of the Rules Governing Guardianship Certification. I also informed you that you had fifteen days from the date of your receipt of the notice to request a hearing. You did not make a request for a hearing in that time.

The Board will consider the Committee's recommendation at its meeting on May 15, 2009, at 11:00 a.m. CDT, in the Office of Court Administration, 205 West 14th St., Sixth Floor, Austin. Should the meeting date, time or location change, you will be notified.

Please contact me if you have any questions. My direct phone number is 512/475-2873.

Sincerely,

A handwritten signature in cursive script that reads "L. M. Ondrechen".

Lesley Martin Ondrechen
Director, Guardianship Certification Program

cc: Guardianship Certification Board

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**PROPOSED AMENDMENTS
RULES GOVERNING GUARDIANSHIP CERTIFICATION**

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.
- (c) 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.
- (d) 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.
- (e) 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.
- (f) A certified guardian may use the designation "TxCG" to indicate that the guardian ~~has been~~ is certified by the Board. Provisionally-certified guardians may not use such designation.

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.
- 1) Upon receipt of a completed application form, Board staff shall review and accept the application if:
 - A. the application form has been completed;
 - B. the applicant meets the requirements for certification or provisional certification; and
 - C. the appropriate application fee has been paid.
 - 2) An applicant who submits an application form but does not complete the requirements for certification or provisional certification within twelve (12) months of submitting the application form must begin the certification process anew.
- (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 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.
- (f) 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 (abandoning or endangering a child), 22.05 (deadly conduct), 22.07 (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 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;
 - 2) has ever been found civilly liable ~~in an action,~~ or settled a claim in an action, including but not limited to a surcharge action, involving that involved allegations of fraud, misrepresentation, material omission, misappropriation, ~~moral turpitude,~~ theft, assault, battery, abuse, neglect,

breach of trust, breach of fiduciary duty, or conversion on the applicant's part; or

- 3) has ever been denied certification or had his or her certification revoked or suspended in Texas or any other jurisdiction requiring certification, registration or licensure to provide guardianship services.
- (g) Provide the Board with his or her Texas and national criminal history records by having his or her fingerprints submitted to the Texas Department of Public Safety (DPS), to be used by DPS for a Texas criminal history search and forwarded to the Federal Bureau of Investigation for a national criminal history search. The criminal history records resulting from both the Texas and national criminal history searches will then be forwarded to the Board. The Texas and national criminal history searches must be conducted no earlier than 90 days preceding the date the application is submitted.
- (h) 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, settled a claim, or been denied certification or had certification revoked or suspended as described under Section VI(f)(1), (2) or (3) 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) The certified guardian must comply with subsections (e), (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~~ twelve 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~~ twelve hours shall include a minimum of ~~one hour~~ two hours of ethics. ~~The above two-year continuing education requirement must also include a minimum of and 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)

XI. DISCIPLINARY CRITERIA

- (a) The Board may deny, suspend or revoke certification or provisional certification, or impose other disciplinary action, if the applicant, 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) Falsely represented or misstated any material fact to the Board;
 - 6) 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), 22.05 (deadly conduct), 22.07 (terroristic threat), and 32.45 (misapplication of fiduciary property) of the Texas Penal Code;
 - 7) Been found civilly liable ~~in an action~~ or settled a claim in an action, including but not limited to a surcharge action, that involved fraud, misrepresentation, material omission, misappropriation, theft, assault, battery, abuse, neglect, breach of trust, breach of fiduciary duty, or conversion.
 - 8) 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.
 - 9) Been found liable in a subrogation action by an insurance or bonding agent or in a subrogation action brought by an interested party.
 - 10) 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).
 - 11) 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.
- (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) Information Subject to Disclosure. All documents given to the Board in support of or response to a complaint, including the Petition to initiate disciplinary proceedings, are subject to disclosure to the public.
- ~~(b)~~(c) 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.
- ~~(e)~~(d) 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)~~(e) 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)~~(f) 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. Respondent may request an extension of time to file an Answer. The request must be made in writing before the expiration of the fifteen (15) day period. For good cause shown, the Review Committee or its designee may extend the Respondent's time to answer for such period as it may determine, but in no event shall the extension exceed thirty (30) days.

- 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.

~~(f)~~(g) 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. If the Review Committee does not request additional information from the Petitioner or Respondent, the Review Committee must make a recommendation to the Board within thirty (30) days after the Review Committee receives the Answer. If the Review Committee requests additional information, the Review Committee may allow up to thirty (30) days to provide the additional information and must make a recommendation to the Board within fifteen (15) days after the date it receives or should have received the additional information. The Review Committee's recommendation must be in writing and furnished to the Respondent at the same time it is furnished to the Board.

~~(g)~~(h) 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 or its designee. 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 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.
 - 8) Recusal. At the hearing, a member of the Board serving on the Review Panel ~~must~~ may recuse him/herself and take no part in the Board's consideration or vote on the matter.
- (h)(i) 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)(j) 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)(k) Publication. The Board may publish or otherwise provide public notice of the final result of any disciplinary proceeding or action.
- (k)(l) 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
 - 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.

DRAFT
May 2009

- (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.

Summary of Information Reported to GCB
as of December 31, 2008 - By County

95 counties did not file either report

Anderson	Angelina	Archer	Armstrong
Bell	Bowie	Brewster	Brooks
Burleson	Calhoun	Camp	Carson
Childress	Coleman	Collingsworth	Colorado
Concho	Cooke	Crockett	Culberson
Dallam	Dallas	Dawson	Dickens
Dimmit	Duval	El Paso	Falls
Floyd	Freestone	Frio	Gillespie
Glasscock	Gonzales	Grimes	Hall
Hardeman	Hardin	Haskell	Hood
Irion	Jack	Jim Hogg	Jim Wells
Jones	Kendall	Kenedy	Kent
Kinney	Knox	Lampasas	La Salle
Lee	Leon	Llano	Loving
Lynn	McCulloch	McMullen	Marion
Martin	Matagorda	Maverick	Medina
Montague	Moore	Morris	Motley
Ochiltree	Palo Pinto	Pecos	Polk
Presidio	Rains	Randall	Reagan
Real	Red River	Roberts	San Augustine
Scurry	Smith	Starr	Stephens
Stonewall	Taylor	Terry	Titus
Trinity	Upton	Walker	Wilson
Wise	Yoakum	Zavala	

14 counties served by both PPGs and local guardianship program

Bell	Bexar	Caldwell	Coryell
Denton	El Paso	Ellis	Galveston
Gregg	Harris	Tarrant	Travis
Washington	Williamson		

7 counties with wards served by PPG, or PPG is registered with no current wards in county
no local programs operating

Cameron	Comal	Guadalupe	Hays
Kerr	Nueces	Val Verde	

Summary of Information Reported to GCB
as of December 31, 2008 - By County

66 counties with local programs operating
no PPGs registered or serving wards

Anderson	Bosque	Brazos	Brown
Burleson	Callahan	Cherokee	Coleman
Collin	Comanche	Concho	Cooke
Crane	Dallas	Dawson	Eastland
Ector	Edwards	Erath	Falls
Fannin	Fisher	Freestone	Gaines
Grayson	Hamilton	Haskell	Henderson
Hill	Howard	Hunt	Hutchinson
Jones	Kaufman	Knox	Lampasas
Lee	Leon	Limestone	McLennan
Madison	Martin	Mason	Menard
Midland	Milam	Mills	Mitchell
Navarro	Nolan	Pecos	Reeves
Robertson	Rockwall	Runnels	Rusk
Scurry	Shackelford	Smith	Stephens
Sterling	Sutton	Taylor	Tom Green
Upshur	Van Zandt		

Guardians and Wards
Based on Information Reported to GCB
as of December 31, 2008

Private Professional Guardians

Name	Number of Wards	County	Notes
Ron Bloxom	17	El Paso	
Susan Chicos	4	Nueces	
James B. Cline	0	n/a	
Leah Cohen	2	1 - Travis 1 - Tarrant	
Clara Cooley	1	Galveston	
Kelly Cross	8	Bexar	
Harold K. Foraker	1	El Paso	
Lorin Halstead	4	1 - Coryell 3 - Bell	employer: Heart of Texas Guardianship Services
Carolyn Hill	2	Gregg	
Laura Holguin	4	El Paso	
Terry Horne	7	Tarrant	
Patricia Jones	4		same employer and same wards as Halstead
Louis LaCrosse	0	n/a	
Norma McKnight	0	n/a	
Roger McKnight	2	Cameron	
Kathy Mims	5	Tarrant	
Ellis Morris	0	n/a	
Debbie Pearson	11	1 - Hays 9 - Travis 1 - Williamson	
Cynthia Ridgeway	1	Galveston	
Ronnica Ridgeway	6	Harris	
Alex Robinson	0	n/a	
Greg Shannon	14	Tarrant	
Sherry Shults			same wards as Shannon; he is her designated certified guardian supervisor
Sundra Spears	9	1- Caldwell 1 - Comal 6 - Hays 1 - Kerr	
Kristy Stith	1	Gregg	
V. Richard Wade	1	Gregg	
Ronald Wegscheid	1	Ellis	
Esther Williams	0	n/a	
Harold Willis	0	n/a	
Alfred Zientek	0	n/a	
TOTAL	105		

Guardians and Wards
Based on Information Reported to GCB
as of December 31, 2008

Programs

Name	Number of Wards	Wards by County	Notes
ARC of Dallas	21	6 - Collin 15 - Dallas	
Brazos Bend G'ship Services	0	n/a	will operate in Fort Bend County
Covenant Outreach	147	8 - Brown 4 - Callahan 1 - Crane 1 - Dallas 1 - Dawson 5 - Eastland 17 - Ector 3 - Haskell 9 - Howard 1 - Hutchinson 1 - Jones 1 - Knox 17 - Midland 6 - Mitchell 2 - Nolan 4 - Pecos 11 - Scurry 4 - Stephens 51 - Taylor	
Ellis County Volunteer G'ship Program	59	Ellis	
Family Eldercare	296	1 - Caldwell 279 - Travis 16 - Williamson	
Friends for Life	299 (as of 04/30/2009)	3 - Anderson 27 - Bell 69 - Bexar 3 - Bosque 1 - Brazos 8 - Brown 1 - Callahan 7 - Cherokee 1 - Eastland 2 - Erath 5 - Falls 6 - Freestone 8 - Gregg 1 - Hamilton 5 - Henderson	also provide services in: Burleson Coleman Comanche Coryell Fisher Lee Leon Madison Mills Nolan Runnels Shackelford

Guardians and Wards
Based on Information Reported to GCB
as of December 31, 2008

Name	Number of Wards	Wards by County	Notes
Friends for Life - continued		2 - Hill 1 - Jones 1 - Lampasas 14 - Limestone 68 - McLennan 2 - Milam 9 - Navarro 3 - Robertson 3 - Rusk 8 - Smith 23 - Taylor 1 - Travis 7 - Upshur 4 - Van Zandt 6 - Washington	
Galveston County G'ship Program	81	Galveston	
G'ship Alliance of the Concho Valley	27	2 - Concho 25 - Tom Green	
G'ship Services, Inc.	479	Tarrant	
Harris County Protective Services G'ship Program	1,447	Harris	
Health Services of North Texas	34	Denton	
Jewish Family Services of Dallas, Inc.	1	Dallas	
LULAC/Project Amistad	245 (as of 04/29/2009)	1- Ector 210 - El Paso 3 - Howard 1 - Martin 10 - Midland 1 - Pecos 19 - Tom Green	sub'd info on county clerk form; number of wards not reported. Reported wards in Dawson, Gaines and Reeves Counties as of 12/31/2008, but not as of 04/29/2009.
The Senior Source/Senior Citizens of Greater Dallas	100	1 - Collin 86 - Dallas 10 - Hunt 3 - Kaufman	program operates in Rockwall, but no wards there in 2008
Texoma Council of Governments	30	2 - Cooke 5 - Denton 8 - Fannin 12 - Grayson	
TOTAL	3,298		

Guardians and Wards
Based on Information Reported to GCB
as of December 31, 2008

DADS

Active DADS guardianships, directly or through contracts, is 1,104.

733 - direct

371 - contracted providers

Guardianship Certification Board
Attendance by Members at Regularly Scheduled Board Meetings
(Effective _____)

1. **Policy.** The purpose of this policy is to establish requirements for members' attendance at regularly scheduled Board meetings.

2. **Definitions.**
 - a. "Board" means the Guardianship Certification Board established in Chapter 111, Government Code.
 - b. "Member" means an individual appointed to and serving on the Board, including public members, as defined in Government Code § 111.011.
 - c. "Regularly scheduled meetings" means the quarterly meetings, scheduled in advance for each calendar year, required by Government Code §111.011(i).

3. **Attendance In Person**
 - a. Government Code § 111.015(a)(5) requires each Board member to attend half of the regularly scheduled meetings in each calendar year, and allows the Board to excuse the absences of members who do not meet this requirement. Members attend Board meetings both in person and by telephone, which is permitted by Section 3(a) of the Board's Public Meetings Policy. The statute does not differentiate between attendance in person and attendance by telephone.
 - b. Besides complying with the requirements of Section 111.015(a)(5), members must attend at least two of each calendar year's four regularly scheduled meetings in person.
 - c. The Board may excuse a member's in-person absences by a majority vote of the Board.
 - d. This policy goes into effect _____.

**Guardianship Certification Board
Public Meetings Policy
(Effective October 26, 2007)**

1. **Policy.** The purpose of this policy is to provide for notice and public access to meetings of the Guardianship Certification Board, a judicial branch entity.

2. **Definitions.**

(a) "Closed meeting" means a meeting to which the public does not have access.

(b) "Deliberation" means an oral or written verbal exchange during a meeting.

(c) "GCB" means the Guardianship Certification Board established in Chapter 111, Government Code, and includes a duly-established official committee of the GCB.

(d) "Meeting" means:

(1) a deliberation among members constituting a quorum, or between a quorum and another person, during which public business or public policy over which the GCB has supervision or control is discussed or considered or during which the GCB takes formal action; or

(2) except as otherwise provided in Section 2(d)(3), a gathering:

(A) that is conducted by the GCB or for which the GCB is responsible;

(B) at which a quorum is present;

(C) that has been called by the GCB; and

(D) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the GCB, about the public business or public policy over which the GCB has supervision or control.

(3) "Meeting" does not include:

(A) the gathering of a quorum at a social function unrelated to the public business of the GCB, or the attendance by a quorum at a regional, state, or national convention or workshop, if formal action is not taken and any discussion of public business is incidental to the social function, convention, or workshop;

(B) the attendance by a quorum at a meeting of a committee or agency of the legislature if the deliberations at the meeting by the members of that GCB consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency; or

(C) the attendance by a quorum at a judicial hearing or proceeding unrelated to the public business of the GCB, if formal action is not taken and any discussion of GCB business is incidental.

(e) "Open" means open to the public.

(f) "Quorum" means a majority of the formally-appointed members of the GCB.

3. Public Meetings Requirement.

(a) Every meeting of the GCB or a committee of the GCB shall be open to the public, except as provided by this policy. This requirement precludes deliberation through written communication, including electronic mail. This requirement does not preclude the use of telephone or video teleconferencing equipment, provided that at least one location shall be open to the public and posted in accordance with Section 6.

(b) At each meeting, the GCB will give members of the public the opportunity to appear and speak about issues within the jurisdiction of the GCB. The chair of the GCB may set reasonable limits on presentations by members of the public, including limits on the number, frequency, and length of presentations.

4. Minutes or Recordings. The GCB shall prepare and keep minutes or make an audio recording of each meeting, except that consultations with an attorney in a session closed pursuant to Section 7 may not be recorded. The minutes of a public meeting are judicial records under Rule 12 of the Rules of Judicial Administration and shall be available for public inspection and copying.

5. Recording of a Meeting by a Person in Attendance.

(a) A person in attendance may record all or any part of a public meeting of the GCB by means of a tape recorder, video camera, or other means of aural or visual reproduction.

(b) The chair of the GCB may adopt reasonable policies to maintain order at a meeting, including policies relating to:

- (1) the location of recording equipment; and
- (2) the manner in which the recording is conducted.

(c) A policy adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

6. Meeting Notice Required.

(a) The GCB shall post on its website written notice of the date, hour, place, and subject of each GCB meeting for at least 72 hours before the scheduled time of the meeting.

(b) The GCB shall maintain an e-mail distribution list of persons requesting notice of GCB meetings and shall provide e-mail notification of the date, hour, place and subject of each meeting to the distribution list at least 72 hours before the scheduled time of the meeting.

(c) If the GCB posts notice of a meeting and then is unable to attain a quorum, the members present may discuss and deliberate GCB matters, but shall not vote or otherwise take formal action.

(d) In an emergency, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which notice has been posted in accordance with this policy is sufficient if it is posted for at least two hours before the meeting is convened. The emergency must be reasonably unforeseeable, and the GCB shall clearly identify the emergency in the notice.

7. Exceptions to Requirement that Meetings Be Open. The GCB may conduct a closed meeting to:

(a) consult with its attorney:

(1) when the GCB seeks the advice of its attorney about:

(A) pending or contemplated litigation; or

(B) a settlement offer; or

(2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this policy;

(b) deliberate a negotiated contract or a prospective gift or donation to the GCB if deliberation in an open meeting would have a detrimental effect on the position of the GCB in negotiations with a third person;

(c) deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, or to hear a complaint or charge against an officer or employee;

(d) deliberate the deployment, or specific occasions for implementation, of security personnel or devices;

(e) deliberate a test item or information related to a test item if the GCB believes that the test item may be included in a test the GCB administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity; or

(f) deliberate information regarding an applicant for certification or the subject of a complaint to the GCB that would be confidential under law or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

8. Investigation. The GCB, when investigating a matter, may exclude a witness from a hearing during the examination of another witness in the investigation.



TEXAS GUARDIANSHIP CERTIFICATION BOARD

205 WEST 14TH STREET, SUITE 600 • TOM C. CLARK BUILDING • AUSTIN, TEXAS 78701
P. O. BOX 12066 • AUSTIN, TEXAS 78711-2066
512/463-1625 • FAX 512/463-1648

CHAIR
JUDGE GLADYS BURWELL, Galveston
VICE CHAIR
LEAH COHEN, Austin

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

[date/90 days before expiration]

[name and address]

Re: Expiration of Provisional Certification
Provisional Certification Number [], expires on [expiration date]

Dear [title and last name]:

Your provisional certification by the Texas Guardianship Certification Board (Board) will expire as noted above. This letter is being sent as a courtesy reminder, and no other reminders will be sent.

Rule XIV(f) of the Rules Governing Guardianship Certification provides that a provisionally certified guardian may be provisionally certified for only one two-year period, unless a waiver is sought and approved by the Board. If you intend to seek a waiver, be advised that requests for waivers are considered at the Board's regularly scheduled quarterly meetings. A request for waiver should be received at least two weeks in advance of the meeting date to ensure it will be considered. The next meeting is scheduled for [date].

Provisional certification is not intended to be permanent; rather, provisionally certified guardians should apply for certification when they meet the requirements for certification. Remember that provisionally-certified guardians must comply with the same continuing education requirements as certified guardians; see Rule XIV(c)(6). Documentation of continuing education hours completed during your provisional certification period will be required at the time you apply for certification. If you have applied for certification, but your application is pending when your provisional certification expires, you may not continue providing guardianship services.

If you do not obtain certification before your provisional certification expires, Rule XIV(f) requires you to provide immediate written notice upon the expiration of your provisional certification to each court in which you are appointed to serve. If you provide guardianship services on behalf of the Department of Aging and Disability Services or a guardianship program, then you are also required to provide written notice to DADS and/or the program of the expiration of your provisional certification.

It is your responsibility to ensure your provisional certification remains valid, to timely apply for certification, or to timely request a waiver if that is appropriate to your circumstances. If you have any questions, please contact me. My direct telephone number is 512/475-2873, and my e-mail address is lesley.ondrechen@courts.state.tx.us.

Sincerely,

Lesley Martin Ondrechen
Director, Guardianship Certification Program