

# Guardianship Program

Catholic Charities  
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## Guardianship of the Person

### What is Guardianship?

A legal process that is designed to protect vulnerable persons from neglect, abuse, and exploitation. It is considered restrictive due to the permanency of the determination.

### Who do we serve?

Individuals 18 and older who have been deemed incapacitated by a physician and is not able to make important decisions or handle their personal affairs

### Why guardianship?

To protect them from abuse or exploitation

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### Terms to Remember:

**Guardian** - person who looks after and is legally responsible for someone who is unable to manage their own affairs

**Ward** - a person under the care and control of a guardian appointed by their parents or a court.

### Physical and Mental Capacity

- Developmental disability
- Physical Incapacity
- Mental Deterioration
- Mental Illness

\*Catholic Charities – Caritas Legal Services does not establish guardianships for people with only mental health illness

## **Powers and Duties of the Guardian**

### **What are the powers and duties of a guardian?**

The main duty of the guardian is to protect the ward, as well as make medical and personal decisions for the ward. On September 1, 2015, a new law was passed granting ward's certain rights. The guardian must review these rights with the ward every year

As Court Monitors please know the guardians are aware of the visit.

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### **RIGHTS OF WARDS**

1. to have a copy of the guardianship order and letters of guardianship and contact information for the probate court that issued the order and letters;
2. to have a guardianship that encourages the development or maintenance of maximum self-reliance and independence in the ward with the eventual goal, if possible, of self-sufficiency;
3. to be treated with respect, consideration, and recognition of the ward's dignity and individuality;
4. to reside and receive support services in the most integrated setting, including homebased or other community-based settings, as required by Title II of the federal Americans with Disabilities Act;
5. to consideration of the ward's current and previously stated personal preferences, desires, medical and psychiatric treatment preferences, religious beliefs, living arrangements, and other preferences and opinions;
6. to financial self-determination for all public benefits after essential living expenses and health needs are met and to have access to a monthly personal allowance;
7. to receive timely and appropriate health care and medical treatment that does not violate the ward's rights granted by the constitution and laws of Texas and the United States;
8. to exercise full control of all aspects of life not specifically granted by the court to the guardian;
9. to control the ward's personal environment based on the ward's preferences;
10. to complain or raise concerns regarding the guardian or guardianship to the court, including living arrangements, retaliation by the guardian, conflicts of interest between the guardian and service providers, or a violation of any rights under the bill;
11. to receive notice in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward, of a court proceeding to continue, modify or terminate the guardianship and the opportunity to appear before the court to express the ward's preferences and concerns regarding whether the guardianship should be continued, modified, or terminated;

12. to have a court investigator, guardian ad litem, or attorney ad litem appointed by the court to investigate a complaint received by the court from the ward or any person about the guardianship;
13. to participate in social, religious, and recreational activities, training, employment, education, habilitation, and rehabilitation of the ward's choice in the most integrated setting;
14. to self-determination in the substantial maintenance, disposition, and management of real and personal property after essential living expenses and health needs are met, including the right to receive notice and object about the substantial maintenance, disposition, or management of clothing, furniture, vehicles, and other personal effects;
15. to personal privacy and confidentiality in personal matters, subject to state and federal law;
16. to unimpeded, private, and uncensored communication and visitation with persons of the ward's choice, except that if the guardian determines that certain communication or visitation causes substantial harm to the ward the guardian may limit, supervise, or restrict communication or visitation, but only to the extent necessary to protect the ward from substantial harm, and the ward may request a hearing to remove any such restrictions on communication or visitation imposed by the guardian;
17. to petition the court and retain certified counsel of the ward's choice to represent the ward's interest for capacity restoration, modification of the guardianship, the appointment of a different guardian, or for other appropriate relief, including a transition to a supported decision-making agreement, except as otherwise limited;
18. to vote in a public election, marry, and retain a license to operate a motor vehicle, unless restricted by the court;
19. to personal visits from the guardian or the guardian's designee at least once every three months, but more often if necessary, unless the court orders otherwise;
20. to be informed of the name, address, phone number, and purpose of Disability Rights Texas and to communicate and meet with representatives of that organization;

**Disability Rights Texas**

6800 Park Ten Blvd, Suite 208-N

San Antonio, Texas 78213

(800) 880-8401

[www.disabilityrightstx.org](http://www.disabilityrightstx.org)

21. to be informed of the name, address, phone number, and purpose of an independent living center, an area agency on aging, an aging and disability resource center, and the local mental health and intellectual and developmental disability center, and to communicate and meet with representatives from these agencies and organizations;

**Center on Independent Living**

12414 Nacogdoches Road, Suite 150

San Antonio, Texas 78217  
(210) 655-2333 Coil.org

**Alamo Area Council of Government**

Bexar Area Agency on Aging  
8700 Tesoro Drive, Suite 700  
(210) 477-3275 (800) 960-5201  
[bexar.aging@aacog.com](mailto:bexar.aging@aacog.com)

**Alamo Area Resource Center**

303 N. Frio  
San Antonio, Texas 78207  
(210) 625-7200  
(800) 308-2437  
[www.aarcsa.com](http://www.aarcsa.com)

**Center for Health Care Services**

3031 IH 10 West  
San Antonio, Texas 78201  
(210) 261-1000  
(210) 223-7233 Crisis Hotline

22. to be informed of the name, address, phone number and purpose of the Judicial Branch Certification Commission and the procedure for filing a complaint against a certified guardian;

**Judicial Branch Certification Commission**

205 West 14th Street, Suite 600  
Austin, Texas 78701  
P.O. Box 12066  
Austin, Texas 78711  
(512) 475-4368  
[jbcc@txcourts.gov](mailto:jbcc@txcourts.gov)

23. to contact the Department of Family and Protective Services to report abuse, neglect or exploitation, or violation of personal rights without fear of punishment, interference, coercion or retaliation:

**Texas Department of Family and Protective Services**

(800) 252-5400 Texas Abuse Hotline

24. to have the guardian, on appointment and on annual renewal of the guardianship, explain the rights of the ward in the ward's native language, or preferred mode of communication, and in a manner accessible to the ward.

## **Court Monitor Program**

The Court Monitor Program is a grant funded program under contract with the Bexar county probate court.

- ▶ 3,000-5,000 people under Guardianship
- ▶ 2 paid staff
- ▶ 45 Court Monitor volunteer
- ▶ WBU and UIW contracts that help us visit the wards

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### **Confidentiality**

**Catholic Charities Guardianship Program shall maintain a confidential file on each client and protect the contents from unauthorized personnel. 40 TAC 84.1 (d)**

**No client information will be disclosed in a form that identifies the person without the client's consent, unless required by court order or for program monitoring by authorized personnel.**

### **Duties of a Court Monitor**

- ▶ **Investigates the ward's well-being**
- ▶ **Monitors guardian's involvement in ward's life**
- ▶ **Completes assessment of ward's home environment**
- ▶ **Documents ward's daily activities/hobbies**
- ▶ **Completes court report to Probate Court Judges**
- ▶ **Submits timesheet/mileage forms**

**Purpose:** To visit and assess the condition of individuals who have been placed under a guardianship

**Outcome:** The Probate Courts will be provided first-hand information about Wards under its supervision.

### **Overall**

**Outcome:** To ensure the safety of Wards and to ensure that they are not being exploited or abused by others.

Please note:

- You are serving as a court monitor, **not** a nursing student. Refrain from making medical advice suggestions.
- Court monitors should carry no bags or purses and no badge. You
- Business casual clothing; no heels.

## Commonly Visited Homes

- ▶ **Group Homes**
- ▶ **Private Homes**
- ▶ **Foster Homes**

**Group Homes** Individuals are not able to live independent. Group homes provide the individuals with continual assistance with their daily tasks, such as taking medication or bathing

**Private Home** Live with the legal guardian. Maybe a parent, relative, or friend

**Foster Home** Provider works with client and home can housed other individuals as well

### **Be sure to ask for income at these facilities:**

- **SSI** - Supplemental Security Income
- **SS** - Social Security
- **SSDI** - Social Security Disability Insurance

**Nursing Homes** Clients who are not able to live independently and require nursing and residential care

**Assisted Living** Client is fairly independent and can get through the day by themselves.

### **No need to ask for income at these facilities**

## MAKING CALLS

Below is a transcript that can be used when making phone calls to set up your visit:

**Hello, this is \_\_\_\_\_ with Catholic Charities. I'm a court monitor that has been appointed by Bexar County to visit with \_\_\_\_\_, and I was calling to schedule his/her yearly court visit. We are only allowed to conduct virtual visitations at this time due to COVID. Are you familiar with any of the following platforms, WhatsApp, Facetime, Zoom or Duo?**

If the guardian does not have a platform, ask if there is a loved one in the home or someone whom can visit with them to help conduct the visit.

### Conducting a Visit

- ▶ **Scheduling appointments is required except for nursing homes**
- ▶ **Verify address**
- ▶ **Review the exterior of the home and check for hazards**
- ▶ **Pay attention to your surroundings**
- ▶ **Meet with guardian or provider and the ward**
- ▶ **Ward must be present during visit**
- ▶ **Communicate with the ward**
- ▶ **Ask questions using the report as a guideline**



## Scheduling

<b>Private Homes</b>	Guardian
<b>Group Homes</b>	Case Managers <ul style="list-style-type: none"><li>• Your visits should be done between 8 a.m. - 6 p.m.</li><li>• You will not be able to schedule everything in one day, so be flexible.</li></ul>
<b>Assisted Living</b>	Staff

### Group Homes

Tend to be the most difficult to contact. Make sure case manager is present. Appointments are usually scheduled at 4 p.m. The staff will give you the information necessary to conduct your visit. If they do not have it, please contact the case manager

### Nursing homes:

There is no need to schedule the meeting. A nurse at the facility will give you the information. If you cannot get the information from the nursing facility, call the guardian.

### Tour of Interior

- ▶ **Smoke Alarms**
- ▶ **Ward's bedroom and bathroom**
- ▶ **Living space**
- ▶ **Kitchen, pantry, refrigerator**

When entering the home, keep in mind *cleanliness* is different for everyone. Make sure there are no signs of rodent infestation, mold, or rotting foods

- Smoke Alarms:
  - Do not need to test, but ask if they are working
  - If they do not have any, dial 211 or contact their closest Fire dept.
- Ward's bedroom:
  - Check only the wards room and always knock or ask before entering
  - What items does this person have? Family photos, stuffed animals, metals, employee plaques
  - Check closet
  - Check bathroom
    - Groups Homes
      - Other residents may be inclined to ask you to visit their room
- Living Space
  - Any clutter in that can be hazardous to the ward
  - Blocking pathway

- Or organized clutter
- Kitchen: (Will not be checking for assisted and nursing facilities)
  - Dishes in the sink is fine.
  - No molding foods on the counter or refrigerator
  - If refrigerator has spilled food, address it
  - Check to see if roaches or rodents present
- Odor
  - What is it associated with?
    - Dogs
    - Problem becomes with is associated with feces
    - Cat urine
  - Urine (may be a common odor in nursing facilities)
- Medication Storage
- Check for licensing and evacuation plan
  - Usually at the front office in the facilities or by the entrance
  - If not visible, ask to see it