**GUARDIANSHIPS ORDERS**

Estates Code 1101.101 – Findings & Proof Required

Clear and Convincing Evidence

* Proposed ward is an incapacitated person;
* It is in his/her best interest for the Court to appoint a guardian;
* Proposed ward’s rights or property will be protected by the appointment of a guardian;
* Alternatives to guardianship have been considered and determined not feasible; and
* Supports and services available have been considered and determined not feasible.

Preponderance of the Evidence

* Court has venue;
* Guardian is eligible to act as guardian and entitled to appointment
* If a minor, guardianship is not being created with the primary purpose of establishing residency for school; and
* The proposed ward is:
	+ Totally without capacity to care for himself or manage his property, or
	+ Lacks the capacity to do some, but not all of the tasks necessary to care for himself or manage his property (guardian with limited authority).
	+ Must specifically state whether the ward lacks capacity or lacks sufficient capacity with supports and services, to make decisions regarding residence, voting, operating a motor vehicle, and marriage.

General Order Requirements – EST 1101.153

* Name of guardian;
* Name of ward;
* Whether it is guardian of the person or estate, or both;
* Amount of any bond;
* Whether an appraisal is necessary (estate);
* That the clerk will issue letters.
* If improvement in ward’s condition is possible and a date of less than a year for improvement is in Certificate of Medical Examination (CME), then order must include date for guardian to submit updated CME.
* Powers and duties cannot conflict with any other guardian.
* May specify when the ward can file petition for adjudication without special leave.

Guardian with Full Authority – EST 1101.151

* That guardian has full authority over ward;
* The amount of funds the guardian can spend on education and maintenance (if necessary);
* Whether the incapacity is from a mental condition;
* That the person has no capacity to drive, decide residence, and vote; and
* The rights of the guardian of the person 1151.051(c)(1).
* Peace Officer Notice

Guardian with Limited Authority – EST 1101.152

* Specific powers, limitations, or duties of guardian
* Specific rights and powers retained
	+ With and without necessary supports and services
* The amount of funds the guardian can spend on education and maintenance (if necessary);
* Whether the incapacity is from a mental condition; and
* Whether the person retains the right to drive, vote, or decide residence.
* Peace Officer Notice