

Amend CSSB 6 as follows:

(1) In Article 3 of the bill, strike the recital to SECTION 3.07 (House committee report, page 135, lines 4 and 5) and substitute the following:

SECTION 3.07. Sections 875(c) and (j), Texas Probate Code, are amended to read as follows:

(c) A sworn, written application for the appointment of a temporary guardian shall be filed before the court appoints a temporary guardian. The application must state:

(1) the name and address of the person who is the subject of the guardianship proceeding;

(2) the danger to the person or property alleged to be imminent;

(3) the type of appointment and the particular protection and assistance being requested;

(4) the facts and reasons supporting the allegations and requests;

(5) the name, address, and qualification of the proposed temporary guardian;

(6) the name, address, and interest of the applicant; and

(7) if applicable, that the proposed temporary guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, and has complied with the requirements of Section 697 of this code.

(2) In Article 3 of the bill, add the following appropriately numbered SECTIONS and renumber subsequent SECTIONS of the article accordingly:

SECTION 3.\_\_\_\_. Sections 531.121(3) and (5), Government Code, are amended to read as follows:

(3) "Guardianship program" has the meaning assigned by Section 111.001 [~~601, Texas Probate Code~~].

(5) "Private professional guardian" has the meaning assigned by Section 111.001 [~~601, Texas Probate Code~~].

SECTION 3.\_\_\_\_. The heading to Section 531.122, Government Code, is amended to read as follows:

Sec. 531.122. ADVISORY BOARD; MEMBERSHIP [~~AND DUTIES~~].

SECTION 3.\_\_\_\_. Sections 531.122(a), (b), and (d), Government Code, are amended to read as follows:

(a) The Guardianship Advisory Board [~~shall advise the commission in adopting standards under Section 531.124 and in administering the commission's duties under this subchapter.~~

~~[(b) The advisory board]~~ is composed of one representative from each of the health and human services regions, as defined by the commission, three public representatives, and one representative of the Department of Aging and Disability [~~Protective and Regulatory~~] Services. The representatives of the health and human services regions are appointed by a majority vote of the judges of the statutory probate courts in each region. If a health and human services region does not contain a statutory probate court, the representative shall be appointed by a majority vote of the judges of the statutory probate courts in the state. The public representatives are appointed by the executive commissioner and the representative of the Department of Aging and Disability [~~Protective and Regulatory~~] Services is appointed by the commissioner of aging and disability services [~~Board of Protective and Regulatory Services~~].

(d) A member of the advisory board serves at the pleasure of a majority of the judges of the statutory probate courts that appointed the member, of the executive commissioner, or of the commissioner of aging and disability services [~~Board of Protective and Regulatory Services~~], as appropriate.

SECTION 3.\_\_\_\_. Section 531.1235, Government Code, is amended to read as follows:

Sec. 531.1235. ADVISORY BOARD; [~~ADDITIONAL~~] DUTIES; STATEWIDE GUARDIANSHIP SYSTEM. (a) The advisory board shall advise the commission in administering the commission's duties under this subchapter. In addition [~~to performing the duties described by Section 531.122~~], the advisory board shall:

(1) advise the commission and the Department of Aging and Disability [~~Protective and Regulatory~~] Services with respect to a statewide guardianship program and develop a proposal for a statewide guardianship program; and

(2) review and comment on the guardianship policies of

all health and human services agencies and recommend changes to the policies the advisory board considers necessary or advisable.

(b) The advisory board shall prepare an annual report with respect to the recommendations of the advisory board under Subsection (a). The advisory board shall file the report with the commission, the Department of Aging and Disability [~~Protective and Regulatory~~] Services, the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 15 of each year.

SECTION 3.\_\_\_\_. Section 531.124, Government Code, is amended to read as follows:

Sec. 531.124. COMMISSION DUTIES. (a) With the advice of the advisory board, the commission shall[+]

~~[(1) adopt minimum standards for the provision of guardianship and related services by:~~

~~[(A) a guardianship program;~~

~~[(B) a person who provides guardianship and related services on behalf of a guardianship program or local guardianship center, including a person who serves as a volunteer guardian; and~~

~~[(C) a person who serves as a private professional guardian; and~~

~~[(2)]~~ develop and, subject to appropriations, implement a plan to:

(1) ~~[(A)]~~ ensure that each incapacitated individual in this state who needs a guardianship or another less restrictive type of assistance to make decisions concerning the incapacitated individual's own welfare and financial affairs receives that assistance; and

(2) ~~[(B)]~~ foster the establishment and growth of local volunteer guardianship programs.

(b) ~~[The commission shall design the standards under Subsection (a)(1) to protect the interests of an incapacitated individual or other individual who needs assistance in making decisions concerning the individual's own welfare or financial affairs.~~

~~[(c)]~~ The advisory board shall annually review and comment

on the minimum standards adopted under Section 111.041 [~~Subsection (a)(1)~~] and the plan implemented under Subsection (a)[~~(2)~~] and shall include its conclusions in the report submitted under Section 531.1235.

SECTION 3.\_\_\_\_. Section 601, Texas Probate Code, is amended by adding Subdivision (12-a) and amending Subdivisions (13) and(24) to read as follows:

(12-a) "Guardianship Certification Board" means the Guardianship Certification Board established under Chapter 111, Government Code.

(13) "Guardianship program" has the meaning assigned by Section 111.001, Government Code [~~means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs~~].

(24) "Private professional guardian" has the meaning assigned by Section 111.001, Government Code [~~means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services~~].

SECTION 3.\_\_\_\_. Section 682, Texas Probate Code, is amended to read as follows:

Sec. 682. APPLICATION; CONTENTS. Any person may commence a proceeding for the appointment of a guardian by filing a written application in a court having jurisdiction and venue. The application must be sworn to by the applicant and state:

(1) the name, sex, date of birth, and address of the proposed ward;

(2) the name, relationship, and address of the person the applicant desires to have appointed as guardian;

(3) whether guardianship of the person or estate, or both, is sought;

(4) the nature and degree of the alleged incapacity, the specific areas of protection and assistance requested, and the limitation of rights requested to be included in the court's order of appointment;

(5) the facts requiring that a guardian be appointed

and the interest of the applicant in the appointment;

(6) the nature and description of any guardianship of any kind existing for the proposed ward in any other state;

(7) the name and address of any person or institution having the care and custody of the proposed ward;

(8) the approximate value and description of the proposed ward's property, including any compensation, pension, insurance, or allowance to which the proposed ward may be entitled;

(9) the name and address of any person whom the applicant knows to hold a power of attorney signed by the proposed ward and a description of the type of power of attorney;

(10) if the proposed ward is a minor and if known by the applicant:

(A) the name of each parent of the proposed ward and state the parent's address or that the parent is deceased;

(B) the name and age of each sibling, if any, of the proposed ward and state the sibling's address or that the sibling is deceased; and

(C) if each of the proposed ward's parents and siblings are deceased, the names and addresses of the proposed ward's next of kin who are adults;

(11) if the proposed ward is a minor, whether the minor was the subject of a legal or conservatorship proceeding within the preceding two-year period and, if so, the court involved, the nature of the proceeding, and the final disposition, if any, of the proceeding;

(12) if the proposed ward is an adult and if known by the applicant:

(A) the name of the proposed ward's spouse, if any, and state the spouse's address or that the spouse is deceased;

(B) the name of each of the proposed ward's parents and state the parent's address or that the parent is deceased;

(C) the name and age of each of the proposed ward's siblings, if any, and state the sibling's address or that the sibling is deceased;

(D) the name and age of each of the proposed

ward's children, if any, and state the child's address or that the child is deceased; and

(E) if the proposed ward's spouse and each of the proposed ward's parents, siblings, and children are deceased, or, if there is no spouse, parent, adult sibling, or adult child, the names and addresses of the proposed ward's next of kin who are adults;

(13) facts showing that the court has venue over the proceeding; and

(14) if applicable, that the person whom the applicant desires to have appointed as a guardian is a private professional guardian who is certified under Subchapter C, Chapter 111, Government Code, and has complied with the requirements of Section 697 of this code.

SECTION 3.\_\_\_\_. Section 696, Texas Probate Code, is amended to read as follows:

Sec. 696. APPOINTMENT OF PRIVATE PROFESSIONAL GUARDIANS. A court may not appoint a private professional guardian to serve as a guardian or permit a private professional guardian to continue to serve as a guardian under this code if the private professional guardian:

(1) has not complied with the requirements of Section 697 of this code; or

(2) is not certified as provided by Section 697B of this code.

SECTION 3.\_\_\_\_. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 696A and 696B to read as follows:

Sec. 696A. APPOINTMENT OF PUBLIC GUARDIANS. (a) An individual employed by or contracting with a guardianship program must be certified as provided by Section 697B of this code to provide guardianship services to a ward of the guardianship program.

(b) An employee of the Department of Aging and Disability Services must be certified as provided by Section 697B of this code to provide guardianship services to a ward of the department.

Sec. 696B. APPOINTMENT OF FAMILY MEMBERS OR FRIENDS. A family member or friend of an incapacitated person is not required

to be certified under Subchapter C, Chapter 111, Government Code, or any other law to serve as the person's guardian.

SECTION 3.\_\_\_\_. Subsections (a), (c), and (e), Section 697, Texas Probate Code, are amended to read as follows:

(a) A private professional guardian must apply annually to the clerk of the county having venue over the proceeding for the appointment of a guardian for a certificate of registration [~~certification~~]. The application must include a sworn statement containing the following information concerning a private professional guardian or each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian:

(1) educational background and professional experience;

(2) three or more professional references;

(3) the names of all of the wards the private professional guardian or person is or will be serving as a guardian;

(4) the aggregate fair market value of the property of all wards that is being or will be managed by the private professional guardian or person;

(5) place of residence, business address, and business telephone number; and

(6) whether the private professional guardian or person has ever been 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.

(c) The term of the registration [~~certification~~] begins on the date that the requirements are met and extends through December 31 of the initial year. After the initial year of registration [~~certification~~], the term of the registration [~~certification~~] begins on January 1 and ends on December 31 of each year. A renewal application must be completed during December of the year preceding the year for which the renewal is requested.

(e) Not later than February 1 of each year, the clerk shall submit to the Guardianship Certification Board and the Health and

Human Services Commission the names and business addresses of private professional guardians who have satisfied the registration [~~certification~~] requirements under this section during the preceding year.

SECTION 3.\_\_\_\_. Subpart A, Part 3, Texas Probate Code, is amended by adding Sections 697A and 697B to read as follows:

Sec. 697A. LIST OF CERTAIN PUBLIC GUARDIANS MAINTAINED BY COUNTY CLERKS. (a) Each guardianship program operating in a county shall submit annually to the county clerk a statement containing the name, address, and telephone number of each individual employed by or volunteering or contracting with the program to provide guardianship services to a ward or proposed ward of the program.

(b) The Department of Aging and Disability Services, if the department files an application for and is appointed to serve as guardian for one or more incapacitated persons residing in the county as provided by Subchapter E, Chapter 161, Human Resources Code, shall submit annually to the county clerk the information required under Subsection (a) of this section for each department employee who is or will be providing guardianship services in the county on the department's behalf.

(c) Not later than February 1 of each year, the county clerk shall submit to the Guardianship Certification Board the information received under this section during the preceding year.

Sec. 697B. CERTIFICATION REQUIREMENT FOR PRIVATE PROFESSIONAL GUARDIANS AND PUBLIC GUARDIANS. (a) The following persons must be certified under Subchapter C, Chapter 111, Government Code:

(1) an individual who is a private professional guardian;

(2) an individual who will represent the interests of a ward as a guardian on behalf of a private professional guardian;

(3) an individual providing guardianship services to a ward of a guardianship program on the program's behalf, except as provided by Subsection (d) of this section; and

(4) an employee of the Department of Aging and Disability Services providing guardianship services to a ward of



the department.

(b) A person whose certification has expired must obtain a new certification under Subchapter C, Chapter 111, Government Code, to be allowed to provide or continue to provide guardianship services to a ward under this code.

(c) The court shall notify the Guardianship Certification Board if the court becomes aware of a person who is not complying with the terms of a certification issued under Subchapter C, Chapter 111, Government Code, or with the standards and rules adopted under that subchapter.

(d) An individual volunteering with a guardianship program is not required to be certified as provided by this section to provide guardianship services on the program's behalf.

SECTION 3.\_\_\_\_. Sections 698(a) and (c), Texas Probate Code, are amended to read as follows:

(a) The clerk of the county having venue over the proceeding for the appointment of a guardian shall obtain criminal history record information that is maintained by the Department of Public Safety or the Federal Bureau of Investigation identification division relating to:

(1) a private professional guardian;

(2) each person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian; ~~[or]~~

(3) each person employed by a private professional guardian who will:

(A) have personal contact with a ward or proposed ward;

(B) exercise control over and manage a ward's estate; or

(C) perform any duties with respect to the management of a ward's estate;

(4) each person employed by or volunteering or contracting with a guardianship program to provide guardianship services to a ward of the program on the program's behalf; or

(5) an employee of the Department of Aging and Disability Services who is or will be providing guardianship

services to a ward of the department.

(c) The court shall use the information obtained under this section only in determining whether to appoint, remove, or continue the appointment of a private professional guardian, a guardianship program, or the Department of Aging and Disability Services.

SECTION 3.\_\_\_\_. Title 2, Government Code, is amended by adding Subtitle J to read as follows:

SUBTITLE J. GUARDIANSHIPS

CHAPTER 111. GUARDIANSHIP CERTIFICATION BOARD

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Administrative director" means the administrative director of the courts as appointed by Chapter 72.

(2) "Board" means the Guardianship Certification Board.

(3) "Corporate fiduciary" has the meaning assigned by Section 601, Texas Probate Code.

(4) "Director" means the administrative officer of the board, as provided by Section 111.021.

(5) "Guardian" has the meaning assigned by Section 601, Texas Probate Code.

(6) "Guardianship program" means a local, county, or regional program that provides guardianship and related services to an incapacitated person or other person who needs assistance in making decisions concerning the person's own welfare or financial affairs.

(7) "Incapacitated person" has the meaning assigned by Section 601, Texas Probate Code.

(8) "Office of Court Administration" means the Office of Court Administration of the Texas Judicial System.

(9) "Private professional guardian" means a person, other than an attorney or a corporate fiduciary, who is engaged in the business of providing guardianship services.

(10) "Statutory probate court" has the meaning assigned by Section 601, Texas Probate Code.

(11) "Ward" has the meaning assigned by Section 601, Texas Probate Code.

Sec. 111.002. RULES. The supreme court may adopt rules consistent with this chapter, including rules governing the certification of individuals providing guardianship services.

Sec. 111.003. SUNSET PROVISION. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2015.

[Sections 111.004-111.010 reserved for expansion]

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 111.011. BOARD. (a) The Guardianship Certification Board is composed of:

(1) 11 members appointed by the presiding judge of the statutory probate courts, elected as provided by Chapter 25; and

(2) four public members appointed by the supreme court from a list of nominees submitted by the governor.

(b) The presiding judge of the statutory probate courts shall appoint members under Subsection (a)(1) from the different geographical areas of this state.

(c) In making an appointment under Subsection (a)(2), the supreme court may reject one or more of the nominees on a list submitted by the governor and request a new list of different nominees.

(d) To be eligible for appointment to the board other than as a public member, an individual must have demonstrated experience working with:

(1) a guardianship program;

(2) an organization that advocates on behalf of or in the interest of elderly individuals;

(3) an organization that advocates on behalf of or in the interest of individuals with mental illness or mental retardation or individuals with physical disabilities; or

(4) incapacitated individuals.

(e) The public members of the board must be:

(1) caretakers of individuals with mental illness or mental retardation or individuals with physical disabilities; or

(2) persons who advocate on behalf of or in the interest of individuals with mental illness or mental retardation

or individuals with physical disabilities.

(f) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(g) The members of the board serve for staggered six-year terms, with the terms of one-third of the members expiring on February 1 of each odd-numbered year. Board members receive no compensation but are entitled to reimbursement of actual and necessary expenses incurred in the performance of their duties.

(h) The board shall elect from among its members a presiding officer and other officers considered necessary.

(i) The board shall meet at least quarterly at the call of the presiding officer.

(j) Any action taken by the board must be approved by a majority vote of the members present.

Sec. 111.012. ADMINISTRATIVE ATTACHMENT. (a) The board is administratively attached to the Office of Court Administration.

(b) Notwithstanding any other law, the Office of Court Administration shall:

(1) provide administrative assistance, services, and materials to the board, including budget planning and purchasing;

(2) accept, deposit, and disburse money made available to the board;

(3) pay the salaries and benefits of the director and any employees employed under Section 111.021;

(4) reimburse the travel expenses and other actual and necessary expenses of the board, director, and employees employed under Section 111.021 incurred in the performance of a function of the board, as provided by the General Appropriations Act; and

(5) provide the board with adequate computer equipment and support.

Sec. 111.013. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

(1) is certified by the board;

(2) is registered, certified, or licensed by a regulatory agency in the field of guardianship;

(3) is employed by or participates in the management of a business entity or other organization regulated by the board or receiving money from the Office of Court Administration;

(4) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the board or receiving money from the Office of Court Administration; or

(5) uses or receives a substantial amount of tangible goods, services, or funds from the Office of Court Administration, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 111.014. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board or may not be the director or an employee employed under Section 111.021 in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of guardianship; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of guardianship.

(c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 111.015. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of appointment the

qualifications required by Section 111.011;

(2) does not maintain during service on the board the qualifications required by Section 111.011;

(3) is ineligible for membership under Section 111.013 or 111.014;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the director has knowledge that a potential ground for removal exists, the director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the director shall notify the next highest ranking officer of the board, who shall then notify the presiding judge of the statutory probate courts and the chief justice of the supreme court that a potential ground for removal exists.

Sec. 111.016. POWERS AND DUTIES OF BOARD. (a) The board is charged with the executive functions necessary to carry out the purposes of this chapter under rules adopted by the supreme court.

(b) The board shall:

(1) administer and enforce this chapter;

(2) develop and recommend proposed rules and procedures to the supreme court as necessary to implement this chapter;

(3) set the amount of each fee prescribed by Section 111.042, subject to the approval of the supreme court;

(4) establish the qualifications for obtaining certification or recertification under Section 111.042;

(5) issue certificates to individuals who meet the certification requirements of Section 111.042; and

(6) perform any other duty required by this chapter or other law.

(c) The board may appoint any necessary or proper subcommittee.

(d) The board shall maintain:

(1) a complete record of each board proceeding; and

(2) a complete record of each certification issued, renewed, suspended, or revoked under Section 111.042.

Sec. 111.017. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this chapter;

(2) the role and functions of the board;

(3) the current budget for the board;

(4) the results of the most recent formal audit of the board; and

(5) any applicable ethics policies adopted by the board.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 111.018. USE OF TECHNOLOGY. The Office of Court Administration shall research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the board on the Internet;

(2) ensure that persons who want to use the board's services are able to:

(A) interact with the board through the Internet;  
and

(B) access any service that can be provided  
effectively through the Internet; and

(3) be cost-effective and developed through the  
board's planning processes.

Sec. 111.019. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) The board shall develop and implement a policy to encourage the  
use of appropriate alternative dispute resolution procedures to  
assist in the resolution of internal and external disputes under  
the board's jurisdiction.

(b) The procedures relating to alternative dispute  
resolution under this section must conform, to the extent possible,  
to any model guidelines issued by the State Office of  
Administrative Hearings for the use of alternative dispute  
resolution by state agencies.

Sec. 111.020. PUBLIC ACCESS. The board shall develop and  
implement policies that provide the public with a reasonable  
opportunity to appear before the board and to speak on any issue  
under the jurisdiction of the board.

Sec. 111.021. DIRECTOR; EMPLOYEES FOR BOARD. (a) The  
administrative director shall employ a director from a list of  
candidates submitted by the board. The administrative director may  
request an additional list of candidates if the administrative  
director does not select any of the initial candidates recommended  
by the board.

(b) The list may contain the hiring preference of the board.

(c) The director is the administrative officer of the board  
and is charged with carrying out the duties and functions conferred  
on the director by the board, this subchapter, and other law.

(d) The director may hire employees as necessary to assist  
the board in performing its duties and functions.

Sec. 111.022. DIVISION OF RESPONSIBILITIES. The board  
shall develop and implement policies that clearly separate the  
policy-making responsibilities of the board and the management  
responsibilities of the director and any employees employed under  
Section 111.021.



Sec. 111.023. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The director or the director's designee shall provide to members of the board and to any employees employed under Section 111.021, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

[Sections 111.024-111.040 reserved for expansion]

SUBCHAPTER C. REGULATION OF CERTAIN GUARDIANS

Sec. 111.041. STANDARDS FOR CERTAIN GUARDIANSHIPS AND ALTERNATIVES TO GUARDIANSHIP. (a) The board shall adopt minimum standards for:

(1) the provision of guardianship services or other similar but less restrictive types of assistance or services by:

(A) guardianship programs; and

(B) private professional guardians; and

(2) the provision of guardianship services by the Department of Aging and Disability Services.

(b) The board shall design the standards to protect the interests of an incapacitated person or other person needing assistance making decisions concerning the person's own welfare or financial affairs.

Sec. 111.042. CERTIFICATION REQUIRED FOR CERTAIN GUARDIANS. (a) To provide guardianship services in this state, the following individuals must hold a certificate issued under this section:

(1) an individual who is a private professional guardian;

(2) an individual who will provide those services to a ward of a private professional guardian or the Department of Aging and Disability Services on the guardian's or department's behalf; and

(3) an individual, other than a volunteer, who will provide those services to a ward of a guardianship program on the program's behalf.

(b) An applicant for a certificate under this section must:

(1) apply to the board on a form prescribed by the board; and

(2) submit with the application a nonrefundable application fee in an amount determined by the board, subject to the approval of the supreme court.

(c) The supreme court may adopt rules and procedures for issuing a certificate and for renewing, suspending, or revoking a certificate issued under this section. Any rules adopted by the supreme court under this section must:

(1) ensure compliance with the standards adopted under Section 111.041;

(2) provide that the board establish qualifications for obtaining and maintaining certification;

(3) provide that the board issue certificates under this section;

(4) provide that a certificate expires on the second anniversary of the date the certificate is issued;

(5) prescribe procedures for accepting complaints and conducting investigations of alleged violations of the minimum standards adopted under Section 111.041 or other terms of the certification by certificate holders; and

(6) prescribe procedures by which the board, after notice and hearing, may suspend or revoke the certificate of a holder who fails to substantially comply with appropriate standards or other terms of the certification.

(d) If the requirements for issuing a certificate under this section include passage of an examination covering guardianship education requirements:

(1) the board shall develop and the director shall administer the examination; or

(2) the board shall direct the director to contract with another person or entity the board determines has the expertise and resources to develop and administer the examination.

(e) In lieu of the certification requirements imposed under this section, the board may issue a certificate to an individual to engage in business as a guardian or to provide guardianship services in this state if the individual:

(1) submits an application to the board in the form prescribed by the board;

(2) pays a fee in a reasonable amount determined by the board, subject to the approval of the supreme court;

(3) is certified, registered, or licensed as a guardian by a national organization or association the board determines has requirements at least as stringent as those prescribed by the board under this subchapter; and

(4) is in good standing with the organization or association with whom the person is licensed, certified, or registered.

(f) An application fee or other fee collected under this section shall be deposited to the credit of the guardianship certification account in the general revenue fund and may be appropriated only to the Office of Court Administration for the administration and enforcement of this chapter.

(g) The Texas Department of Licensing and Regulation shall advise and assist the board as necessary in administering the certification process established under this section.

Sec. 111.043. INFORMATION FROM PRIVATE PROFESSIONAL GUARDIANS. In addition to the information submitted under Section 697(e), Texas Probate Code, the director may require a private professional guardian or a person who represents or plans to represent the interests of a ward as a guardian on behalf of the private professional guardian to submit information considered necessary to monitor the person's compliance with the applicable standards adopted under Section 111.041 or with the certification requirements of Section 111.042.

Sec. 111.044. ANNUAL DISCLOSURE. Not later than January 31 of each year, each guardianship program and private professional guardian shall provide to the board a report containing for the preceding year:

(1) the total number of wards served by the guardianship program or private professional guardian, as applicable;

(2) the total amount of money received from this state for the provision of guardianship services; and

(3) the total amount of money received from any other public source, including a county or the federal government, for the provision of guardianship services.

SECTION 3.\_\_\_\_. PROPOSED RULES AND PROCEDURES. Not later than March 1, 2006, the Guardianship Certification Board established under Chapter 111, Government Code, as added by this Act, shall develop rules and procedures for consideration by the supreme court as required by Chapter 111, Government Code, as added by this Act.

SECTION 3.\_\_\_\_. APPOINTMENT OF BOARD MEMBERS. (a) As soon as practicable after the effective date of this Act, the presiding judge of the statutory probate courts shall appoint 11 members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the presiding judge shall designate three members for terms expiring February 1, 2007, four members for terms expiring February 1, 2009, and four members for terms expiring February 1, 2011.

(b) As soon as practicable after the effective date of this Act, the supreme court shall appoint four members to the Guardianship Certification Board in accordance with Chapter 111, Government Code, as added by this Act. In making the initial appointments, the supreme court shall designate two members for terms expiring February 1, 2007, one member for a term expiring February 1, 2009, and one member for a term expiring February 1, 2011.

SECTION 3.\_\_\_\_. EFFECTIVE DATE OF CERTIFICATION. A person is not required to hold a certificate issued under Subchapter C, Chapter 111, Government Code, as added by this Act, to provide or continue to provide guardianship services to a ward before September 1, 2007.