

In Texas, guardianship gives one person the legal authority to make daily living decisions and/or manage the financial affairs of another person (called a “ward”) who, due to an incapacitating disability, disease or injury, is unable to make important decisions on his or her own. We have previously discussed some tips for seeking guardianship, and in this article we provide an overview of the guardianship application process.

Starting the Application

The process of seeking to establish a guardianship begins with filing an Application for Appointment of Permanent Guardian in the appropriate county court. In most cases, this is the county where the proposed ward resides.

Contents of the Application

The application must include the following information:

The name, contact information and (in some jurisdictions) social security number of the proposed guardian;

Whether the application is for guardianship of the person, the estate or both;

The specific scope and any limitations sought on the guardian’s rights;

The cause of the ward’s incapacity and the facts requiring a guardian to be appointed;

The name and contact information for the ward’s current custodian;

The approximate value of the ward’s estate;

The requested duration of the guardianship (guardianships can either be continuing or for a set period of time);

The name and contact information of any persons holding powers of attorney, and descriptions of the powers granted;

If applicable, evidence that the proposed guardian is a private professional guardian in compliance with the Texas Probate Code.

If the proposed ward is a minor, the applicant must also submit information about the child's family and any prior conservatorship proceedings. For proposed wards over the age of 60, the applicant must provide pertinent family-related information as well.

In addition, along with the application itself, the person seeking guardianship must submit documentation that a thorough medical examination has recently been performed by a Texas-licensed physician. In some cases, additional documentation may be required.

Investigations and Court Proceedings

Once the application has been filed, a court-appointed investigator will interview the proposed ward, the attorney of record, family members, social workers and any other individuals who may have information pertinent to the court's decision whether to grant the application. The court will also appoint an attorney ad litem to advocate on the proposed ward's behalf, and will then schedule a hearing on the application.

At the hearing, the court will consider all of the available evidence, and will assess the proposed ward's ability to provide for his or her own care. If the court finds that guardianship is necessary (either as requested or with more-limited powers), it will issue an order establishing the authority and responsibilities of the guardian.

Bond and Letters of Guardianship

At the conclusion of the court proceedings, the newly-appointed guardian will be required to post a bond, and then the county clerk will issue Letters of Guardianship evidencing the guardian's authority to act on behalf of the ward. Letters of Guardianship are valid for a stated period of time and must be renewed each year upon submission of an acceptable annual report and/or accounting.

Are You Considering Applying for Guardianship in McKinney? The Nordhaus Firm Can Help.

If you are considering applying for guardianship, the McKinney guardianship lawyers at The Nordhaus Firm can help. To learn more about the process or to get started with your application, call (217) 726-1450 or contact us online today.