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Donna Campbell, M.D.
Texas State Senator
District 25

June 13, 2024

Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548
Opinioncommittee@oag.texas.gov

RE: *Request for legal opinion regarding definition or duties of Guardianship*

Dear General Paxton,

The Texas Estates Code does elaborate lightly on a Wards representation rights regarding civil and criminal matters, but to what extent of interdiction and restriction is allowable by the Guardianship Team. I request your office to review Pro Se representation restrictions on a mentally diseased, mentally incapacitate, and disable Texas Ward, which qualifies as a matter of state interest pursuant to the *Texas Government Code, Title 2, Chapter 81, Subchapter D, Section § 86.061, Subchapter E, Section § 81.073, Subchapter G, Section § 81.1011(a), and Subchapter H, Section § 81.114 1(B)(i)(vi)2(A)*.

The Guardian Team, under any circumstances wants to violate the inalienable Constitutional or legislative rights of the Ward, nor the compulsory Texas Bar Rules set-forth for the unauthorized practice of law. It is in the best interest of the Ward that the Guardianship Team knows their true legal limitations and lawful legal function in this matter under Texas State Bar Rules.

1. Does the Guardianship Team, the Court appointed Guardian, established lawful Next-Friends, and the Guardianship Court have the authority under the Texas Estates Code, the Texas Penal/Criminal Code, the Texas Government Code, Texas State Bar Rules, and the Texas Constitution to require that a mentally disabled, mentally diseased, and incapacitate Texas Ward use at a minimum "stand-by" or "of counsel" licensed Texas attorneys while being a wholly Pro Se Defendant in either civil or criminal defense matters.

Synopsis for Question 1:

Can a Guardianship Team force a severely mentally disabled, mentally diseased, and mentally incapacitated Texas Ward to use the guidance of a Texas licensed attorney while being a wholly Pro Se Defendant in civil or criminal matters.

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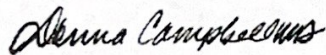
2. Does the Guardianship Team, Court appointed Guardians, established lawful 'Next-Friends', and the Guardianship Court have the authority under the Texas Estates Code, the Texas Penal/Criminal Code, the Texas Government Code, Texas State Bar Rules, and the Texas Constitution to require mandatory oversight and case management to a mentally diseased, mentally disabled, mentally incapacitated Texas Ward's wholly Pro Se representation, having the Guardianship Team aided by 'stand-by' or 'of counsel' licensed Texas attorneys in either civil or criminal defense matters.

Synopsis for Question 2:

If a severely mentally disabled, mentally diseased, and mentally incapacitated Texas Ward has become a wholly Pro Se Defendant, can the Guardianship Team hire Texas licensed (stand-by) or (of counsel) attorneys to assist the Guardianship Team review, manage, and negotiate with the judiciary in behalf of the Texas Ward's interest; while not violating the unauthorized practice of law statute for Texas.

Additionally, the attorney representing the Ward, the Guardianship Court, and the Texas State Bar requests your office to evaluate the constitutionality of their decision to restrict and place conditions on the Ward's constitutional right to assert a wholly Pro Se representation, unaided by Texas licensed attorneys. The Texas Estates Code does elaborate lightly on a Wards representation rights regarding civil and criminal matters, but to what extent of interdiction and restriction is allowable by the Guardianship Team and Next-Friends is left legislatively unclear and unreferenced to the lay reader, law student, or even licensed attorneys.

Sincerely,



Senator Donna Campbell, M.D.
Chair, Senate Nominations
Vice Chair, Education