



Managing Difficult Wards & Ethical Considerations

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JBCC Code of Ethics and Minimum Standards

- Misc. Docket No. 21-9098, Supreme Court of Texas
 - Code Amendments took effect September 1, 2021
- 10 “Commandments” of the Code of Ethics
 - Ward’s Independence and Self-Reliance Promoted
 - Fiduciary Relationship
 - Confidentiality
 - Ward’s Preferences Generally Respected
 - Duty of Competence

JBCC Code of Ethics and Minimum Standards

- Ten Commandments of Code of Ethics Continued
 - Less Restrictive Alternatives Preferred
 - Avoidance of Conflicts of Interest and Self-Dealing
 - Responsibility to Keep Court Apprised of Condition of Ward's Person or Property
 - Responsibility to Seek Modification or Termination of Guardianship
 - Responsibility to Manage Caseload

Managing Difficult Wards & Ethical Considerations

- **Step One**: Assessment of Guardianship and Ward
 - Doctor, Court Staff, and Attorneys have all usually met and vetted the necessity of the guardianship.
 - During the Initial Assessment (Min. Std. 13), CGs have an obligation to:
 - Communicate your role as Guardian.
 - Discuss the guardianship order and go over the BOR.
 - Inform Ward of local agencies and resources.
 - Discuss any rights retained by Ward.
 - Assess Ward's physical and social situation, needs, preferences, and support systems.

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- **Step One**: Assessment of Guardianship and Ward
 - During the Initial Assessment (Min. Std. 13), CGs have an obligation to:
 - Establish rapport and trust
 - Determine the extent to which a Ward can express their preferences and input on major medical, residential, social, and financial decisions.
 - Obtain a family history and contact information
 - Attempt to gather and/or order all important documents

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- **Step One**: Assessment of Guardianship and Ward
 - After appointment (Min. Std. 13), CGs have an obligation to:
 - Notify providers, banks, and all relevant parties of appointment.
 - Apply and obtain public benefits.
 - Work with GOE/Trustee/POA.
 - Develop written guardianship plan with goals.
 - Set up and maintain separate file for Ward.
 - Conduct monthly visits with Ward

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- **Category One**: Is Ward really incapacitated? (Min. Std. #3, 6, 7, & 9)
 - High IQ?
 - Mental health crisis?
 - Able to manage own ADLs?
 - Able to effectively advocate for themselves?
 - Temporary incapacity?
 - May therapy & medication restore capacity?
 - LRAs or supports and services available to avoid need for guardianship?

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- **Category One**: Is Ward really incapacitated?
 - Min. Std. 20/COE 6 & 10 – CGs have an ongoing obligation to constantly evaluate each Ward's capacity for potential LRAs or for modification or termination of guardianship.

Examples & Discussion of Ethics with Attendees

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- **Category Two**: Ward lives in the Community
 - Ward has social behaviors/mental health issues that prevent Ward from adjusting to living in a normal housing or apartment community.
 - Ward is hoarder and treats all personal property as treasure.
 - Ward refuses help from caregivers and medical care/medication administration/pill reminders.

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- **Category Two**: Ward lives in the Community
 - Ward has free reign to come and go as Ward pleases.
 - Ward may be able to change locks or access to Ward.
 - Ward needs an Emergency Plan.
 - Ward able to provide/arrange for own transportation.
 - Ward has bad influences/friends that visit unsupervised.

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- **Category Two**: Ward lives in the Community
 - Ward refuses to engage with any social, educational, or therapeutic activities.
 - Determining appropriate benefits & qualifying for SSI/SSDI/Medicaid.
 - Ward has your phone number and likes to call you.
 - APS/Police Interactions.

Examples & Discussion of Ethics with Attendees

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- **Category Three:** Wards lives in Care Facility
 - Ward is incapable of expressing preferences and facing difficult medical decisions.
 - Ward has complicated diagnoses that necessitate difficult decisions.
 - Ward is in an understaffed facility that provides an inadequate level of care.
 - Ward fights with staff, caregivers, or other residents.

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- **Category Three**: Wards lives in Care Facility
 - Ward needs Public benefits (Medicaid) to pay for care.
 - QIT (too much income)
 - Owns home in community (who pays bills, taxes, insurance? rental income?)
 - Spousal impoverishment
 - Ward refuses to take medications as prescribed.
 - Confirming and evaluating the correct level of care for Ward.

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- **Category Three**: Ward lives in Care Facility

Examples & Discussion of Ethics with Attendees

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- **Category Four**: Wards with Family Problems
 - Family abused/neglected/exploited Ward.
 - Family intentionally intends to undermine guardianship.
 - Appointment during litigation (temporary guardianship with family contests).
 - Temporary injunctions tailored to specifically address issues:
 - Limitations on visitation/communication.
 - Visitation supervision.

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- **Category Four**: Wards with Family Problems

Examples & Discussion of Ethics with Attendees

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Other topics/issues/considerations from attendees?