

PHYSICIAN'S CERTIFICATE OF MEDICAL EXAMINATION

Revision January 1, 2014

In the Matter of the Guardianship of
,
an Alleged Incapacitated Person

For Court Use Only
Court Assigned:

The purpose of this certificate is to enable the Court to determine whether the individual identified above is incapacitated according to the legal definition, and whether a guardian should be appointed to care for him or her.

LEGAL DEFINITION OF INCAPACITY

For purposes of this certificate, an **"Incapacitated Person"** is *"an adult individual who, because of a physical or mental condition, is substantially unable to provide food, clothing or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs."* Estates Code § 1002.017.

GENERAL INFORMATION

Proposed Ward's Name

Date of Birth

Age

Gender M F

Current location of Ward:

Physician's Name

Phone: ()

Office Address

YES NO – I am a physician currently licensed to practice in the State of Texas.
I have been the doctor for the Proposed Ward since _____.

I last examined the Proposed Ward on _____ at:

a Medical facility. the Proposed Ward's residence.

Other: _____.

YES NO – The Proposed Ward is under my continuing treatment.

YES NO – Prior to the examination, I informed the Proposed Ward that communications with me would not be privileged.

YES NO – A mini-mental status exam was given. If "YES," please attach a copy.

Based upon my last examination of the Proposed Ward, I provide the following information:

1. EVALUATION OF THE PROPOSED WARD'S PHYSICAL CONDITION

Physical Diagnosis: _____

Conditions underlying diagnosis: _____

a. Prognosis: _____

b. Severity: Mild Moderate Severe

c. Treatment: _____

2. EVALUATION OF THE PROPOSED WARD'S MENTAL FUNCTION

Mental Diagnosis: _____

Conditions underlying diagnosis: _____

a. Prognosis: _____

b. Severity: Mild Moderate Severe

c. Treatment: _____

YES NO --- A Summary of Proposed Ward's medical history is attached (if reasonably available).

YES NO --- Would the Proposed Ward benefit from supports and services that would allow the individual to live in the least restrictive setting?

YES NO --- Does this mental diagnosis include dementia?

2. EVALUATION OF THE PROPOSED WARD'S MENTAL FUNCTION, continued

- YES NO --- Would the Proposed Ward benefit from placement in a secured facility for the elderly or a secured nursing facility that specializes in the care and treatment of people with dementia?
- YES NO --- Would the Proposed Ward benefit from medications appropriate to the care and treatment of dementia?
- YES NO --- Does the Proposed Ward have sufficient capacity to give informed consent to the administration of dementia medications?

3. DECISION MAKING

Alertness, Attention, and Deficits

- Alertness: Alert Lethargic Stupor
Proposed Ward is oriented to the following (check all that apply):
 Person Time Place Situation

In my opinion, the ability of the Proposed Ward to make or communicate responsible decisions concerning himself or herself is affected by the Proposed Ward's deficits and abilities as indicated:

Deficit(s) (check all that apply): Short-term memory Long-term memory Immediate recall

- YES NO --- Able to understand or communicate (verbally or otherwise)
- YES NO --- Able to recognize familiar objects and persons
- YES NO --- Able to perform simple calculations
- YES NO --- Able to reason logically
- YES NO --- Able to grasp abstract aspects of his or her situation or to interpret idiomatic expressions or proverbs
- YES NO --- Able to break complex tasks down into simple steps and carry them out
- YES NO --- The Proposed Ward's periods of impairment from the deficits indicated above (if any) vary substantially in frequency, severity, or duration

In my opinion, the Proposed Ward **is able** to make or communicate responsible decisions concerning himself or herself regarding the following:

A. Business and Managerial Matters; Financial Matters

- YES NO --- Contract and incur obligations; handle a bank account; apply for, consent to and receive governmental benefits and services; accept employment; hire employees; sue and defend on lawsuits; make gifts of real or personal property?
- YES NO --- If "YES", should amount deposited in any such bank account be limited?
- YES NO --- Execute a Durable Power of Attorney?
- YES NO --- Execute a Health Care Power of Attorney?

B. Personal Living Decision

- YES NO --- Determine own residence?
- YES NO --- Safely operate a motor vehicle?
- YES NO --- Vote in a public election?
- YES NO --- Make decisions regarding marriage?

C. Medical Decision-Making

- YES NO --- Consent to medical, dental, psychological, and psychiatric treatment?
- YES NO --- Administer own medications on a daily basis?

D. Daily Life Activities

Administer daily life activities (e.g., bathing, grooming, dressing, walking, toileting):
 YES, independently YES, with assistance NO, requires total care

4. DEVELOPMENTAL DISABILITY

YES NO --- Does the Proposed Ward have developmental disability?

If "NO", skip to number 5 on the next page.

If "YES", is the disability a result of the following? (Check all that apply)

- YES NO --- Autism?
- YES NO --- Static encephalopathy?
- YES NO --- Cerebral Palsy?
- YES NO --- Down Syndrome?
- YES NO --- Intellectual Disability (MR)**?
- YES NO --- Other? Please Explain

If "the basis of a proposed ward's alleged incapacity is mental retardation"¹, please answer the questions in the box below **only if you are making a "Determination of Mental Retardation" in accordance with Texas Health and Safety Code § 593.005. If you are not making such a determination, please skip to number 5 on the next page.

"DETERMINATION OF MENTAL RETARDATION" (It is not required that you complete this box; see ** above.)

A "Determination of Mental Retardation" **made in accordance with Texas Health and Safety Code § 593.005** requires that the determination be based on an interview with the Proposed Ward and on a professional assessment that, at a minimum, must include:

- 1) a measure of the Proposed Ward's intellectual functioning;
- 2) a determination of the Proposed Ward's adaptive behavior level; and
- 3) evidence of origination during the Proposed Ward's developmental period.

As a physician, you may use a previous assessment, social history, or relevant record from a school district, another physician, a psychologist, a public agency, or a private agency if you determine that the previous assessment, social history, or record is valid.

By checking the boxes below, you are representing that you have made a "Determination of Mental Retardation" in accordance with Texas Health & Safety Code § 593.005.

- 1. What is your assessment of the Proposed Ward's level of intellectual functioning and adaptive behavior?

<input type="checkbox"/> Mild (IQ of 50-55 to approx. 70)	<input type="checkbox"/> Moderate (IQ of 35-40 to 50-55)
<input type="checkbox"/> Severe (IQ of 20-25 to 35-40)	<input type="checkbox"/> Profound (IQ below 20-25)
- 2. YES NO -- Is there evidence that the intellectual disability originated during the Proposed Ward's developmental period?

Note to attorneys: If a physician makes a "Determination of Mental Retardation" in accordance with Texas Health & Safety Code § 593.005 – see box above – a Court may grant a guardianship application if the "Determination of Mental Retardation" is based on an examination made not earlier than 24 months before the date of the hearing. But if a physician's diagnosis of intellectual disability is not made in accordance with Texas Health & Safety Code § 593.005 – and the above box is not filled out – a Court may grant a guardianship application only if the Physician's Certificate of Medical Examination is based on an examination the physician performed within 120 days of the date of the application for guardianship was filed. See Estates Code §§ 1101.103 and 1101.104.

¹ In H.B 1481, the 2011 Legislature directed the Legislature and Texas Legislative Council to avoid using the term "mental retardation" in new statutes and to change that term as existing statutes are otherwise amended. Because the Estates Code still refers to "mental retardation" as a basis for a guardianship, and Health & Safety Code still requires a "determination of mental retardation" (§ 593.001 et seq.), this form quotes that phrase from the statutes when necessary.

5. EVALUATION OF CAPACITY

YES NO --- Based on the information above, it is my opinion that the Proposed Ward is incapacitated **according to the legal definition given at the top of page 1.**

If "YES," please indicate the level of incapacity

PARTIAL* TOTAL

* If you answered "NO" to all of the questions regarding decision-making in Section 3 (on page 2) and believe the Proposed Ward is **partially** incapacitated, please explain:

If you answered "YES" to any of the questions regarding decision-making in Section 3 (on page 2) and believe the Proposed Ward is **totally** incapacitated, please explain:

6. ABILITY AT ATTEND COURT HEARING

If a hearing on an application for the appointment of a guardian is scheduled in court:

YES NO -- The Proposed Ward would be able to attend, understand, and participate in the hearing.

YES NO -- Because of his or her incapacities, it would **not** be advisable for the Proposed Ward to appear at a Court hearing because the Proposed Ward would not be able to understand or participate in the hearing.

YES NO --- Does any current medication taken by the Proposed Ward affect the demeanor of the Proposed Ward or his or her ability to participate fully in a court proceeding?

7. ADDITIONAL INFORMATION OF BENEFIT TO THE COURT

If you have additional information concerning the Proposed Ward that you believe the Court should be aware of or other concerns about the Proposed Ward that are not included above, please explain:

Physician's Signature

Date

Physician's Name PRINTED