

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

July 25, 2008

11:00 a.m.

Supreme Court of Texas Courtroom

201 W. 14th St., First Floor

Austin, Texas

COMMENCEMENT OF MEETING

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on July 25, 2008 at 11:02 a.m. The meeting was held at the Supreme Court of Texas 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

Meredith Musick, Executive Assistant at the Office of Court Administration, called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair	Don D. Ford, III
Leah Cohen, Vice-Chair	Phillip A. Grant
Barry Anderson	Marlane Meyer
Jason Armstrong	Gina Patterson
Garth Corbett	Kathy Strong
Dr. Raymond Costello	Patti Turner
Carol Patrice Dabner	Robert Warach

Dr. Raymond Costello, Marlane Meyer, Gina Patterson and Kathy Strong attended via telephone conference call. Susan Eason did not participate. Others present were Lesley Ondrechen, Guardianship Certification Program Director; Meredith Musick, Executive Assistant; and Katie Bond, Assistant General Counsel, all of the OCA. Members of the public present at the meeting were Alex Jones of the Texas Department of Aging and Disability Services (DADS) and Aaron Alarcon.

MINUTES OF MAY 2, 2008 MEETING

A correction was made by Ms. Meyer on page 4 of the draft minutes. Upon motion by Ms. Meyer and second by Mr. Warach, the minutes of the Board's May 2, 2008 meeting were approved as corrected.

DIRECTORS' REPORTS

Ms. Ondrechen reported that as of July 24, 2008, 198 guardians are certified and 58 are provisionally certified. Eight applications for certification and four applications for provisional certification are pending.

The director informed the Board that the next examination is scheduled for July 31 in Lubbock. The Harris County Guardianship Program is hosting an exam at its offices on September 23.

Ms. Ondrechen reminded the Board that four members' and one public member's terms expire on February 1, 2009; information has been provided to those five members about re-appointment.

Ms. Ondrechen brought two questions from certified guardians to the Board's attention. The first concerns use of volunteers to fulfill the requirement that a guardian visit a ward monthly. While the Board cannot issue "advisory opinions" (that is, make a decision on an issue when there is no complaint before it), the chair suggested that the guardian should contact the judge and follow his/her direction. The other question concerns a designation that will signify a guardian is certified by the Board. After discussion, Ms. Cohen requested that certification and education be placed on the agenda for the October meeting.

Finally, the director spoke to the Board on several administrative matters, including an update on a searchable database of certified guardians and travel.

PETITIONS FOR DISCIPLINARY ACTION

A. Consideration of Recommendations of the Disciplinary Review Committee

Mr. Armstrong, chair of the Disciplinary Review Committee, reported on the Disciplinary Review Committee meeting held on July 15, 2008. He began his report with the complaint filed against Aaron Alarcon and Cindy Brown. The Board went into closed session at 11:20 a.m. to discuss confidential information contained in the complaint and response, in accordance with Sections 7(a) and (f) of its Public Meetings Policy. No vote was taken during closed session. The Board reconvened in open session at 11:41 a.m.

Mr. Armstrong stated that the Disciplinary Review Committee recommends dismissal of the complaint against Mr. Alarcon and Ms. Brown. Upon motion of Mr. Grant and second by Mr. Anderson, the Board adopted the Committee's recommendation.

The director told the Board that the Disciplinary Review Committee recommended suspension of certification for Sevie Dean, the respondent in the other complaint the Committee considered at its July 15 meeting. However, because the time to request a hearing has not elapsed, the recommendation will not be presented to the Board at this time. The director also informed the Board that, due to a procedural error on her part, the Board's attempted suspension of Olga Levario, adopted at its May 2 meeting, is ineffective. The respondent has now complied with the rules; therefore, disciplinary action is not warranted. The suspension will be removed, and it will be treated as though it did not occur.

B. Procedures for Scheduling Hearings on Disciplinary Actions

The director told the Board that the Rules Committee is proposing a change to Rule XII. The proposed change will permit a Board designee to set a hearing, thereby eliminating the

requirement to convene the Board to do so. Ms. Bond recommended the Board adopt a procedure delegating such authority to the director until such time as the rule change is adopted. Mr. Ford moved and Mr. Warach seconded that authority to set a hearing be delegated to the director or her designee until such time as a change to the rules is adopted. The motion carried.

POLICY REGARDING PARTICIPATION (OR RECUSAL) OF REVIEW COMMITTEE MEMBERS IN BOARD VOTE ON COMMITTEE RECOMMENDATIONS

Ms. Bond reported that Barbara Deane, chief of the Administrative Law Division at the Office of the Attorney General, suggested that the Board consider adopting a policy on whether committee members can participate in a Board action based on a committee recommendation. The Board discussed concerns, including ex parte communication and a committee member becoming an advocate for a particular position. Mr. Jones commented on DADS procedures. Mr. Warach moved and Mr. Grant seconded that the item be tabled until the October meeting, so staff can do further research and provide information on practices of other regulatory boards and agencies. The motion carried.

The Board recessed at 12:10 p.m., and reconvened at 1:03 p.m.

REPORT FROM GUARDIANSHIP CERTIFICATION LEGISLATIVE WORKGROUP ON PROPOSED TOPICS FOR 81ST LEGISLATURE, REGULAR SESSION

Ms. Ondrechen reported on the three meetings of the legislative workgroup, which resulted in seven proposals for legislative change the Board will consider. The proposals will be presented to the Legislative Committee of the Texas Judicial Council on August 7 in the form of resolutions by the Council endorsing the proposals. Ms. Ondrechen told the Board that the Texas Judicial Council next meets on September 19; pre-filing of legislation begins on November 10, and the 81st Legislature convenes on January 13, 2009.

Criminal History Subject to Non-Disclosure. The Board considered the proposal that it be added to the list of agencies who may receive criminal history reports even when the incident is subject to non-disclosure. After discussion, Ms. Dabner moved that the Board recommend the resolution be forwarded to the Legislative Committee of the Texas Judicial Council, and Ms. Cohen seconded. The motion carried.

Persons Disqualified to Serve as Guardians. The Board considered the proposal that lack of required certification be added to the list of reasons a person is disqualified from appointment as a guardian. After discussion, Mr. Ford moved and Mr. Anderson seconded that the Board recommend the resolution be forwarded to the Legislative Committee of the Texas Judicial Council. The motion carried.

Enforcement Provisions. The Board considered the proposal to add discretionary enforcement remedies, including administrative penalties and injunctive relief, against guardians who are required to be certified but are not. After lengthy discussion, Ms. Meyer moved and Ms. Dabner seconded that the Board disapprove the resolution in its present form. The motion carried.

The Board discussed other possible enforcement remedies, including amendments to Probate Code Sections 601 and 761. Mr. Warach moved and Ms. Dabner seconded that the GCB be added to the list of interested parties in Probate Section 601(15), for purposes of seeking removal of guardian who is disqualified to serve. After further discussion, Mr. Warach amended his motion to add the GCB to those parties who may file a motion to have a guardian removed under Probate Code 761(c), and Mr. Anderson seconded. The consensus of the Board was that its authority to seek removal should be limited to motions filed under Probate Code 761(c)(10), which cites disqualification to serve under Probate Code Section 681. Mr. Warach amended his motion to recommend to the Legislative Committee of the Texas Judicial Council that the GCB be authorized by Probate Code Section 761(c) to bring lack of certification to a court's attention in a removal motion filed under subsection (c)(10). Mr. Ford seconded, and the motion carried.*

Reporting Requirements for Private Professional Guardians, Local Guardianship Programs, the Department of Aging and Disability Services and County Clerks. The Board considered the proposal to streamline reporting requirements, to eliminate duplicate reporting, and to provide for consistent reporting dates for reports filed with the Board by the entities listed. The new requirements should also provide better, more useful information to the Board. Mr. Ford moved that the Board recommend the resolution be forwarded to the Legislative Committee of the Texas Judicial Council, and Mr. Anderson seconded. The motion carried.

Appointment of Private Professional Guardians. The Board considered the proposal to clarify that both registration with the county clerk and certification by the Board are required for a private professional guardian to be appointed. Ms. Ondrechen noted a correction to the reference to the Probate Code; it should read Section 696, not Section 681. Mr. Warach moved that the Board recommend the corrected resolution be forwarded to the Legislative Committee of the Texas Judicial Council, and Ms. Strong seconded. The motion carried.**

Reduction of Criminal History Check Requirements. The Board considered the proposal to eliminate the requirement for a criminal background check by the county clerk on a potential guardian who is certified by the Board, which receives fingerprint-search criminal history reports on its applicants. Mr. Corbett moved that the Board recommend the resolution be forwarded to the Legislative Committee of the Texas Judicial Council, and Mr. Warach seconded. The motion carried.

Immediate Suspension of Certification Under Certain Circumstances.

The Board discussed the proposal to suspend a guardian's certification without advance notice to the guardian in certain circumstances. After discussion, Ms. Meyer moved and Ms. Patterson seconded that the Board disapprove the motion in its present form. The motion carried. Following further discussion, the chair moved and Ms. Meyer seconded that the proposal be tabled for further study over the next two years, and no action be proposed for the upcoming 81st Legislative Session. The motion carried.

REPORT FROM RULES COMMITTEE ON PROPOSED RULE CHANGES

Mr. Ford reported on two meetings of the Rules Committee. He summarized the changes to the rules the Committee proposes, including some revisions to the proposals made at the meeting earlier in the day. Proposals to amend Rules VI(e), VI(f), VI(h), VI(i), XI(a), XII(e), XII(f) and XIV(d) were discussed. Mr. Ford moved, and Ms. Meyer seconded, that the Board accept the proposed rule changes as amended and publish them for public comment. The motion carried. Any comments received will be considered by the Board at its October meeting.

The director noted proposed changes to the applications and instructions for certification and provisional certification, to clarify disclosure requirements regarding criminal history. Upon motion by Ms. Meyer and second by Ms. Dabner, the Board adopted the changes. New applications and instructions will be posted to the Board's website.

COMBINATION OF RULES AND MINIMUM STANDARDS COMMITTEES

The director proposed combining the two committees in the interest of efficiency. After discussion, the consensus of the Board was to keep the two committees separate.

PUBLIC COMMENT

Mr. Jones commented during the discussion on agenda items V- policy regarding participation or recusal of review committee members in Board vote on committee recommendations, VI-rule changes, VII-legislative proposals and VIII-combination of rules and minimum standards committees. No other public comment was made.

FUTURE BOARD MEETINGS

The last Board meeting for 2008 is scheduled for October 24. The Board will consider scheduling its 2009 meetings at that time; the director will provide proposed dates for 2009 prior to the October meeting.

ADJOURNMENT

On motion by Ms. Dabner and second by Mr. Warach, the meeting was adjourned at approximately 3:20 p.m.

Director's Notes

* The recommendations on enforcement provisions and on persons disqualified to serve as guardian were combined into one resolution for presentation to the Legislative Committee.

** After further review, Ms. Ondrechen and Ms. Bond concluded that the statute in its current form already accomplishes the desired result. Board members were notified of the director's intent to pull this resolution from consideration by the Judicial Council.

Convenience and Speed for Travel Voucher Corrections

Tina Washington and her hard-working staff in Finance have come up with a way to save a little time and frustration in processing travel vouchers, particularly for those of you in the field. As many of you may know, when our Finance staff process your travel voucher, they can't make any changes to dollar amounts without getting you to approve the change. Historically, this has meant we have to send the corrected travel voucher back to you for you to initial the change and then you have to send the travel voucher back to Finance for processing. This, of course, delays your travel reimbursement. In order to cut down on this time delay, we have developed a new "Travel Disclaimer" form that you have the OPTION to use. (It is not mandatory.) When you send in your travel voucher, you may sign the travel disclaimer form, which will allow us to make changes up to \$10 without sending the voucher back to you. You will be notified by email if we change your voucher and you always have the option of talking to our staff if you think we have made an error. You do have to complete the form for each voucher you send in, but it can ultimately be a time-saver. Check out the new form on our internal travel Web page: <http://www.courts.state.tx.us/oca/paf/Travel.asp>. It's listed with the "Travel Voucher form and examples." If you have questions, please contact Tina Washington or Carol Harper at (512)463-1625.

from Carl Reynolds' Weekly Newsletter

October 17, 2008



OFFICE OF COURT ADMINISTRATION

CARL REYNOLDS
Administrative Director

TRAVEL VOUCHER DISCLAIMER

I, _____, authorize OCA Finance and
(Traveler's Name)

Operations division staff to make changes to my travel voucher for immaterial corrections. When the corrections total less than \$10.00, please use this disclaimer as my authorization and approval to correct this voucher. I understand that I will be notified by email of the changes made so that I can note this in my records.

(Dates of Travel)

(Claimant's Original Signature)

(Date)

Comptroller Travel Allowance Guide requires that changes to travel vouchers be authorized by the individual who signed the original travel form (TAG 8.02 pg. 134).

Comptroller Travel Allowance Guide (TAG 1.06 pg. 8) also allows for waiver of voucher requirements if:

- 1) requirements are not based on Statute or appropriation Provision, and
- 2) the waiver is provided on a voucher by voucher basis, and
- 3) the Comptroller determines the waiver would not unreasonably increase the risk that an improper payment will be made.

By submitting this form with each travel voucher, you are allowing the Finance and Operations division staff to make immaterial corrections to your travel voucher without returning it to you for approval. You will be notified by email of the changes so you can note the change in your records.



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 6, 2008

The Honorable Jeff Wentworth
Chair, Committee on Jurisprudence
Texas State Senate
Post Office Box 12068
Austin, Texas 78711-2068

Opinion No. GA-0668

Re: Whether certain posted agenda items satisfy
the notice requirements of the Open Meetings Act,
chapter 551, Government Code (RQ-0696-GA)

Dear Senator Wentworth:

You ask whether certain posted agenda items satisfy the notice ⁽¹⁾ requirements under the Texas Open Meetings Act, chapter 551, Government Code (the "Act"). ⁽²⁾ See Tex. Gov't Code Ann. ch. 551 (Vernon 2004 & Supp. 2008). Your questions relate to section 551.041 of the Act, which requires that written notices of meetings held by a governmental body include the date, hour, place, and subject of each meeting. See *id.* § 551.041 (Vernon 2004). You are specifically concerned about the requisite specificity of the description of the *subject* of a meeting. See Request Letter, *supra* note 2, at 6.

I. Factual Background and Questions

You explain that the Corpus Christi City Council has for several years included "City Manager's Report," "Mayor's Update," and "Council and Other Reports" as items on the agenda for meetings of the governing body. *Id.* at 2. You tell us that the report by the city manager of the City of Corpus Christi ("City") is generally posted on the agenda as follows:

CITY MANAGER'S REPORT

Upcoming items.

Id. In conjunction with this agenda item, you indicate that the city manager traditionally states, describes, and announces upcoming agenda items, the date and time for local meetings, the status of City department issues, the receipt of City awards, and the arrival of new department directors. See *id.*

You explain that the mayor's update and council report have traditionally been posted as follows:

REPORTS

The following reports include questions by Council to Staff regarding City policies or activities; request by Council for information or reports from Staff; reports of activities of individual Council members and Staff; constituent concerns; current topics raised by media; follow-up on Staff assignments; scheduling of future Council meetings and activities; and other brief discussions regarding city-related matters.

MAYOR'S UPDATE

COUNCIL AND OTHER REPORTS

Id. at 3-4. During the "Mayor's Update" and "Council and Other Reports," you relay that the governing body generally extends its gratitude to staff or other members of the public and advises the city manager of citizen complaints, the location of potholes needing repair, and City-related news and matters. *Id.* at 2, 4.

In light of these facts, you ask the following questions:

- (1) Does the "City Manager's Report" provide adequate notice under the Open Meetings Act if the individual Council members do not engage in any discussion or take any action regarding these items, or does the Open Meetings Act require that every topic addressed by the City Manager during "City Manager's Report" be specifically listed on the Agenda?
- (2) Do the "Mayor's Update" and "Council and Other Reports" provide adequate notice under the Open Meetings Act if the individual Council members provide the information, and the remaining Council members do not discuss further or take any consideration

regarding these items, or does the Open Meetings Act require that every topic addressed by an individual Council member or Mayor during "Mayor's Update" and "Council and Other Reports" be specifically listed on the Agenda?

Id. at 6.

II. Analysis

We begin our analysis by providing an overview of relevant requirements of the Act. We then set out factors that may be relevant in determining whether a notice is adequate and the standard by which provisions of the Act should be construed. We next compare the notice at issue with those that have been determined by the courts to be inadequate under the Act. And, finally, we discuss when it is permissible to address a subject not included on a meeting notice and the extent to which such a subject may be addressed.

The Act requires that meetings of a governmental body, such as a city council, be preceded by written notice of the date, hour, place, and subject of the meeting. See Tex. Gov't Code Ann. § 551.041 (Vernon 2004); see also *id.* § 551.001(3)(C) (defining "governmental body" to include a municipal governing body) (Vernon Supp. 2008). The term "meeting" is defined as follows:

(A) a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action; or

(B) except as otherwise provided by this subdivision, a gathering:

(i) that is conducted by the governmental body or for which the governmental body is responsible;

(ii) at which a quorum of members of the governmental body is present;

(iii) that has been called by the governmental body; and

(iv) 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 governmental body, about the public business or public policy over which the governmental body has supervision or control. . . .

Id. § 551.001(4)(A)-(B); see also *id.* § 551.001(2) (defining "deliberation").

In determining the adequacy of a particular notice, courts have considered various factors. A court will, for example, compare the content of the notice to the action taken at the meeting. See *Markowski v. City of Marlin*, 940 S.W.2d 720, 726 (Tex. App.--Waco 1997, writ denied). A court may also consider whether the notice departs from any customary practice where such custom establishes an expectation in the public about the subject of the meeting. See *River Rd. Neighborhood Ass'n v. S. Tex. Sports*, 720 S.W.2d 551, 557 (Tex. App.--San Antonio 1986, writ dismissed). Whether the subject is of special interest to the public is also a factor that may impact the adequacy of a notice under the Act. See *Cox Enters., Inc. v. Bd. of Trs. of Austin Indep. Sch. Dist.*, 706 S.W.2d 956, 958-59 (Tex. 1986); *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176, 179-81 (Tex. App.--Corpus Christi 1990, writ denied). Underlying these considerations is the fact that the provisions of the Act "are mandatory and are to be liberally construed in favor of open government." *City of Farmers Branch v. Ramos*, 235 S.W.3d 462, 467 (Tex. App.--Dallas 2007, no pet.).

We next consider instances in which the subject matter of a meeting has been determined to be inadequately described in a notice. In a 1986 case, the Texas Supreme Court considered a meeting notice that included general terms such as "personnel," "litigation," and "real estate matters." *Cox Enters., Inc.*, 706 S.W.2d at 957. After explaining that notice under the Act "should specifically disclose the subjects to be considered at the upcoming meeting" the court held that those general terms "did not provide full and adequate notice, particularly where the subject slated for discussion was one of special interest to the public." *Id.* at 959.

In a 2000 opinion, this office concluded that the generic notice "employee briefing sessions" was inadequate under the Act. See Tex. Att'y Gen. Op. No. JC-0169 (2000) at 6. The opinion reasoned that because a governmental body exercises control over its staff, it presumably can ascertain in advance what subjects will be addressed such that those subjects should be included in the meeting notice. *Id.* And in a 2001 case, this same reasoning was applied by the Austin Court of Appeals to "comments by members of the governmental body itself." *Hays County Water Planning P'ship v. Hays County*, 41 S.W.3d 174, 180 (Tex. App.--Austin 2001, pet. denied) (citing Tex. Att'y Gen. Op. No. JC-0169 (2000)).

In *Hays County Water Planning Partnership*, the Austin Court considered the following posting: "Presentation by Commissioner Russ Molenaar." *Id.* at 178. The court held that "[p]resentation" is a vague description. There is nothing in the posting that would give a resident of Hays County any inkling of the *substance* of Molenaar's proposed presentation." *Id.* at 180. Use of the term fails "to inform a reader as a member of the interested public . . . of the topics to be addressed by Molenaar." *Id.*

Based on these cases and the standard to be used in construing the Act's provisions, we conclude the notice set out *supra* is inadequate as a matter of law. See *supra* p. 2; *City of Port Isabel v. Pinnell*, 207 S.W.3d 394, 406 (Tex. App.--Corpus Christi 2006, no pet.) (explaining that "[i]f the contents of a notice are undisputed, its adequacy is a question of law"); *City of Farmers Branch*, 235 S.W.3d at 467 (providing that the Act should be liberally construed in favor of open government). The general and generic nature of the notice does not sufficiently notify a reader, as a member of the interested public, of the subjects of the update and reports to be discussed at any particular meeting. And like the notices at issue in *Hays County Water Planning P'ship* and Attorney General Opinion JC-0169, the subjects to be addressed can presumably be ascertained by the governmental body in advance. *Hays County Water Planning P'ship*, 41 S.W.3d at 180; Tex. Att'y Gen. Op. No. JC-0169 (2000) at 6; *but see*, Tex. Att'y Gen. Op. No. JC-0169 (2000) at 4 (discussing "public comment" as sufficient notice where, unlike with staff, the governmental body cannot predict the subject matter of citizen comments and questions).

Our conclusion here is not altered by the fact that the governing body does not, as you assert, "engage in any discussion" or "take any action regarding these items." Request Letter, *supra* note 2, at 6. Under the Act's definition of "meeting" a governmental body is subject to the Act, and its notice requirements, even when its members merely receive information about public business or public policy over which the body has supervision and control and do not engage in deliberations. See Tex. Gov't Code Ann. § 551.001(4)(B) (Vernon Supp. 2008); *Martin v. Victoria Indep. Sch. Dist.*, No. 13-01-096-CV, 2002 WL 34215930, at *3 (Tex. App.--Corpus Christi Aug. 8, 2002, no pet.) (not designated for publication) ("[A] governmental body is subject to the Act even if the members merely receive information and do not engage in deliberations among themselves or with a third party including an employee of the governmental body[.]").

You also ask whether every subject addressed by the city manager or governing body in a report or update must be specifically listed on the agenda. Request Letter, *supra* note 2, at 6. Because you raise section 551.042 of the Act as applicable to your questions, we presume you are inquiring about how this section might be applicable to a report or update delivered by the city manager or by a member of the governing body at a meeting. See *id.* at 1-2.

Section 551.042 provides the following:

(a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:

- (1) a statement of specific factual information given in response to the inquiry; or
- (2) a recitation of existing policy in response to the inquiry.

(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Tex. Gov't Code Ann. § 551.042 (Vernon 2004) (emphasis added).

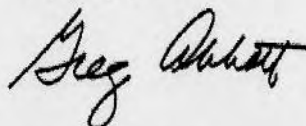
The purpose of section 551.042 is to authorize "a limited response to an inquiry about a subject not included in the posted notice while preventing" deliberations or decisions about the subject matter of the inquiry. *Hays County Water Planning P'ship*, 41 S.W.3d at 181. Thus, if a member of the governmental body is, for example, responding to an inquiry by a member of the public or a member of the governmental body arising from the delivery of a report or update, section 551.042 would authorize a statement of factual information or a recitation of existing policy in response to the inquiry, even where the subject was not included in the meeting notice. *Id.*; Tex. Gov't Code Ann. § 551.042(a) (Vernon 2004); see also *Gardner v. Herring*, 21 S.W.3d 767, 774 (Tex. App.--Amarillo 2000, no pet.) (holding that a spontaneous inquiry by a member of the governing body coupled with a recitation of factual and policy information did not violate the Act as it was authorized by section 551.042). To the extent authorized by section 551.042, not every subject addressed by the city manager or a member of the governing body must be specifically listed on the agenda. Other than a situation under section 551.042, which authorizes a limited response to certain inquiries, the subject of a report or update by city staff or a member of the governing body must be set out in the notice in a manner that informs a reader about the subjects to be addressed.

SUMMARY

The notice at issue does not sufficiently notify a reader, as a member of the interested public, of the subjects to be addressed at a meeting subject to the Open Meetings Act, Government Code chapter 551.

Section 551.042 of the Act authorizes a limited response to inquiries of a member of the public or of the governmental body about a subject not included in the posted notice. To the extent that a subject is addressed by a city manager or a member of the governing body in the manner and under the circumstances authorized under section 551.042, it does not have to be included in a posted meeting notice.

Very truly yours,



GREG ABBOTT
Attorney General of Texas

KENT C. SULLIVAN
First Assistant Attorney General

ANDREW WEBER
Deputy Attorney General for Legal Counsel

NANCY S. FULLER
Chair, Opinion Committee

Christy Drake-Adams
Assistant Attorney General, Opinion Committee

Footnotes

1. This office has explained in previous opinions that the terms "agenda" and "notice" are often used interchangeably in discussions of the Open Meetings Act because of the common practice of posting the agenda as the notice or as an appendix to the notice. See, e.g., Tex. Att'y Gen. Op. Nos. DM-473 (1998) at 3 n.10, DM-228 (1993) at 2 n.2.

2. See Letter from Honorable Jeff Wentworth, Chair, Committee on Jurisprudence, Texas State Senate, to Honorable Greg Abbott, Attorney General of Texas, at 6 (Apr. 4, 2008) (on file with the Opinion Committee, also available at <http://www.texasattorneygeneral.gov>) [hereinafter Request Letter].

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Texas Government Code
Chapter 551, Open Meetings
Subchapter C. Notice of Meetings

§ 551.041. NOTICE OF MEETING REQUIRED. A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body. Added by

Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.

§ 551.042. INQUIRY MADE AT MEETING. (a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to: (1) a statement of specific factual information given in response to the inquiry; or (2) a recitation of existing policy in response to the inquiry. (b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.

Added by Acts 1993, 73rd Leg., ch. 268, § 1, eff. Sept. 1, 1993.



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

October 14, 2008

By Certified Mail 7005 1820 0003 1758 [REDACTED] and by Regular First Class Mail

Sevie M. Dean
[REDACTED]

Dear Ms. Dean:

In my letter dated August 15, 2008, I informed you that the Guardianship Certification Board would consider Disciplinary Review Committee's recommended suspension of your certification because of your failure to comply with Rule X(c) of the Rules Governing Guardianship Certification.

This letter is to remind you that the Board will consider the Committee's recommendation at its meeting on October 24, 2008, at 11:00 a.m. CDT, in the Supreme Court of Texas courtroom, 201 West 14th St., First Floor, Austin.

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

Sincerely,

Lesley Martin Ondrechen
Director, Guardianship Certification Program

cc: Guardianship Certification Board



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

August 15, 2008

By Certified Mail 7005 1820 0003 1758 [REDACTED] and by Regular First Class Mail

Sevie M. Dean
[REDACTED]

Dear Ms. Dean:

In my letter dated July 16, 2008, 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 X(c) 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 October 24, 2008, at 11:00 a.m. CDT, in the Supreme Court of Texas courtroom, 201 West 14th St., First 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,

Lesley Martin Ondrechen
Director, Guardianship Certification Program

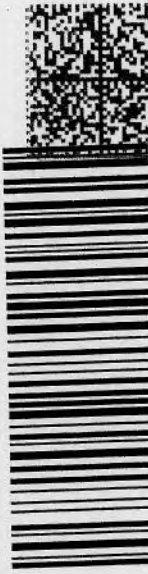
cc: Guardianship Certification Board



Guardianship Certification Board

P.O. Box 12066
Austin, Texas 78711

CERTIFIED MAIL™



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COURT ADMINISTRATOR

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Dean
1st Mark 8-19-08
2nd Mark 8/25
Mark 9/4

R.D.
8-19-08



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

July 16, 2008

By Certified Mail 7007 0220 0004 5095 [REDACTED] and by Regular First Class Mail

Sevie M. Dean
[REDACTED]

Dear Ms. Dean:

At its meeting on July 15, the Disciplinary Review Committee of the Guardianship Certification Board considered the Petition for Disciplinary Action filed on June 12, 2008. 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 an answer to the petition nor attend the meeting. The Committee voted to recommend that your certification be suspended until such time as you comply with Rule X(c) of the Rules Governing Guardianship Certification and provide the Board with your current business name, address and phone number.

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.

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

Sincerely,

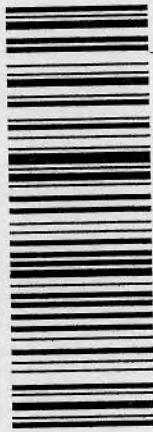
Lesley Martin Ondrechen
Director, Guardianship Certification Program

cc: Guardianship Certification Board



Guardianship Certification Board
P.O. Box 12066
Austin, Texas 78711

CERTIFIED MAIL™



UNITED STATES POSTAL SERVICE
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JUL 18 2008
REGISTERED
AUG 18 2008

OFFICE OF
COURT ADMINISTRATION

NAME *Dan*
Number *77808*
Number *2/23*
in *218*





TEXAS GUARDIANSHIP CERTIFICATION BOARD

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

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

July 3, 2008

By Certified Mail 7007 0220 0004 5095 [REDACTED] and by Regular First Class Mail

Sevie M. Dean
[REDACTED]

Dear Ms. Dean:

A Petition for Disciplinary Review was filed with the Guardianship Certification Board on June 12, 2008. 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 July 15, 2008 at 2:00 p.m. CDT. You are encouraged to attend the Committee meeting on July 15. 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,

Lesley Martin Ondrechen
Director, Guardianship Certification Board

:lmo

cc: Guardianship Certification Board Disciplinary Review Committee



Guardianship Certification Board

P.O. Box 12066
Austin, Texas 78711

CERTIFIED MAIL™



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MAILED FROM ZIP CODE 78701

RECEIVED

JUL 05 2008

OFFICE OF
COURT ADMINISTRATION

JUL 05 2008

Sevie M. Dean
Castle Ct., #2
Houston, TX 77006

UNCLAIMED

leaf 7-5-08
MAIL OFFICE
728



TEXAS GUARDIANSHIP CERTIFICATION BOARD

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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

[date]

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: _____

Your address: _____ City _____ State _____ Zip _____

Daytime Phone Number: _____ Alternate Phone Number: _____

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

Email Address _____

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: _____ Respondent's Certification Number: _____

Address: _____ City _____ State _____ Zip _____

Daytime Phone Number: _____ Alternate Phone Number: _____

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

Email Address _____

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>.

4. Facts:

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

5. Documents:

Provide a list of any supporting documents attached.

I understand that the Program Director will review this petition for compliance with Rule XII(b) of the Rules Governing Guardianship Certification. If the petition is not in compliance, I will be notified. After review, the Program Director will submit the petition, 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. The Program Director will notify me in writing of the dates and times of the meetings at which the Disciplinary Review Committee and the Board will review my petition.

Respectfully submitted,

[your name]
[title, if applicable]

Instructions and Information Regarding
Petition to Initiate Disciplinary Procedures

Rule XII(a) of the Rules Governing Guardianship Certification provides that any person may petition the Board to initiate disciplinary procedures. There is no requirement that your complaint be submitted on this form. However, a petition to initiate disciplinary procedures must be in writing and must include all the information required by Rule XII(b):

- name and contact information for the petitioner and respondent
- an allegation of the existence of one or more disciplinary criteria set forth in Rule XI
- an adequate factual basis for the allegation(s)
- any necessary documentation or other supporting materials or information.

Please provide the information requested legibly and in as much detail as possible.

1. Name and contact information for the person filing the petition.
2. Name and contact information for the certified guardian about whom you are complaining. (At minimum, provide the name of the certified guardian and his/her address.)
3. Describe the nature of the violation, and cite the Rule and/or Minimum Standard you allege was violated. For example:
The guardian failed to comply with Rule X(c), which requires a guardian to report a change in address to the Board.
4. Describe the situation leading to the alleged violation.
5. A brief description of each document attached. For example:
Letter to guardian dated October 15, 2007
Motion to modify guardianship filed with the court on November 1, 2007

Please submit the completed form, along with any supporting documents to
Guardianship Certification Board
c/o Office of Court Administration
P.O. Box 12066
Austin, Texas 78711-2066
attn: Lesley Martin Ondrechen, Program Director

NOTE:

The Program Director can answer your questions about the content of the Rules Governing Guardianship Certification and the Minimum Standards for Guardianship Services, and can direct you to the Board's website for information on certified guardians. She can answer questions on the disciplinary procedures, time-frames, deadlines, and the like.

The Program Director cannot assist you in completing the form, cannot tell you how or if a particular Rule or Minimum Standard applies to your situation, cannot speculate concerning a possible outcome, and cannot speak for the Board.



TEXAS GUARDIANSHIP CERTIFICATION BOARD

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

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

PROGRAM DIRECTOR
LESLEY MARTIN ONDRECHEN

September 8, 2008

Rodney Hamilton, LMSW
Harris County Protective Services
Representative Payee Program
P.O. Box 20605
Houston, Texas 77225-0605

Re: Request to Extend Provisional Certification Period
Certification Number PG-0053, expires October 11, 2009

Dear Mr. Hamilton:

I received your request for an extension of your two-year provisional certification period due to medical problems.

Under Rule XIV(f) of the Rules Governing Guardianship Certification, a waiver of the two-year provisional certification period must be approved by the Guardianship Certification Board. I will present your request to the Board at its next regularly scheduled meeting on October 24, 2008. I will notify you in writing of the Board's decision.

The Board usually meets in the Tom C. Clark Building, 205 West 14th Street, 6th Floor, Austin at 11:00 a.m. Should that change, the new location will be posted on the Board's website (<http://www.courts.state.tx.us/gcb/meetings.asp>). You are welcome, but not required, to attend.

Please let me know if you have any questions, or if I may be of assistance to you. My direct phone 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

:lmo

**HARRIS COUNTY PROTECTIVE SERVICES
FOR CHILDREN AND ADULTS
Representative Payee PROGRAM**

2525 MURWORTH Dr., HOUSTON, TEXAS 77054 713-363-2300
MAILING ADDRESS: P.O. BOX 20605, HOUSTON, TX 77225-0605
www.hccps.org



RECEIVED

**OFFICE OF
COURT ADMINISTRATION**

September 2, 2008

Re: PG 0053

To Whom It May Concern,

I am writing to request an extension to the Provisional Guardianship Certification. I am currently employed with Harris County Representative Payee Program. Due to complications with diabetes resulting in an amputation, I am requesting the 115 days I was out on FMLA extend my expiration day to become a Certified Guardian. I was out on FMLA the following dates:

August 7, 2007- September 4, 2007
September 17, 2007- October 2, 2007
March 7, 2008- March 27, 2008
April 7, 2008- May 30, 2008

A deferment of my Provisional Guardianship Certification is requested.
Your time and efforts are greatly appreciated, and the undersigned can be reached at (713) 363-2380.

Sincerely,

Rodney Hamilton, LMSW

Rodney Hamilton, LMSW
Harris County Representative Payee
2525 Murworth Dr.
Houston, TX 77054
Office: (713) 363-2380
Fax: (713) 363-2391

Harris County
Commissioners Court

ACCREDITED



CWLA CHILD WELFARE LEAGUE OF AMERICA



TEXAS GUARDIANSHIP CERTIFICATION BOARD

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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

October 11, 2007

Rodney J. Hamilton
[REDACTED]

Dear Mr. Hamilton:

On behalf of the Texas Guardianship Certification Board, I am pleased to inform you that you have met the qualifications for provisional certification. You are hereby provisionally certified to provide guardianship services in this state.

Certificate Number PG-0053
Issued October 11, 2007
Expires October 11, 2009

Please remember to include your provisional certificate number and the certificate number of your certified guardian supervisor on all papers filed with a court (Rule XIV(c)(5)). You may not state, represent or imply that you are a certified guardian (Rule XIV(e)). You must meet the continuing education requirements established by the Board (Rules VII(b) and XIV(c)(6)). Unless a waiver is sought and approved by the Board, you may not be provisionally certified for more than one two-year period (Rule XIV(f)).

Information, including rules and minimum standards for guardianship services, is available from the Board's website, www.courts.state.tx.us/gcb/gcbhome.asp. If you have any questions or concerns, please contact me.

Sincerely,

Lesley Martin Ondrechen
Director, Guardianship Certification Program

CGC to Unveil New Designations

Designation Name Change to Occur in October 2008

On October 4, 2008, the Center for Guardianship Certification (CGC) will be updating the name of the current certification designations, Registered Guardian and Master Guardian, to National Certified Guardian (NCG) and National Master Guardian (NMG) respectively.

The CGC Board of Directors made this decision in order to provide clarification for certified guardians and fiduciaries, as well as the court systems, judges, and individuals who employ them in regards to the national certification held. CGC currently provides both state specific examinations for the states of California, Florida, Oregon and Texas and national examinations.

“State-mandated certification programs are becoming an increasing trend and the Center for Guardianship Certification needed to find a way to better clarify that certain certifications received through CGC are national designations,” stated Executive Director, Denise Calabrese.

Another reason that the Board voted to change the name of the national certification designations was to clarify that the current Registered Guardian and Master Guardian designations signify more than a registration process. CGC conducts national examinations that require experience and a set of skills to pass. In addition, to remain certified individuals must attend continuing education courses.

The image change is just one attempt to brand the certification process and the organization. CGC will continue to promote a high professional standard by certifying guardians and fiduciaries nationally.

As of October 2008 and moving forward, current Registered Guardians should be reflected as John Smith, Certified National Guardian or as John Smith, CNG. Current Master Guardians should be reflected as John Smith, Certified Master Guardian or as John Smith, CMG. All current Registered and Master Guardians will be receiving new certificates and verification cards at the time of transition.

From now until October 2008, please continue utilizing your current designation of either Registered Guardian or Master Guardian. However, we ask you to keep this designation name change in mind when printing letterhead, and business cards, and during website redesigns.

The CGC Board of Directors thanks you for your assistance in this project and looks forward to the continual advancement of the guardianship and fiduciary profession.

**important
news**

**Request for Comments on Proposed Amendments
To Rules Governing Guardianship Certification
Guardianship Certification Board**

The Guardianship Certification Board (Board) requests comments on the following amendments to Rules VI, XI, XII and XIV of the Rules Governing Guardianship Certification.

The proposed amendments to Rule VI add a requirement for an applicant to disclose whether s/he has been denied certification or had certification revoked or suspended in any jurisdiction requiring licensure or certification to provide guardianship services, and add lack of fitness as a reason a person is disqualified for certification. The latter proposed amendment adds new subsection (h) and re-numbers current subsection (h) as subsection (i). The third amendment to Rule VI corrects citations to certain sections of the Texas Penal Code; the same corrections constitute the proposed amendment to Rule XI.

The proposed amendments to Rule XII provide for a mechanism for the Board to grant an extension of time to file an answer or provide additional documentation requested, and permits the Board's designee to set the date for a hearing in a disciplinary action. The amendment to Rule XIV would permit a certified guardian supervisor and a provisionally certified guardian to meet by conference call rather than face-to-face on a limited basis and in very limited circumstances.

Comments must be submitted in writing by 5:00 p.m. on September 5, 2008 to Lesley Ondrechen, Office of Court Administration, P.O. Box 12066, Austin, Texas 78711-2066, or lesley.ondrechen@courts.state.tx.us. The Board will consider the proposed amendment and any comments received at a meeting on October 24, 2008.

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~~ 22.05 (deadly conduct), ~~22.08~~ 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 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; 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) Not engage in conduct that demonstrates a lack of fitness to perform the duties and discharge the responsibilities of a person providing guardianship services.
- (h) (i) 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, or been denied certification or had certification revoked or suspended as described under Section VI(f)(1), or (2) or (3) above, the applicant must describe with particularity the circumstances and provide any related documentation requested 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, 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 recertification 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), ~~22.07~~ 22.05 (deadly conduct), ~~22.08~~ 22.07 (terroristic threat), and 32.45 (misapplication of fiduciary property) of the Texas Penal Code;
 - 7) 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.
 - 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) 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. Respondent, for good cause shown, 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. The 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) 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, the Review Committee may allow up to thirty (30) days to provide the additional information. ~~its~~ The Review Committee's 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 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.
- (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.

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.
 - 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. If the provisionally-certified guardian and the supervisor demonstrate unforeseen circumstances that prevent a face to face meeting, then one meeting per month may be held by telephone conference call;
 - 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.
 - 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 unless a waiver is approved by the Board. 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.
- (g) If a provisionally-certified guardian applies to be a certified guardian within one year of obtaining provisional certification, it will not be necessary for the applicant to submit a new criminal history record.

Lesley Ondrechen

From: Lesley Ondrechen
Sent: Friday, August 01, 2008 11:12 AM
To: 'Jesus Sanchez'
Subject: RE: Question regarding supervision of Provisional Guardians

Dear Mr. Sanchez,

I apologize for the delay in responding. I was unexpectedly out of the office most of the week.

As staff for the Guardianship Certification Board (Board), I cannot interpret the rules; that is up to the Board. The Board has not been faced with this particular question as part of a complaint, and there is no mechanism for it to issue advisory opinions without having a complaint before it.

However, the Board is considering a change to the part of the rules governing meetings between certified guardian supervisors and provisionally certified guardians. The rule changes will be published for public comment by next week. Feel free to bring the issue to the Board's attention in comments - the request for comments on the Board's website will give instructions on how to file written comments. Also, you may attend the Board's next meeting on October 24 and present comments in person. The Board will consider the proposed rules and any comments at that meeting.

-Lesley Ondrechen

From: Jesus Sanchez [mailto:jsanchez@projectamistad.com]
Sent: Monday, July 28, 2008 9:35 AM
To: Lesley Ondrechen
Cc: Margie Melendez
Subject: Question regarding supervision of Provisional Guardians
Importance: High

Ms. Ondrechen:

I am currently employed with LULAC Project Amistad, a guardianship organization in El Paso, TX, and also currently supervise a worker housed in our Midland office. Project Amistad has recently opened this office in Midland after having been awarded a guardianship contract by DADS.

While I am a certified guardian the person I supervise is in the process of receiving her provisional certification. It is my understanding that once she receives her certification her supervision must consist of a face to face meeting every two weeks. Since I am in El Paso what we had hoped to do was to conduct these visits over a Web Camera. This would allow for me to speak to the worker face to face over the web. However we are now wondering if this would satisfy the bi-weekly required face to face visit. We would appreciate you clarifying this for us. Thank you for your assistance.

Sincerely,

Jesus Sanchez, *RG CG*
 Guardianship Specialist/DADS Program Supervisor
 LULAC Project Amistad
 310 N. Mesa Ste. 520
 El Paso, TX 79901
 915-225-1665
 915-532-7463 FAX

Serving the Elderly & Persons with Disabilities

9/15/2008

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Criminal History Subject to Non-Disclosure

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code and

WHEREAS, the Judicial Council Legislative Committee reviews Judicial Branch legislative proposals and has reviewed the proposal related to amending Government Code Section 411.081(i) to add the Guardianship Certification Board (GCB) and county clerks to the list of entities who may receive criminal history reports even when the incident is subject to non-disclosure.

NOW THEREFORE, BE IT RESOLVED, that the Texas Judicial Council supports, and recommends that the Texas Legislature enact, statutory changes in keeping with the following statement of the Background and Purpose of such legislation:

Background

The GCB received authority to obtain criminal history records during the 80th Legislature, R.S. (Senate Bill 505) by fingerprint search of both national records by the Federal Bureau of Investigation and Texas records by the Department of Public Safety. However, if an applicant to the GCB has a criminal history but has obtained an order of nondisclosure under Section 411.081, the GCB will not receive information about the criminal history covered by the order unless the GCB is included in the list of agencies in Section 411.081(i) that may receive such information.

County clerks can obtain criminal history information under Section 411.1386 in connection with the appointment of a guardian, but are not included in Section 411.081(i).

Purpose

Adding the GCB and county clerks to Section 411.081(i) is needed to allow them to have a complete criminal history on applicants for certification and potential guardians, respectively. This is particularly important if the crimes involved abuse, neglect, financial exploitation or moral turpitude.

Honorable Wallace B. Jefferson
Chief Justice, Supreme Court of Texas
Chairman, Texas Judicial Council

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Elimination of Redundant Criminal History Check Requirements

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code and

WHEREAS, the Judicial Council Legislative Committee reviews Judicial Branch legislative proposals and has reviewed the proposal related to amending Probate Code Section 698 and Government Code Section 411.1386 to eliminate the requirement for county clerks to perform a criminal history background check if the person subject to the check is certified by the Guardianship Certification Board (GCB).

NOW THEREFORE, BE IT RESOLVED, that the Texas Judicial Council supports, and recommends that the Texas Legislature enact, statutory changes in keeping with the following statement of the Background and Purpose of such legislation:

Background

There is an interim legislative charge to examine criminal history background check requirements, including licensed professionals, to determine best practices, develop cross-agency standards, make recommendations to reduce costs and streamline the process.

County clerks are required to obtain criminal history records for those serving as guardians, proposed guardians, and local guardianship program employees and volunteers who provide guardianship services to the program's wards. This requirement does not apply to family members, attorneys, and individuals who are or will be providing guardianship services to wards of the Department of Aging and Disability Services (DADS).

The GCB and DADS also obtain criminal history information. The GCB obtains criminal history information on applicants for certification. DADS obtains pre-employment criminal history searches for employees in its guardianship program; and beginning September 1, 2008, the GCB will have access to these results when the DADS employee applies for certification.

Purpose

The proposal to amend Probate Code Section 698 and Government Code Section 411.1386 will eliminate the redundant requirement for county clerks to perform a criminal history background check if the person subject to the check is certified by the

GCB. This change is needed to help reduce costs for local guardianship programs, DADS and county clerks. It would eliminate some of the financial burden on programs and would save time and effort for county clerks if the requirement for clerks to obtain criminal history background checks on certified guardians was eliminated.

Honorable Wallace B. Jefferson
Chief Justice, Supreme Court of Texas
Chairman, Texas Judicial Council

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Persons Disqualified to Serve as Guardians Because of Lack of Certification

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code and

WHEREAS, the Judicial Council Legislative Committee reviews Judicial Branch legislative proposals and has reviewed the proposal related to amending Probate Code Section 681 to add lack of required certification by the Guardianship Certification Board (GCB) to the list of reasons a person may not be appointed guardian, and amend Probate Code Section 761(c) to give the GCB the authority to bring a guardian's lack of certification to a court's attention in a removal motion.

NOW THEREFORE, BE IT RESOLVED, that the Texas Judicial Council supports, and recommends that the Texas Legislature enact, statutory changes in keeping with the following statement of the Background and Purpose of such legislation:

Background

Certain individuals who provide guardianship services must be certified by the GCB, as required by Probate Code Section 697B and Government Code Section 111.042(a). However, there are no provisions for the GCB to enforce the certification requirement. Moreover, Probate Code Section 681, which lists reasons a person is not qualified to be appointed guardian, does not list lack of certification.

Probate Code Section 761(c)(10) provides that an interested person may file a motion to remove a guardian based on the guardian's ineligibility under Section 681, but the GCB is not an "interested person" and therefore under current law could not file a removal motion based on lack of certification.

Purpose

These changes are needed to help enforce existing statutory requirements that a person who must be certified by the GCB may not serve as a guardian if s/he does not have the required certification. Under the amendments, lack of certification would be added to the list in Probate Code Section 681 of reasons a person is ineligible to be appointed guardian, and the GCB would be authorized by Probate Code Section 761(c) to bring lack of certification to a court's attention in a removal motion filed under subsection (c)(10).

Honorable Wallace B. Jefferson
Chief Justice, Supreme Court of Texas
Chairman, Texas Judicial Council

STATE OF TEXAS

RESOLUTION

of the

TEXAS JUDICIAL COUNCIL

Reporting Requirements for Private Professional Guardians, Local Guardianship Programs, the Department of Aging and Disability Services and County Clerks

WHEREAS, the Texas Judicial Council is the policymaking body for the Texas Judicial Branch, created under Chapter 71, Texas Government Code and

WHEREAS, the Judicial Council Legislative Committee reviews Judicial Branch legislative proposals and has reviewed the proposal related to amending Government Code Chapter 111 and Probate Code Sections 697 and 697A to streamline reporting requirements, to eliminate duplicate reporting and to provide for consistent reporting dates for reports filed with the Guardianship Certification Board (GCB) by private professional guardians, local guardianship programs, the Department of Aging and Disability Services (DADS) and county clerks, and reports filed with county clerks by private professional guardians and local guardianship programs.

NOW THEREFORE, BE IT RESOLVED, that the Texas Judicial Council supports, and recommends that the Texas Legislature enact, statutory changes in keeping with the following statement of the Background and Purpose of such legislation:

Background

Some entities are required by statute to report the same or similar information to more than one entity. Some reporting deadlines are January 31 and some are February 1. Some information would be added to required reports, and some reporting requirements would be eliminated.

Purpose

This change is needed to help reduce costs, provide better, more useful information to the GCB, and eliminate duplicate reporting. Benefits to each reporting entity:

DADS: the reporting due date would be consistent with all others.

Local Guardianship Programs: Each program would be required to prepare only one report to be filed with the GCB and county clerks. Adding an element that indicates in which county(ies) a program employee, volunteer or contractor provides or is authorized to provide guardianship services could reduce costs of criminal history background checks to the program, as well as providing the GCB with better information on counties where wards are served by certified guardians.

Private Professional Guardians: Some duplicative reporting is eliminated by requiring a copy of the application for certificate of registration.

County Clerks: Costs would be reduced by eliminating the need to submit information on local guardianship programs to the GCB. The reporting due date for information on private professional guardians would be consistent with all others.

Honorable Wallace B. Jefferson
Chief Justice, Supreme Court of Texas
Chairman, Texas Judicial Council

Texas Judicial Council
Legislative Committee
October 31, 2008
10:00 a.m. CDT
Office of Court Administration 6th Floor Conference Room

Texas Judicial Council
November 7, 2008
10:00 a.m. CDT
Supreme Court of Texas Courtroom

**Probate, Guardianship & Mental Health Legislative Proposals
for Consideration by Texas Judicial Council's Legislative Committee for the 81st Legislature
October 31, 2008**

#	Description	Workgroup	Other Parties	Legislation (80 th)	Senate Sponsor (80 th)	House Sponsor (80 th)	OCA Staff
65.	Address 2007 addition to Probate Code authorizing proof of lost will by means of identification of copy of will	Probate, Guardianship & Mental Health		HB 391 (passed)	Wentworth	Hartnett	Ted Wood
66.	Address provision prohibiting adopted adult from inheriting from biological parent	Probate, Guardianship & Mental Health		HB 204 (79 th)	Harris	Goodman	Ted Wood
67.	Clarify notice provisions upon filing of final accounting of estate	Probate, Guardianship & Mental Health					Ted Wood
68.	Empower county clerk to deny issuance of letters to executors and administrators who are not in compliance with Sections 128A and 250, Probate Code	Probate, Guardianship & Mental Health					Ted Wood
69.	Require courts to report mental commitment and guardianship information to DPS for use in federal data base to prevent certain people from purchasing guns	Probate, Guardianship & Mental Health		SB 1755	Ellis		Ted Wood
70.	Set time period within which child born through alternative reproduction techniques (ART) must be born to claim share of intestate's estate	Probate, Guardianship & Mental Health					Ted Wood



Guardianship Certification Board
 205 W. 14th Street, Suite 600, Tom C. Clark Bldg, Austin,
 Texas 78701

\$25.00 Re-Certification Application Fee Must accompany this application

Re-Certification Application Form

1. Name	Last _____ First _____ M.I. _____ Suffix _____	2. Certifica- tion Number	Expires On mm/dd/yyyy																												
3. Provisional Certification	If you were provisionally certified before being granted certification, check here: <input type="checkbox"/>	Provisional Certification Number																													
4. Address (provide current home and work contact informa- tion)	Home <input type="checkbox"/>	Street _____ City _____ State _____ Zip _____	Phone _____																												
	Work <input type="checkbox"/>	Street or P.O. Box _____ City _____ State _____ Zip _____	Phone _____																												
	Email Address _____		Other Phone (e.g., cell) _____ FAX _____																												
5. Contact Preference	Mail: <input type="checkbox"/> Home <input type="checkbox"/> Work (if both, or neither, is selected, mail will be sent to work address) <input type="checkbox"/> E-Mail: If this box is selected, Board staff will communicate with you by e-mail, except when notice by U.S. mail is required																														
6. Education (provide informa- tion on any de- grees earned since you were certified)	College or University	Name and Location of School	<table border="1"> <thead> <tr> <th colspan="4">Dates Attended</th> <th rowspan="2">Degree</th> <th rowspan="2">Major</th> </tr> <tr> <th colspan="2">From</th> <th colspan="2">To</th> </tr> <tr> <th>Mo</th> <th>Yr</th> <th>Mo</th> <th>Yr</th> <td></td> <td></td> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Dates Attended				Degree	Major	From		To		Mo	Yr	Mo	Yr														
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7. Work Experience (list your current em- ployer, employer as of date you were certified if different, and any changes to employer during your certification period)	<table border="1"> <tr> <td>Start Date</td> <td>Leave Date</td> <td rowspan="2">Employer:</td> <td rowspan="2">Location:</td> </tr> <tr> <td>Mo Yr</td> <td>Mo Yr</td> </tr> <tr> <td></td> <td>Current</td> <td></td> <td></td> </tr> </table>	Start Date	Leave Date	Employer:	Location:	Mo Yr	Mo Yr		Current																						
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Mo Yr	Mo Yr																														
	Describe relevant experience:																														
8. Continuing Education (6 hours for each year of the certi- fication period, in- cluding 1 hour of ethics each year and 1 hour of legis- lative update for the 2 year period)	Report continuing education hours earned during your two-year certification period. If you were provisionally certi- fied prior to your current certification period, please include continuing education hours earned during your provi- sional certification period. (Attach separate sheet if necessary.)																														
	date of course	sponsor	name and location of course	hours	ethics hours	legislative update hours																									

9. 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?

Note: Answer yes even if your plea resulted in a probation or deferred adjudication that was successfully completed and subsequently dismissed.

Driving While Intoxicated is NOT considered a traffic offense and should be reported.

No Yes – Provide a certified copy of the charging instrument, judgment, and disposition, including dates, charges, court, court location, and any other pertinent information.

10. 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?

No Yes – Provide details (attach separate sheet if necessary):

11. 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?

No Yes – Provide details (attach separate sheet if necessary):

I certify under penalty of perjury that the information provided in this re-certification application is true and correct. I further certify that I completed the continuing education hours listed on this re-certification application. 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 the renewal fee (and the late fee, if applicable) submitted with this application is non-refundable. I understand that if my certification is renewed, I will have a continuing obligation under Rule X(c) and (d) of the Rules Governing Guardianship Certification to notify the Board if there is a change in circumstances.

(Must be signed before a Notary Public) 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 (or \$100.00 if the \$75.00 late fee applies), 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.

TEXAS GUARDIANSHIP CERTIFICATION BOARD
INSTRUCTION SHEET FOR RE-CERTIFICATION APPLICATION FORM

1. To qualify for re-certification, you must comply with Rule VI(e), (f) and (g) of the Rules Governing Guardianship Certification; see questions 9, 10 and 11 on the Re-Certification Application Form. Even if the information was disclosed and considered during your initial application process, you must report it as part of the re-certification process.
2. In addition, you must complete six hours of continuing education during *each* year of the certification period, including one hour of ethics *each* year and one hour of legislative update for the two-year certification period. A maximum of two hours may be carried forward from one year to the next, but ethics hours cannot carry forward. Continuing education must be participatory, and must be on the list of Board-approved courses in order to claim credit for it. Go to www.courts.state.tx.us/gcb/edu.asp for a list of approved activities.

Provisionally certified guardians are bound by the same continuing education rules as certified guardians. If you were provisionally certified prior to your current certification period, report hours taken during the time you were provisionally certified on the re-certification application. (Report these hours in addition to the continuing education hours completed during your two-year certification period.)

Attendance at a continuing education activity must be verified to claim credit. Attach a certificate of attendance, verification of attendance form, or other document to prove you completed the activity. This is particularly important if you are claiming ethics or legislative update hours that were earned during a "break-out" session at a seminar, conference, etc. that offered multiple concurrent sessions.

Continuing education hours may be earned for teaching, speaking or writing. Attach a copy of your Request for Approval of Continuing Education Credit for Teaching, Speaking or Writing, signed by the Guardianship Certification Program Director, as verification for these hours.

2. Complete the Re-Certification Application Form. Be sure to provide complete information. Your application must be notarized.

3. You must provide the Board with your [Texas and] national criminal history records by having your fingerprints submitted to the Department of Public Safety (DPS). DPS will perform a Texas criminal history search and forward the fingerprints to the FBI for a national criminal history search. DPS has contracted with Fingerprint Applicant Services of Texas (FAST) to provide fingerprinting services. You may also be able to obtain fingerprinting services from local law enforcement officials. For a list of FAST locations and hours of operation, please visit www.L1id.com. If you use FAST, you must schedule an appointment by visiting their website or calling 1-888-467-2080. When you go to the FAST location, you must take a FAST Pass, available from the Board's website www.courts.state.tx.us/gcb/docs/FASTPass.doc. If you do not use FAST, you must provide the Board's ORI Number (TX922180Z) to the entity that fingerprints you so that your search records reach the Board. The FAST charge for the fingerprinting service is \$9.95 [the charge for a Texas criminal history record search is \$15.00;] and the charge for an FBI search is \$19.25, for a total of \$44.20 [\$29.20]. All fees are paid to FAST at the time your fingerprints are taken. The criminal history records resulting from [both the Texas and] national criminal history searches will be forwarded directly to the Board. **The Board will not process your application until it has received the results of the criminal history searches.** The [Texas and] national criminal history searches must be conducted no earlier than 90 days prior to the date you submit your application.

Note: Applicants are required to self-report criminal history (see question #9), except juvenile and misdemeanor traffic offenses. If you are unsure if an offense is a traffic offense, it should be reported. The Board may require further information and review on any criminal history.

6. Mail your completed application and the \$25.00 application fee to:
Office of Court Administration
Guardianship Certification Board
P.O. Box 12066
Austin, Texas 78711-2066

You may deliver your application and fee to 205 West 14th Street, Suite 600, Austin, Texas. Faxed or e-mailed applications are not acceptable.

Your application should be filed no more than ninety (90) days before your current certification

expires. You may apply for re-certification up to 90 days after your current certification expires. If you apply less than 90 days before or up to 90 days after your certification expiration date, you must pay a late fee of \$75 **in addition to** the \$25 application fee. Applications for re-certification received by the Board more than 90 days past your certification expiration date will be denied. You must begin the certification process anew.

7. Upon receipt, Board staff will review your application. You will be notified if any required information or documentation is missing. The Board reserves the right to request further information from you during the re-certification process.
8. You will be notified when your application for re-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 re-certification as set forth in Rule IX, Rules Governing Guardianship Certification.
9. Re-certification is valid for two years and may be suspended or revoked by the Board at any time for the reasons set forth in Rule XI, Rules Governing Guardianship Certification. You must apply for re-certification every two years.

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Guardianship Certification Board
Proposed Meeting Dates for Calendar Year 2009

First Quarter
Friday, February 20

Second Quarter
Friday, May 15

Third Quarter
Friday, July 17

Fourth Quarter
Friday, October 16