

IN THE SUPREME COURT OF TEXAS

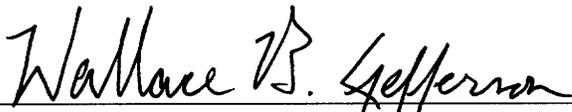
Misc. Docket No. 11- ~~9212~~

**ORDER APPROVING AMENDMENTS TO
RULES GOVERNING GUARDIANSHIP CERTIFICATION**

ORDERED that:

Pursuant to sections 111.002, 111.016(b)(2), 111.042(c), and 111.0421(c) of the Texas Government Code, Rules VI, VII, IX, X, XII and XIV of the Rules Governing Guardianship Certification are amended as follows.

Dated: October 17, 2011.


Wallace B. Jefferson, Chief Justice


Nathan L. Hecht, Justice

Dale Wainwright, Justice


David M. Medina, Justice

Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice

Eva M. Guzman, Justice


Debra H. Lehrmann, Justice

VI. REQUIREMENTS FOR CERTIFICATION

To qualify for certification, the applicant must pay all required fees, comply with the application procedures herein, and must:

- (a) Be at least twenty-one (21) years of age;
- (b) Be a high school graduate or possess the GED equivalent;
- (c) Have two years of relevant work experience related to guardianship or the following educational or training requirements:
 - 1) a minimum of a bachelors degree conferred by a college or university accredited by an organization recognized by the Texas Higher Education Coordinating Board in a field related to guardianship, including but not limited to medical, mental health and mental retardation, law, business, accounting, social work, sociology, psychology, human services, protective services, and criminal justice fields, or
 - 2) completion of a course curriculum or training specifically related to guardianship approved by the Board;
- (d) Meet ~~one of~~ the following criteria:
 - 1) ~~have successfully completed~~ pass, after no more than four (4) exam attempts, an examination approved by the Board covering Texas law and procedure related to guardianship, and any other examination required and approved by the Board testing knowledge of guardianship issues, ~~or~~.
 - 2) ~~be currently certified by and in good standing with the National Guardianship Foundation and have successfully completed an exam approved by the Board covering Texas law and procedure related to guardianship issues;~~ An individual who has failed the exam four (4) times shall not be eligible for certification unless:
 - A. The individual petitions the Board for permission to take the exam again. The petition must be in writing and set out in detail all facts which support the request. The petition must establish that the individual has completed all other requirements for certification, except for passing the exam, and that no other impediments to certification exist.
 - B. The Board shall consider the petition at its next regularly scheduled meeting. It shall determine, without a formal hearing, whether permission to take the exam again will be granted or denied. The Board may impose conditions to granting permission, including, but not limited to the following: that the petitioner provide additional information and/or complete specified continuing education prior to taking the exam again. If an individual fails or refuses to strictly and completely comply with the conditions specified by the Board, permission to take the exam again is denied.
 - C. An individual may petition the Board only one time for permission to take the exam again following four unsuccessful attempts. An individual who is granted permission to take the exam again and who fails the exam again is not eligible for certification. If the Board denies permission to take the exam again, the individual is not eligible for certification.
 - D. The decision of the Board is final and is not subject to appeal, reconsideration, or any further action. Rule IX does not apply to an individual who is petitioning the Board for permission to take the exam again after four failed attempts.
- (e) Attest under penalty of perjury as to whether he or she has ever been adjudged guilty of or entered a plea of guilty or no contest in return for a grant of deferred

adjudication to a felony, crime of moral turpitude, or any offense listed in sections 22.01 (assault), 22.011 (sexual assault), 22.02 (aggravated assault), 22.021 (aggravated sexual assault), 22.04 (injury to a child, elderly individual, or disabled individual), 22.041 (abandoning or endangering a child), 22.05 (deadly conduct), 22.07 (terroristic threat), and 32.45 (misapplication of fiduciary property) of the Texas Penal Code; and

- (f) Attest under penalty of perjury as to whether he or she:
- 1) has ever been relieved of responsibilities as a guardian or fiduciary by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, assault, battery, abuse, neglect, breach of trust, breach of fiduciary duty, or conversion;
 - 2) has ever been found civilly liable or settled a claim in an action, including but not limited to a surcharge action, that involved allegations of fraud, misrepresentation, material omission, misappropriation, theft, assault, battery, abuse, neglect, breach of trust, breach of fiduciary duty, or conversion on the applicant's part; or
 - 3) has ever been denied certification or had his or her certification revoked or suspended in Texas or any other jurisdiction requiring certification, registration or licensure to provide guardianship services.
- (g) Provide the Board with his or her Texas and national criminal history records by having his or her fingerprints submitted to the Texas Department of Public Safety (DPS), to be used by DPS for a Texas criminal history search and forwarded to the Federal Bureau of Investigation for a national criminal history search. The criminal history records resulting from both the Texas and national criminal history searches will then be forwarded to the Board. The Texas and national criminal history searches must be conducted no earlier than 90 days preceding the date the application is submitted.
- (h) If the applicant has ever been adjudged guilty of or pleaded guilty or no contest to any crime described in Section VI(e) above, or been relieved of guardian responsibilities, been found civilly liable, settled a claim, or been denied certification or had certification revoked or suspended as described under Section VI(f)(1), (2) or (3) above, the applicant must describe with particularity the circumstances and provide any related documentation requested by the Board.

VII. REQUIREMENTS FOR RE-CERTIFICATION

To be eligible for re-certification, the certified guardian must pay all required fees, apply within the required time, and meet the following requirements:

- (a) The certified guardian must comply with subsections (e), (f), and (g) of Section VI (relating to Requirements for Certification) of these rules.
- (b) Continuing Education. During each two year certification period, the certified guardian must complete at least twelve hours of continuing education and guardianship training by completing ~~a~~ courses that ~~has~~ have been approved by the Board under Section XIII (relating to Approval of Continuing Education). The twelve hours shall include a minimum of two hours of ethics and one hour of legislative update.
 - 1) The required twelve hours of ~~€~~ continuing education must be earned ~~to satisfy the requirement~~ prior to the expiration of the certificate. The certified guardian must list on the application for re-certification the following information concerning the certified guardian's completion of the required continuing education: for each course list the dates, locations, sponsor(s), number of regular

~~credits and~~ number of ethics credits, and number of legislative update credits earned for sufficient continuing education courses to satisfy this requirement. Nothing herein shall be deemed to waive late fees under Section V.

- 2) A certified guardian may carry forward for the following year's requirement up to two hours of continuing education earned in excess of the minimum six hours, but ethics hours may not be carried forward. certification period not more than four (4) regular continuing education hours, not including ethics or legislative update hours, which were earned in excess of the twelve hours used to satisfy the continuing education requirements of the immediately previous certification period. Ethics hours and legislative update hours cannot be carried forward from one certification period to another certification period even if said hours were earned in excess of the minimum requirements for ethics and legislative update hours.
- 3) The certified guardian must obtain documentation of attendance or completion of all continuing education activity from the sponsoring entity and submit the documentation to the Board along with the certified guardian's application for recertification. A provisionally certified guardian, when he or she meets the qualifications for certification, must submit documentation as described in this section with his or her application for certification.
- 4) A certified guardian may also earn continuing education credit by speaking at a seminar, teaching a course or authoring a book or article and obtaining approval for this activity under Section XIII (relating to Approval of Continuing Education).

IX. DENIAL OF CERTIFICATION; RECONSIDERATION REVIEW AND APPEAL OF CERTIFICATION DENIAL

- (a) ~~Denial-~~ Application Review Committee. The Director shall refer applications for certification, provisional certification, and re-certification to the Application Review Committee (herein, the "Committee") if the applicant does not clearly meet the standards set forth in Section VI (relating to Requirements for Certification), Section VII (relating to Requirements for Re-Certification), or Section XIV (relating to Provisional Certification), as applicable, or if the applicant may be disqualified under any of the disciplinary criteria set forth in Section XI (relating to Disciplinary Criteria).
 - 1) The Committee Chair will schedule at least one meeting to review the application. Additional meetings may be held as deemed necessary. The applicant may attend the Committee's meetings in person or by telephone. If the applicant requests to attend by telephone, he or she must be available to participate at the times and in the manner instructed by the Director. While the Committee may seek additional information in its discretion, it has no obligation to do so. The Committee is not an investigatory body and will generally render its decision based on the submissions of the Board staff and applicant.
 - 2) The Committee Board must either grant or deny an application for certification, provisional certification, or re-certification. The Committee may deny an application for certification, provisional certification, or re-certification only if the applicant fails to meet the standards set forth in Section VI (relating to Requirements for Certification), Section VII (relating to Requirements for Re-Certification), or Section XIV (relating to Provisional Certification), as applicable, or if the applicant has met is disqualified under any of the disciplinary criteria set forth in Section XI (relating to Disciplinary Criteria). The Committee

~~Board~~ must furnish to the applicant a written statement that includes the reason(s) for denying the application.

- (b) Petition for Reconsideration. Review of denial. ~~Within fifteen (15) days after receipt of notice that the Committee Board has denied an application for certification, provisional certification, or re-certification, the applicant may petition the Board for review of the denial reconsideration. The petition may be informal but shall be in writing and shall state the date on which notice was received, identify each point or matter about which reconsideration is requested, and set forth the grounds for the request for reconsideration. ~~If a petition for review is timely received, the Director will notify the Board Chair, who will appoint three Board members to a Review Committee to address the petition. The Board Chair shall also designate one of the Review Committee members to be Review Committee Chair. The General Counsel of the Office of Court Administration or the General Counsel's designee shall serve as counsel to the Review Committee. The Review Committee will act by majority vote.~~~~
- (c) Reconsideration Procedure. Response; Failure to Submit Response. ~~At its next meeting, the Board shall consider the petition and may allow the applicant or other witnesses to appear at the meeting and present sworn testimony. The Board may limit the number of witnesses appearing and the time allotted for a witness' testimony. At the same time the Director notifies the Board Chair of the denial, the Director will notify the applicant in writing that the applicant may submit a written response to the denial within fifteen (15) days of receipt of the notice. If the applicant fails to submit a written response within the required time, absent good cause such failure constitutes a default, and the review shall be dismissed without further action by the Review Committee or the Board.~~
- (d) Board Action on Petition. Review and Recommendation by Review Committee. ~~After reconsidering a decision of the Committee, the Board may:~~
- ~~1) take favorable action on the petition affirm the Committee's decision; or~~
 - ~~2) reverse the Committee's decision. affirm the Application Review Committee's decision. The Review Committee Chair will schedule at least one meeting to review the denial and response. Additional meetings may be held as deemed necessary. The applicant may attend the Review Committee's meetings in person or by telephone. If the applicant requests to attend by telephone, he or she must be available to participate at the times and in the manner instructed by the Director. While the Review Committee may seek additional information in its discretion, it has no obligation to do so. The Review Committee is not an investigatory body and will generally render its recommendation to the Board based on the submissions of the Board staff and applicant. The recommendation of the Review Committee must be in writing and must be furnished to the applicant at the same time it is furnished to the Board.~~
- (e) Final Decision. Hearing. ~~The Board shall notify the applicant in writing of its decision on reconsideration. Correspondence and notices sent to the applicant by the Director on behalf of the Board will be sent to the last address on file with the Board. If the Review Committee recommends denial of the application for certification, provisional certification, or re-certification, the applicant may request a hearing. Such request must be made not less than fifteen (15) days after the date the applicant receives a copy of the Review Committee's recommendation.~~
- ~~1) Hearing Date and Location. If the applicant timely requests a hearing, the date and location of the hearing will be determined by the Board. The hearing must be held within one hundred twenty (120) days after the date the Board receives a~~

~~timely request for hearing, unless the Board extends the hearing date for good cause.~~

- ~~2) Notice of Hearing; Requirements. The Board shall give notice of the hearing to the applicant. The notice must include a statement of the time, place, and nature of the hearing; a reference to the particular sections of the statutes and rules involved; and a short statement of the reasons the application was denied.~~
 - ~~3) Costs of Attending Hearing. The applicant is responsible for applicant's costs of preparing for and attending the hearing, including any costs associated with witnesses called on the applicant's behalf.~~
 - ~~4) Applicant's Rights at Hearing. At the hearing, the applicant will be permitted to testify; present evidence; respond to questions from the Board; and examine and cross-examine witnesses who are also present. The applicant may be represented by legal counsel at the hearing.~~
 - ~~5) Conduct of the Hearing; Burden of Proof. The Board may establish rules for the conduct of the hearing. Formal rules of evidence will not apply. Testimony of witnesses must be given under penalty of perjury. The burden of proof shall be on the applicant to show why the denial of the application was erroneous. The burden of proof shall be by a preponderance of the evidence.~~
 - ~~6) Board Counsel. The General Counsel of the Office of Court Administration or the General Counsel's designee shall serve as counsel to the Board.~~
 - ~~7) Board Action. The Board will act by majority vote of Board members attending the meeting.~~
- ~~(f) Default. If the applicant fails to appear at the hearing:~~
- ~~1) upon proof that notice of the hearing was given to applicant, the Board may proceed in the applicant's absence on a default basis; and~~
 - ~~2) the factual allegations in the denial of the application may be deemed admitted.~~
- ~~(g) Final Decision. The Board shall notify the applicant in writing of its decision not more than forty five (45) days after the conclusion of the hearing.~~
- ~~(h) Applicability of section. This section does not apply to a disciplinary action resulting from a complaint filed and processed under Section XII (relating to Complaints; Disciplinary Procedure).~~

X. RESPONSIBILITIES OF THE CERTIFIED GUARDIAN; REPORTING REQUIREMENTS

- (a) Standards and Rules. A certified guardian must comply with these rules and with the Minimum Standards for the Provision of Guardianship Services.
- (b) Response. A certified guardian must respond to requests for information from the Board or the Director pertaining to renewal of certification, complaints alleging misconduct by the certified guardian, investigative inquiries by the Board or Director, and any audits or reviews of the certified guardian's practice. The certified guardian must respond to such requests for information within the time prescribed in the request. ~~Such times must not be unreasonably short.~~
- (c) Change of Name or Address. A certified guardian shall notify the Board in writing of any change in name or business name, business or home physical address, or business or home telephone number within thirty (30) days of any change.
- (d) Notice to Board. A certified guardian shall immediately notify the Board if:
 - 1) the guardian is indicted, formally charged, adjudged guilty of, or enters a plea of no contest in return for a grant of deferred adjudication to any offense listed in Section VI(e);
 - 2) any of the proceedings listed in Section VI(f) is initiated;

- 3) events or circumstances would require any changes to the attestation required by Section VI(f); or
 - 4) the guardian is removed as a guardian under Section 761 of the Texas Probate Code.
- (e) Notice from Board. If the Board receives notice from the certified guardian of any of the items in section (d) above, the Director, on behalf of the Board, shall acknowledge receipt in writing. If the Board receives other notice affecting the guardian's certification, the Director will contact the certified guardian regarding the notification by first class mail. Notice from the Director on behalf of the Board is deemed given when sent to the certified guardian at the last home address on file in the Board's records.
- (f) Documents Filed with Court. Each document prepared by or on behalf of a certified guardian and filed with a court shall include the certified guardian's certification number.
- (g) Not later than January 31 of each year, each guardianship program must provide to the Board the following information for the preceding year:
- 1) the number of wards served by the guardianship program reported by county in which the application to create a guardianship for the ward is filed, and the total number of wards served by the guardianship program;
 - 2) the name, business address, and business telephone number of each individual employed by or volunteering or contracting with the guardianship program to provide guardianship services to a ward or proposed ward of the program;
 - 3) the name of each county in which an individual described in (2) above provides or is authorized to provide guardianship services;
 - 4) the total amount of money received from the State of Texas for the provision of guardianship services; and
 - 5) the amount of money received from any other public source, including a county or the federal government, for the provision of guardianship services, reported by source, and the total amount of money received from those public sources.
- (h) Not later than January 31 of each year, each private professional guardian must provide to the Board the following information for the preceding year:
- 1) the number of wards served by the private professional guardian reported by county in which the application to create a guardianship for a ward is filed and the total number of wards served by the private professional guardian, including the name of the ward and the docket number and court having jurisdiction of the guardianship;
 - 2) the aggregate fair market value of the property of all wards that was managed by the private professional guardian;
 - 3) the name, business address, and business telephone number of each individual who provides guardianship services to a ward of a private professional guardian on behalf of the private professional guardian;
 - 4) the total amount of money received from the State of Texas for the provision of guardianship services;
 - 5) the amount of money received from any other public source, including a county or the federal government, for the provision of guardianship services, reported by source, and the total amount of money received from those public sources;
 - 6) whether the private professional guardian was removed as a guardian by the court or resigned as a guardian in a particular case, and, if so, a description of the circumstances causing the removal or resignation, and the style of the suit, the docket number, and the court having jurisdiction over the proceeding;

- 7) reaffirmation of subsections (e) and (f) of Section VI (relating to Requirements for Certification) of these rules; and
 - 8) a copy of the private professional guardian's application for a certificate of registration with each county clerk required by Section 697(a) of the Probate Code.
- (h) (i) Information that must be submitted under subsections (f) and (g) must be submitted on appropriate forms and in the manner determined by the Board.

XII. COMPLAINTS; DISCIPLINARY PROCEDURE

- (a) Initiation of Process. Any person ("Petitioner"), including the Director, may petition the Board to initiate disciplinary procedures against a certified guardian or provisionally-certified guardian ("Respondent").
- (b) Information Subject to Disclosure. A document given to the Board in support of or response to a complaint, including the Petition to initiate disciplinary proceedings, is subject to disclosure to the public unless it is confidential or exempt from disclosure under law.
- (c) Content of the Petition. The Petition must be submitted to the Board in writing and must include:
 - 1) The name and pertinent contact information of the Petitioner and the Respondent;
 - 2) An allegation of the existence of one or more of the disciplinary criteria set forth in Section XI (relating to Disciplinary Criteria);
 - 3) An adequate factual basis for the allegation(s); and
 - 4) Any necessary documentation or other supporting materials or information.
- (d) Initial Review of Petition. If a Petition filed by a person other than the Director does not conform to the requirements of subsection (c) of this section, the Director shall notify the Petitioner that the Petition will not be considered. If a Petition filed by the Director does not conform to the requirements of subsection (c) of this section, the Board Chair shall notify the Director that the Petition will not be considered. The Petitioner may re-file an amended Petition.
- (e) Review Committee. Once a Petition is determined to conform to the requirements of subsection (c), the Director will notify the Board Chair, who will appoint three Board members to a Review Committee to address the Petition. The Board Chair shall also designate one of the Review Committee members to be Review Committee Chair. The General Counsel of the Office of Court Administration or the General Counsel's designee shall serve as counsel to the Review Committee. The Review Committee will act by majority vote.
- (f) Notice; Answer.
 - 1) Notice to Respondent. At the same time the Director notifies the Board Chair, the Director will also inform the Respondent in writing that a Petition has been submitted, provide the Respondent with a copy of the Petition, including all supporting materials, as well as a copy of these Rules, and direct that the Respondent submit a written Answer to the Petition, to be received by the Board within fifteen (15) days after the Respondent's receipt of the notice. Respondent may request an extension of time to file an Answer. The request must be made in writing before the expiration of the fifteen (15) day period. For good cause shown, the Review Committee or its designee may extend the Respondent's time to answer for such period as it may determine, but in no event shall the extension exceed thirty (30) days.
 - 2) Failure to Submit Answer. If the Respondent fails to submit an Answer within the required time, absent good cause shown, such failure will constitute default,

and all facts alleged in the Petition may be taken as true. If the Review Committee believes that such default has occurred, it will recommend to the Board whether any sanctions should be imposed. Absent good cause for the failure to timely submit an Answer, the Board shall enter an order of default and determine any sanctions to be imposed.

(g) Review and Recommendation by Review Committee.

- 1) Review by Review Committee. The Review Committee Chair will schedule at least one meeting to review the Petition and Answer, if any. Additional meetings may be held as deemed necessary by the Review Committee. The Review Committee may seek additional information in its discretion, but it has no obligation to do so. The Review Committee is not an investigatory body and will generally render its recommendation to the Board based on the submissions of the Petitioner and Respondent.
- 2) Review Committee's Recommendation. If the Review Committee does not request additional information from the Petitioner or Respondent, the Review Committee must make a recommendation to the Board within thirty (30) days after the Review Committee receives the Answer. If the Review Committee requests additional information, the Review Committee may allow up to thirty (30) days to provide the additional information and must make a recommendation to the Board within fifteen (15) days after the date it receives or should have received the additional information. The Review Committee's recommendation must be in writing and furnished to the Respondent at the same time it is furnished to the Board.
- 3) The Petitioner and Respondent may attend the Review Committee's meetings in person or by telephone. If the Petitioner or Respondent requests to attend by telephone, he or she must be available to participate at the times and in the manner instructed by the Director.

(h) Hearing. If the Review Committee recommends disciplinary action, or if the Board does not adopt a recommendation from the Review Committee to dismiss the Petition, the Respondent may request a hearing. The request must be made no later than fifteen (15) days after the date the Respondent receives the Review Committee's recommendation, or within fifteen (15) days of notice that the Board has rejected the Review Committee's recommendation to dismiss the Petition.

- 1) Hearing Date and Location. If the Respondent timely requests a hearing, the date and location of the hearing will be determined by the Board or its designee. The hearing must be held within one hundred twenty (120) days from the date the Board receives a timely request for hearing, unless the Board extends the hearing date for good cause.
- 2) Notice of Hearing; Requirements. The Board shall give notice of the hearing to the Petitioner and the Respondent. The notice must include a statement of the time, place, and nature of the hearing; a reference to the particular sections of the statutes and rules involved; and a short statement of the disciplinary action recommended. The Board must also provide the Respondent a copy of the Review Committee's recommendation.
- 3) Costs of Attending Hearing. The Respondent is responsible for Respondent's costs of preparing for and attending the hearing, including any costs associated with witnesses called on the Respondent's behalf. The Petitioner is responsible for Petitioner's costs of preparing for and attending the hearing.
- 4) Respondent's Rights at Hearing. At the hearing, the Respondent will be permitted to testify; present evidence; respond to questions from the Board; and examine

and cross-examine witnesses who are also present. The Respondent may be represented by legal counsel at the hearing.

- 5) Conduct of the Hearing; Burden of Proof. The Board may establish rules for the conduct of the hearing. Formal rules of evidence will not apply. Testimony of witnesses must be given under penalty of perjury. The burden of proof shall be on the Petitioner to show why disciplinary action should be imposed. The burden of proof shall be by a preponderance of the evidence.
 - 6) Board Counsel. The General Counsel of the Office of Court Administration or the General Counsel's designee shall serve as counsel to the Board.
 - 7) Board Action. The Board will act by majority vote of Board members attending the meeting.
- (i) Default. If the Respondent fails to appear at the hearing:
 - 1) upon proof that notice of the hearing was given to Respondent, the Board may proceed in the Respondent's absence on a default basis; and
 - 2) the factual allegations in the Petition may be deemed admitted.
 - (j) Board Decision. The Board shall notify the Respondent and the Petitioner in writing of its decision not more than forty-five (45) days after the conclusion of the hearing. The written notification shall include an explanation of the basis for the decision and the Board's decision as to any disciplinary action to be imposed, including reprimand, suspension, revocation, or other disciplinary action.
 - (k) Publication. The Board may publish or otherwise provide public notice of the final result of any disciplinary proceeding or action.
 - (l) Correspondence. All correspondence and notices herein sent by or to the Petitioner or Respondent should be made by regular and certified mail to ensure receipt of the item served. Correspondence and notices sent to the Respondent by the Director on behalf of the Board will be sent to the last address on file with the Board.

XIV. PROVISIONAL CERTIFICATION

- (a) Application for Provisional Certification. An individual who does not meet the requirements for certification in Section VI(c) or (d) may apply for provisional certification in writing on the forms provided by the Board.
- (b) Requirements for Provisional Certification. To be eligible for provisional certification, an applicant must meet all requirements in Section VI other than those listed in (c) and (d). Provisional certification shall expire on the second anniversary of the date the certificate is issued.
- (c) Responsibilities of Provisionally-Certified Guardian.
 - 1) A provisionally-certified guardian may provide guardianship services in this state only under the supervision of a certified guardian supervisor. In order to maintain provisional certification, a provisionally-certified guardian must have a certified guardian supervisor, even if the provisionally-certified guardian is not currently providing guardianship services.
 - 2) A provisionally-certified guardian must comply with these rules and with the Minimum Standards for Guardianship Services.
 - 3) A provisionally certified guardian must respond to requests for information from the Board or the Director pertaining to the provisional certification, including but not limited to complaints alleging misconduct by the provisionally certified guardian and investigative inquiries by the Board or Director. The provisionally certified guardian must respond to such requests for information within the time prescribed in the request.

- 3) 4) Change of Name or Address. A provisionally-certified guardian shall notify the Board in writing of any change in name or business name, business or home physical address, or business or home telephone number within thirty (30) days of any change.
- 4) 5) Notice to Board. A provisionally-certified guardian shall immediately notify the Board if:
 - A. the provisionally-certified guardian obtains a different supervisor, or is without a supervisor;
 - B. the provisionally-certified guardian is indicted, formally charged, adjudged guilty of, or enters a plea of no contest in return for a grant of deferred adjudication to any offense listed in Section VI(e);
 - C. any of the proceedings listed in Section VI(f) is initiated;
 - D. events or circumstances would require any changes to the attestation required by Section VI(f); or
 - E. the provisionally-certified guardian is removed as a guardian under Section 761 of the Texas Probate Code.
- 5) 6) Documents Filed with Court. Each document prepared by or on behalf of a provisionally-certified guardian and filed with a court shall include the provisionally-certified guardian's certification number and the name and certification number of his or her supervisor.
- 6) 7) A provisionally-certified guardian must comply with the continuing education requirements in Section VII(b). A provisionally-certified guardian, when he or she meets the qualifications for certification, must submit documentation as described in Section VII(b)(3) with his or her application for certification.

(d) Responsibilities of Supervisor.

- 1) A supervisor shall:
 - A. assume primary responsibility for guiding the provisionally-certified guardian's work and for supervising, generally and directly, as necessary, the quality of the provisionally-certified guardian's work;
 - B. meet with each provisionally-certified guardian at least once every two weeks, with at least one of these meetings being face-to-face each month;
 - C. assist the provisionally-certified guardian in activities to the extent the supervisor considers it necessary and appropriate;
 - D. ensure the provisionally-certified guardian is familiar with the provisions of these rules and the Minimum Standards for Guardianship Services; and
 - E. monitor the provisionally-certified guardian's compliance with these rules and the Minimum Standards for Guardianship Services.
- 2) A supervisor may not supervise more provisionally-certified guardians than a reasonably prudent supervisor operating under substantially similar circumstances would supervise at one time.
- 3) A supervisor whose certification expires, is revoked, or is suspended may not continue as a supervisor and must notify all provisionally-certified guardians under that person's supervision that the person may not continue as a supervisor.
- 4) A supervisor shall immediately notify the Board, or cause notice to be sent to the Board, if the supervisor ceases to supervise a provisionally-certified guardian.
- 5) A supervisor may not:
 - A. be related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood or adoption) to a person whom he or she is supervising; or

B. be an employee of or under the employment supervision of a person whom he or she is supervising.

(e) Notice from Board. If the Board receives notice from the provisionally certified guardian of any of the items in sections (c)(4) or (5) above, the Director shall acknowledge receipt in writing. If the Board receives notice from the supervisor under section (d)(4) above, or receives other notice affecting the guardian's provisional certification, the Director, on behalf of the Board, will contact the provisionally certified guardian regarding the notification by first class mail. Notice from the Director on behalf of the Board is deemed given when sent to the provisionally certified guardian at the last home address on file in the Board's records.

(f) Prohibition on Representation as a Certified Guardian. The supervisor and provisionally-certified guardian may not state, represent, or imply that the provisionally-certified guardian is a certified guardian.

(g) Expiration of Provisional Certification.

1) A provisionally-certified guardian may be provisionally certified for only one two-year period unless a waiver is approved by the Board. A waiver may only be granted by the Board before the expiration of the two-year period. It is the responsibility of the provisionally-certified guardian to contact the Director of the Guardianship Certification Program regarding any questions or concerns about the expiration of provisional certification, requirements for full certification, or requesting a waiver.

A. To request a waiver from the Board, the provisionally-certified guardian shall, in writing, send a request to the Director of the Guardianship Certification Program. The request must include the reason(s) for seeking the waiver, the time period of the extension, and verification of attendance at Board-approved continuing education during the provisional certification period. The provisionally-certified guardian may include information in support of his or her request for a waiver, such as a letter of support from the designated guardian supervisor. If the provisionally-certified guardian has not yet passed the required exam and/or completed required continuing education, the provisionally-certified guardian must include in a request for a waiver the details of his or her plan for completion of these requirements and the amount of time necessary to do so.

B. The Board has four (4) regularly scheduled meetings each year, and will consider requests for waivers at regularly scheduled meetings. Said request must be received by the Director of the Guardianship Certification Program not less than thirty (30) days prior to the next scheduled meeting of the Board. If a request for waiver is not received in time to be heard at a regularly scheduled meeting before the provisional certification expires, the request will not be considered. Notwithstanding the foregoing, in extraordinary circumstances, the Board may, in its sole discretion, consider requests for waivers at special called meetings.

2) Upon expiration of a provisionally-certified guardian's certification, the guardian must immediately provide written notice of the expiration to each court in which the guardian has been appointed pursuant to section 693 of the Texas Probate Code and, if the guardian provides guardianship services on behalf of the Department of Aging and Disability Services or a guardianship program, to each of those organizations on whose behalf the guardian provides guardianship services.

(g) (h) If a provisionally-certified guardian applies to be a certified guardian within one year of obtaining provisional certification, it will not be necessary for the applicant to submit a new criminal history record.