

OCA News
Guardianship Certification Board
Annual Reporting Required from County Clerks

Background

The Guardianship Certification Board (GCB) was created during the 79th Legislature in 2005 and was administratively attached to the Office of Court Administration (OCA). Certain individuals who provide guardianship services, including private professional guardians (PPGs), must be certified by the GCB, effective September 1, 2007.

Since September 1, 1993, Probate Code §697 has required PPGs to register with the county clerk of each county in which they are appointed or could be appointed as guardian, and to renew that registration annually. The same legislation that created the GCB added a duty for county clerks: they must report to the GCB on PPGs registered for each calendar year.

Who Needs to Register?

At one time, local guardianship programs and the Texas Department of Aging and Disability Services (DADS) Guardianship Program were required to report certain information to the clerks; these requirements no longer apply. Only PPGs must apply annually for a certificate of registration.

What is a Private Professional Guardian?

According to Government Code §111.001(9) and Probate Code §601(24), a PPG is as an individual, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services. Most PPGs are self-employed individuals, but some operate as a limited liability corporation, some have a D/B/A, some have employees who work for them. The model under which the PPG conducts business does not affect the requirement to register.

PPG vs. Guardianship Program

Some confusion remains about the difference between a guardianship program and a PPG, particularly when the PPG is not simply a self-employed individual. A PPG is defined above. A guardianship program is defined by Government Code §111.001(6) and Probate Code §601(13) as a local, county or regional program that provides guardianship and related services to incapacitated persons. Most local guardianship programs are non-profits, and two counties, Harris and Galveston, each have a guardianship program. Typically, the program will be appointed as guardian, and its employees will provide the actual guardianship services. A list of programs, as supplied to the OCA by the Health and Human Services Commission, will be posted on the GCB website as a reference to assist the clerks in reporting for calendar year 2012.

What to Look for When Registering a PPG

The statute says a PPG must "apply annually" for a certificate of registration. What must be included in the application is set out in Probate Code Section 697(a). In particular, clerks should be sure the application includes:

- The name of each person who will provide services to the PPG's wards on behalf of the PPG.
- The certification or provisional certification number for the PPG and each person described above.

What To Report (and What Not to Report) to the GCB

Some clerks have told the GCB staff, "We don't have any PPGs in our county; I have nothing to report." The GCB needs each county to submit a report in order to have accurate, complete information on guardians throughout the state. Reports are due to the GCB by January 31 for the preceding calendar year.

DO report the name and business address of PPGs who have satisfied the registration requirements.

DO submit a report even if there are no PPGs registered in your county. There is a box on the reporting form to check for counties with no registered PPGs.

DO NOT report any information on DADS; the requirement for DADS to report to county clerks was eliminated effective September 1, 2007.

DO NOT provide any information on local guardianship programs. As of September 1, 2009, programs submit a copy of their reports to the GCB to the clerks of the counties in which they operate. Do NOT send a copy to the GCB; we have the original.

The GCB's website (www.txcourts.gov/gcb) is updated each December with new forms to use and to reflect any changes to the laws regarding reporting requirements. Each county clerk will receive a reminder letter the first week in January. Please contact Lesley Ondrechen, Guardianship Certification Program Director, at lesley.ondrechen@txcourts.gov or 512/475-2873 if you have any questions about this reporting requirement.