

IN THE PROBATE COURT NUMBER _____
OF EL PASO COUNTY, TEXAS

IN THE MATTER OF THE
GUARDIANSHIP OF THE
PERSON AND ESTATE OF

AN INCAPACITATED PERSON

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CAUSE NO. 2015-CGD _____

**APPLICATION FOR APPOINTMENT OF A PERMANENT
GUARDIAN OF THE PERSON AND ESTATE**

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to Section 1104.001 of the Texas Estates Code,
_____ files this his Application for the
Appointment of a Permanent Guardian of the Person and Estate of
_____ (hereinafter "Mr./Mrs. _____"),
and in support of this Application would respectfully show this Court as follows:

I.

PROPOSED INCAPACITATED PERSON

_____, an adult male/female, ___ years of age
whose date of birth is _____, is an incapacitated person as defined in Section
1002.016 of the Texas Estates Code. Mr./Mrs. _____
resides at _____, El Paso, El Paso County, Texas 799__.

II.

KIND OF GUARDIANSHIP

Applicant is the [relationship] of Mr./Mrs. _____ and seeks appointment of as Permanent Guardian of the Person and Estate of _____ to manage his/her personal and financial affairs.

III.

NEED FOR GUARDIANSHIP

The facts requiring the appointment of a guardian are as follows:

_____ is an incapacitated person who has been diagnosed in the attached medical affidavit prepared by Dr. _____ dated _____, with _____ which has rendered him/her totally unable to manage his/her personal and financial affairs. (*See Exhibit "A"*).

Mr./Mrs. _____ is unable to do those things necessary to protect and preserve his/her personal well-being and financial estate. Consequently, it is in the best interest of Mr./Mrs. _____ for a guardian to be appointed to manage his/her personal affairs, to make health care decisions and to manage his/her estate. Applicant specifically requests that the Court remove the following rights of the Proposed Ward:

- a. The right to make any gifts of real or personal property.
 - b. The right to drive and obtain a driver's license.
 - c. The right to execute a Directive to Physicians (Living Will).
 - d. The right to execute a Power of Attorney.
 - e. The right to execute any and all legal documents or contracts.
 - f. The right to execute a Power of Attorney.
 - g. The right to execute a Last Will and Testament.
 - h. The right to marry.
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- i. The right to determine and to make decisions regarding residence.

Applicant further respectfully represents that all alternatives to guardianship and available supports and services to avoid guardianship have been considered, and that there are no feasible alternatives and/or supports that would avoid the need for guardianship. ***(Practice tip: If a limited guardianship is sought, limit only those rights which are appropriate.)***

IV.

GUARDIAN TO BE APPOINTED

Applicant requests that he/she be appointed Permanent Guardian of the Person and Estate of _____ to manage his/her personal and financial affairs. Applicant is the Proposed Ward's [relationship]. Applicant resides at _____, El Paso, Texas 799__.

V.

TERM OF GUARDIANSHIP

Applicant requests that the term of the guardianship be permanent.

VI.

EXISTING GUARDIANSHIPS/POWERS OF ATTORNEY/DESIGNATIONS OF GUARDIAN

There are no guardianships of the person or estate of _____ known to Applicant. Applicant is not aware of any designations of guardian of the Proposed Ward in a Last Will and Testament, or a written designation executed by the Proposed Ward's last surviving parent.

VII.

CARE AND CUSTODY OF THE PROPOSED WARD

_____ currently resides at
_____, El Paso, El Paso County, Texas 799__.

VIII.

NEXT OF KIN

Applicant has been able to identify the following relatives of the Proposed Ward:

<u>NAME</u>	<u>RELATION</u>	<u>ADDRESS</u>	<u>TELEPHONE</u>
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IX.

PERSON TO RECEIVE CITATION

Pursuant to Texas Estates Code §1051.103, citation shall be issued to the following persons:

X.

PERSON TO RECEIVE NOTICE BY CERTIFIED MAIL

Pursuant to Texas Estates Code §1051.104, notice via certified mail shall be delivered to the following persons, whose last known whereabouts are as follows:

XI.

VENUE

The Court has venue of this proceeding under Section 1023.001 of the Texas Estates Code because _____ resides in El Paso County.

XII.

DUTIES AND POWERS OF GUARDIAN

Applicant alleges that _____ has incapacities which prevent her from properly managing her estate. As a result of these incapacities, Applicant requests that the Guardian of the Estate be granted the following powers:

1. To possess and manage his/her , including all bank accounts, securities accounts, life insurance and other investments, and to have possession and management of his/her personal possessions and any other property owned by him/her;
2. To have total access to all records regarding his/her past, present and future transactions of and/or such transactions engaged in by his/her attorney-in-fact with respect to his/her property, including, but not limited to, all bank accounts, securities accounts, life insurance, and other investments;
3. To take possession of his/her cash on hand or on deposit, and his/her accounts at financial institutions, and to close accounts and to open new accounts and to be the authorized signatory on such accounts;
4. To collect his/her debts or other claims;
5. To pay, compromise, or defend claims against him/her, subject to court approval;
6. To represent him/her in any legal action, subject to court approval;
7. To contract and to incur obligations on his/her behalf and to renew and extend any obligations, subject to court approval;
8. To collect and give receipt for any of his/her monies, dividends, interest, and any and all other types of income payable to or receivable by him/her;
9. To apply for and to receive funds from governmental sources;
10. To apply for and to secure insurance on his/her behalf for his/her person and property;
11. To file and file his/her federal income tax returns, or claim refunds and to pay his/her federal, state and local taxes;
12. To review, to take possession of and to consent to the disclosure of his/her legal, financial or other confidential books, documents or other records, including the power to enter into his/her safe deposit box and to remove part or all of the contents thereof in the presence of court-approved persons;

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13. To employ and to discharge from employment attorneys, accountants, appraisers and other persons necessary in the administration of his/her estate;
14. To apply for and to secure an identification card, social security card or other identification documents for him/her;
15. To apply for, receive and manage funds from all, private or governmental sources, including payroll, retirement and/or monthly Social Security income.
16. To do such other and further acts concerning his/her property and interests of his/her estate as the Court may from time to time direct by express authorization through written order of the Court.

Applicant requests that the Permanent Guardian of the Person for Mr./Mrs.

_____ be granted the following specific powers and duties which, are necessary to protect the his/her rights as a result of his/her alleged incapacities:

1. The power and authority to take charge of the person of _____.
 2. To review, to take possession of and to consent to the disclosure of his/her medical or dental records;
 3. To apply for, arrange for, and consent to any and all psychological, psychiatric or medical examinations, tests or evaluations for him/her;
 4. To consent to or object to medical and dental treatment for him/her, including surgery;
 5. To apply for, to consent to, and to enroll him/her in appropriate placement locations which are reasonably required and needed and which are operated by public and private agencies and facilities;
 6. To make application for, to consent to, and to enroll him/her in private and public residential care facilities;
 7. To place him/her in an appropriate living and treatment environment, including but not limited to a hospital, a non-residential, or private or public 24 hour care facilities or nursing home facilities;
 8. To apply for, to consent to, and to employ nurses, sitters, caregivers, therapists and other persons to assist him/her;
 9. To have possession and control of him/her and to deny anyone access to him/her if such is his/her best interest;
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10. To hire and discharge doctors, psychiatrists, nurses, nurses aids and other health care providers providing services to him/her;
11. The power and authority to affirm or revoke the advanced directive previously executed by him/her as may be in his/her best interest, and to communicate that affirmation or revocation to his/her treating physicians;
12. To retain and discharge caretakers for him/her, and to monitor and control access of third parties to him/her;
12. To give permission and sign releases for the inspection and dissemination of confidential legal, medical, financial and other information and records to third parties;
13. To apply for and secure an identification card, social security card or other identification documents for him/her;
14. To control the delivery and receipt of his/her mail; and
15. The power and authority to do such other and further acts concerning his/her care and well-being as the Court may from time to time direct by express authorization through written order of the Court.

(Practice tip: List all powers if you are requesting a full guardianship because the proposed ward is totally incapacitated. If a limited guardianship is sought list only those powers which are appropriate and indicate those specific powers or duties of the guardian that should be limited if the proposed ward does not receive supports and services and those that should be limited if the proposed Ward does receive supports and services.)

XIII.

ESTATE ASSETS

Applicant believes _____'s estate to consist of the following:

WHEREFORE, _____ requests that:

1. Notice and citation issue as required by law.
2. Following a hearing, that the Court appoint Applicant as permanent Guardian of the Person and Estate of

_____ with the powers and duties set forth herein.

3. Applicant be granted such other and further relief to which he may be entitled.

Respectfully submitted,

DATE: _____, 20__.

VERIFICATION

STATE OF TEXAS

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COUNTY OF EL PASO

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"**BEFORE ME**, the undersigned Notary Public, on this day personally appeared _____, who after being duly sworn upon oath deposed and said.

"I, _____, have reviewed the foregoing Application for Appointment of Permanent Guardian of the Person and Estate of _____ which is to be filed in this cause and all the allegations contained therein are true and correct to the best of my knowledge."

CLIENT

SUBSCRIBED AND SWORN TO BEFORE ME on the ____ day of _____, 20__, to certify which witness my hand and official seal.

**NOTARY PUBLIC IN AND FOR
THE STATE OF TEXAS**

My commission expires:

