

# THE DURAN FIRM, PLLC



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**RECEIPT AND COMPLETION OF THIS DOCUMENT DOES NOT ESTABLISH AN  
ATTORNEY-CLIENT RELATIONSHIP.**

Via Download

Prospective Client

Re: Doctor's Letter

Dear Prospective Client,

In order to obtain a Guardianship, you must provide the Probate Court with proof that the Proposed Ward is an incapacitated person. An "incapacitated person" is an adult individual who, because of a physical or mental condition, is substantially unable to provide food, clothing, or shelter for himself or herself, to care for the individual's own physical health, or to manage the individual's own financial affairs. The mere ability to state a preference does not constitute mental capacity. If a person is substantially unable to exercise a right acting on their own, that person is deemed to be unable to exercise that right.

Before you can pursue Guardianship, you must obtain a letter from the Proposed Ward's doctor that substantiates your claim of incapacity. The doctor's findings must be based upon an examination occurring within the last two months. Please have the Proposed Ward's doctor complete the Letter and return it to you as soon as possible.

Please understand that the receipt of this Worksheet by The Duran Firm does not establish an attorney-client relationship. The Duran Firm will require pre-payment of its fees and the execution of an attorney-client fee agreement prior to accepting you as a client. We do, however, look forward to working for you.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Michael A. Duran

### DOCTOR'S LETTER

Date of Letter: \_\_\_\_/\_\_\_\_/\_\_\_\_

Physician/Psychologist completing the Examination:

\_\_\_\_ Physician \_\_\_Psychologist  
Name

\_\_\_\_ City State ZIP code  
Street Address / Apt. #

(\_\_\_\_)  
Office Telephone Number

RE: In the Matter of the Guardianship of \_\_\_\_\_:  
Proposed Ward's Full Name

Individual being evaluated (the "Proposed Ward"):

\_\_\_\_\_  
Proposed Ward's Full Name

\_\_\_\_ City State ZIP code  
Street Address / Apt. #

Date of Birth: \_\_\_\_/\_\_\_\_/\_\_\_\_

I am a physician currently licensed in the state of Texas. I have been the doctor for the Proposed Ward since \_\_\_\_/\_\_\_\_/\_\_\_\_. The Proposed Ward was examined by me on \_\_\_\_/\_\_\_\_/\_\_\_\_. Based upon that examination and my observations, it is my opinion that the Proposed Ward is incapacitated. The extent of the Proposed Ward's incapacity is described in my answer to the following questions:

- 1. What is the general nature and degree of incapacity?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. What is the Proposed Ward’s medical history as it is related to the incapacity?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. How and in what manner does the Proposed Ward’s physical or mental health affect his/her ability to make or communicate responsible decisions?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Is the Proposed Ward on any medications which affect his/her demeanor or ability to participate in court proceedings? Yes No If so, what medication is the Proposed Ward on and how is his/her demeanor or ability to participate in court proceedings affected? \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Is the Proposed Ward capable of operating a motor vehicle?  Yes  No

Is the Proposed Ward capable of making an informed decision concerning matters decided by a public vote?  Yes  No

It is my opinion that the Proposed Ward is incapable of personally handling or making decisions concerning the following matters which are marked “No” before the appropriate letter:

(Note: The mere ability to state a preference does not constitute mental capacity. If a person is substantially unable to exercise a right acting on their own, that person is deemed to be unable to exercise that right.)

CAPABLE?

YES NO

- a. To handle a bank account.
- b. To contract and incur obligations.
- c. The power and authority to collect and to file suit on debts, rentals, wages, and other claims due to the ward.
- d. The power and authority to pay, compromise, and defend claims against the ward.

CAPABLE?

YES NO

- e. The power and authority to apply for and to receive funds from governmental sources for the ward, or, in the alternative, to execute a binding waiver of funds to be received from governmental sources on behalf of the ward.
- f. The power and authority to apply for and to consent to governmental services in the ward's behalf.
- g. The power and authority to apply for, to consent to, and to enroll the ward in non-residential programs and services which are reasonably required and needed by the ward and which are operated by public and private agencies and facilities.
- h. The power and authority to make application for, to consent to, and to enroll the ward in public and private residential care facilities.
- i. The power and authority to make employment decisions.
- j. The power and authority to apply for, arrange for, and consent to, any and all psychological and psychiatric tests and evaluations for the ward, including, but not limited to, a comprehensive diagnosis and evaluation.
- k. The power and authority to consent to the disclosure of the ward's psychological records, and medical records.
- l. The power and authority to consent to major medical and dental treatment and testing for the ward including surgery, psychotropic drugs, and including the choice of physician or dentist, except that the limited guardians shall not have the power or authority to consent to a sterilization of the ward, and except minor medical problems such as cuts, bruises, colds, etc.
- m. The power and authority to make decisions related to military service.
- n. The power and authority to enter or procure insurance contracts of every nature.
- o. Other: \_\_\_\_\_.

THEREFORE, it is my opinion that the Proposed Ward is incapacitated as stated in this letter and that a guardian should be appointed and granted the powers necessary to act on the Proposed Ward's behalf and to make decisions for the Proposed Ward concerning the matters which are marked above.

FURTHERMORE, (answer "YES" to one of the following):

YES

- By responding "No" to all the matters listed above, it is my opinion that the Proposed Ward is totally incapacitated and is mentally incompetent to care for himself/herself or to manage his/her property and financial affairs.
- By responding both "Yes" and "No" to the matters listed above, it is my opinion that the Proposed Ward is partially incapacitated.

Any further comments and/or explanations:

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Signature of Examiner: \_\_\_\_\_

Title: \_\_\_\_\_

Licensure/Certification Number: \_\_\_\_\_