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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 three months (twenty-three months for cases of mental retardation). 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 FORM LETTER

Date: ____/____/____

Physician's name: _____

Physician's address: _____
Street Address / Suite #

City State ZIP code

Telephone number: (____)_____
Office Telephone Number

Honorable Don R. Windle
Judge, Denton County Probate Court
Denton County Courts Building
Second Floor
1450 E. McKinney St.
Denton, Texas 76209-4524

RE: In the Matter of the Guardianship of _____,
An Alleged Incapacitated Person Proposed Ward's Full Name
Individual being evaluated (the "Proposed Ward"):

Proposed Ward's Full Name Age

Street Address / Suite #

City State ZIP code

Dear Judge Windle,

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 ____/____/____ at the following location: _____. For the purposes of this examination, the following definition applies:

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." Texas Probate Code Section 3(p)(2) (Vernon's 2005).

Based upon that examination and my observations, it is my opinion that the extent of the Proposed Ward's incapacity is described in my answers to the following questions:

1. What is the general nature and degree of the mental and/or physical incapacity?

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

3. What is the prognosis, including the estimated severity, of the incapacity?

4. How and in what manner does the Proposed Ward's physical and mental health affect the Proposed Ward's ability to make or communicate responsible decisions concerning himself or herself?

5. Does any current medication affect the demeanor of the Proposed Ward?

Yes No

Would this medication affect the Proposed Ward's ability to participate fully in a court proceeding?

Yes No

Please describe these medications: _____

6. Is senility a diagnosis of the Proposed Ward's incapacity?

Yes No

If so, please describe the precise physical and mental conditions underlying the diagnosis?

7. Is mental retardation the basis of the Proposed Ward’s incapacity?

Yes No

If so, what is the level of behavior?

8. It is my opinion that the Proposed Ward is capable of personally handling and making decisions concerning the following matters which are marked “YES” below. It is my opinion that the Proposed Ward is incapable of personally handling or making decisions concerning the following matters which are marked “NO” below:

(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.
If “YES”, should the Court limit the account? No Yes , limit to: \$_____.
- b. To contract and incur obligations.
- c. To collect and to file suit on debts, rentals, wages, and other claims due to the Proposed Ward.
- d. To pay, compromise, and defend claims against the Proposed Ward.
- e. To consent to governmental services.
- f. To apply for and receive funds from governmental sources.
- g. To enroll in public or private residential care facilities.
- h. To make employment decisions.
- i. To apply for psychological and psychiatric tests and evaluations.
- j. To consent to medical and dental treatment and testing
- k. To consent to the disclosure of psychological and medical records.
- l. To make decisions related to military service.
- m. To enter into insurance contracts of every nature.
- n. To execute a will or power of attorney.
- o. To make gifts of real or personal property.
- p. To make a decision as to marriage.
- q. To make an informed decision concerning matters decided by a public vote.
- r. To operate a motor vehicle.
- s. To determine residence.
- t. 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 "NO" 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 without capacity.
- By responding both "YES" and "NO" to the matters listed above, it is my opinion that the Proposed Ward is partially incapacitated.

I believe that the Court should also be aware of the following additional information, if any, which concerns the Proposed Ward and which is not included above, but which may be of interest to the Court:

I did did not, prior to my examination of the above patient, tell him or her that anything said to me by the patient or observations made by me of the patient during the initial or any later examination would be used in a court of law and are not privileged.

Sincerely,

Signature of Examiner: _____

Title: _____

Licensure/Certification Number: _____

INFORMATION FURNISHED TO: Denton County Probate Court