

Application Regulations

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100 Application Regulations for CPGs under GR 23.

101 Application

Every person or agency desiring to be certified as a CPG must submit an application, undergo a criminal history check, pay the fee set by the CPG Board, and satisfy all requirements set forth in the applicable rules and regulations.

102 Definitions

102.1 "Applicant" means any individual or agency that submits an application to become a CPG or a Certified Professional Guardian Agency.

102.2 "Agency" means any legal entity in the State of Washington authorized by its formation documents to act as a fiduciary, guardian, or limited guardian. (Revised 3-8-10).

102.3 "Designated CPG" means the certified professional guardians working for an agency who have the final decision-making authority for incapacitated persons or their estate on behalf of the agency. The designated CPG is responsible for the actions of the agency(ies) for which they serve as designated CPG (Adopted 1-9-12)

102.4 "Experience working in a discipline pertinent to the provision of guardianship services" in GR 23(d)(1)(iv) includes volunteer work experience that is supervised, verifiable and based on actual hours worked, except as otherwise set forth in these regulations. (Adopted 8-10-09).

102.5 "Experience working in a discipline pertinent to the provision of guardianship services" in GR 23(d)(1)(iv) does not include providing services for a family member. (Adopted 9-14-09)

102.6 "Experience working in a discipline pertinent to the provision of guardianship services" in GR 23(d)(1)(iv) includes experience in which the applicant has developed skills that are transferable to the provision of guardianship services. (Adopted 8-10-09).

102.7 "Decision-making or the use of independent judgment on behalf of others" in GR 23(d)(1)(v) is not limited to incapacitated persons. (Adopted 8-10-09)

102.8 "On behalf of others" in GR 23(d)(1)(v) means for the benefit of others. (Adopted 8-10-09)

103 Qualifications

103.1 The certification qualifications are set out in the Certified Professional Guardian Rule. Successful applicants must meet or exceed those requirements.

103.2 An applicant must send the following to the Administrative Office of the Courts (AOC):

103.2.1 A fully completed CPG application. The applicant should keep a photocopy of the completed application.

103.2.2 A fingerprint card that has been processed at a local police department.

- 103.2.3 A completed, signed, and notarized Affidavit of Applicant.
- 103.2.4 A completed, signed, and notarized Authorization and Release of Information.
- 103.2.5 A certificate of completion of the mandatory certification training shall be valid for two years from the date of completion of the training.
- 103.2.6 Submit declaration under penalty of perjury, that the guardian will take steps to ensure the guardian's employees who come into contact with the person or estate of an incapacitated person have passed a criminal history check prior to having contact with the incapacitated person or incapacitated person's estate.
- 103.2.7 All individual applicants must provide a personal credit report. (Adopted 1-9-12)
- 103.2.8 If an individual has declared bankruptcy in the seven (7) years prior to his or her application, the applicant must provide copies of the following documents: bankruptcy petition, discharge order, and a copy of the bankruptcy case docket. (Adopted 1-9-12)
- 103.3 An agency applicant must also:
- 103.3.1 Submit a copy of the formation documents of the legal entity.
- 103.3.2 Submit declaration under penalty of perjury, that it will take steps to ensure its employees, agents, board members, or anyone formally associated with the agency entity who may come into contact with the person or estate of an incapacitated person has passed a criminal history check prior to having contact with the incapacitated person or their estate, and that all officers and directors meet the qualifications of Chapter 11.88 RCW for guardians.
- 103.3.3 Submit the names of the agency's board of directors, members, managers, owners, and/or its officers.
- 103.3.4 Identify all CPGs at the agency (a minimum of two are required), and submit a copy of either meeting minutes or a board resolution identifying the designated CPGs.. The designated CPGs shall submit the Acceptance of Designated CPG form. (Revised 1-9-12)
- 103.4 All applicants must pay a non-refundable application fee determined by the CPG Board.
- 103.5 All individual applicants must complete an approved CPG training course.
- 103.6 All applicants must submit a sworn statement that they have read and agree to abide by the continuing disclosure requirements of GR 23 and all other requirements imposed by rule or statute for CPGs.

104 Filing Application

Persons or agencies applying to receive certification as CPGs under GR 23 must submit the original application, the required attachments and fee to:

Certified Professional Guardian Program
Administrative Office of the Courts (AOC)
PO Box 41172
Olympia, WA 98504-1172.

105 procedures for Processing Applications

- 105.1 Initial Review of the Application. The AOC will review applications for completeness. Incomplete applications or ones not in compliance with the rule or regulations will be returned to the applicant with an explanation of the deficiencies.
- 105.2 Application Fee. The AOC will deposit the applicant's fee and send an acknowledgment of receipt of the application to each applicant.
- 105.3 Verification of Application Information. The AOC will screen and verify all application materials. Each fingerprint card shall be sent to the Washington State Patrol for a criminal history background check.

106 Processing of Applications

106.1 Application Committee

- 106.1.1 Applications will be reviewed by an Application Committee of the Board. The Chair of the Board shall appoint the members of the Application Committee. The term of the members shall be one year.
- 106.1.2 The Chair of the Board shall designate one of the committee members as the committee chair. The term of the chair shall be one year.

106.2 Approval of Application

- 106.2.1 After an application is complete, in the opinion of the Application Committee, the Application Committee shall report to the Board in executive session on the merits of the application.
- 106.2.2 The Board shall approve the applications with or without conditions, refer the application back to the Application Committee for additional information, or deny the application.
- 106.2.3 If the Board affirms approval of an application for certification, then the Board shall notify the applicant and forward the recommendation to the Supreme Court in accordance with Regulation 111.3.3.
- 106.3 Denial of Application. If the Board denies an application, the applicant will be given written notice of the denial and the right to appeal under these regulations.

107 Training

Each applicant shall complete the CPG training. The training will incorporate the goals and objectives and content adopted by the Board. Certification is dependent on completion of this training.

108 Certification by the Supreme Court

- 108.1 The Board shall submit the names of those persons and agencies that have successfully completed the requirements and are recommended for approval as a CPG or Certified Professional Guardian Agency to the Supreme Court. Certification shall be effective upon order of the Supreme Court.

108.2 A certified professional guardian or certified professional guardian agency shall be appointed and carry E & O Insurance in the name as certified. A CPG or CPG Agency may include a business name in contact information and promotional materials concerning the provision of guardianship services provided that the name of the CPG or CPG agency is listed.

108.2.1 If an individual certified professional guardian is appointed as guardian, the certified professional guardian shall assure that letters of guardianship are issued to the certified professional guardian individually. If a certified professional guardian agency is appointed as guardian, the agency shall assure that letters of guardianship are issued to the certified professional guardian agency.

108.2.2 A certified professional guardian or certified professional guardian agency shall not make a false or misleading communication about the guardian or the guardian's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, omits a fact necessary to make the communication considered as a whole not materially misleading.

Each certified professional guardian or certified professional guardian agency must come into compliance with regulation 108.2 by January 1, 2012.

109 Right to Appeal of Denial of Certification

109.1 Right of Appeal. Every applicant denied certification shall have a right of appeal before an Appeals Panel. The applicant shall receive a copy of any investigative report relied on by the Board with the notice of denial.

109.2 Appeals Panel. The Chair shall appoint an Appeals Panel made up of three Board members who did not serve on the Application Committee.

109.3 Filing of Appeal. An applicant may appeal denial of certification by submitting a written request to:

Certified Professional Guardian Board
Administrative Office of the Courts
PO Box 41170
Olympia WA 98504-1170

109.4 Procedure for Appeal

109.4.1 Commencement. The request must:

109.4.2 Be filed within sixty (60) calendar days of the date the denial of application was issued;

109.4.3 Identify the applicant; and

109.4.4 Explain fully the applicant's reason for contesting denial of certification.

109.4.5 Other Material to be Considered. The applicant may submit to the AOC additional written material which may include statements, correspondence, affidavits, and memoranda of law or other information which the applicant believes will assist the Appeals Panel in reviewing the denial of certification. All written materials must be received by the AOC within 30 days after the filing of the notice of appeal. The staff of the AOC will supply the Appeals Panel with the application, all attachments, and all other material relating to the application.

109.4.6 Stipulations. The Appeals Panel may use written stipulations. (Adopted 1-12-00)

109.4.7 Time Lines and Scheduling of the Appeal.

109.4.7.1 The date of review of the appeal will be not more than sixty (60) days from the date of receipt of applicant's materials by the AOC. The AOC will notify the applicant of the scheduled date for the consideration of the appeal.

109.4.7.2 An Appeals Panel will not consider any request for appeal that does not strictly comply with the times stated, unless waived. Upon a showing of good cause, the Appeals Panel may waive the time requirements, reschedule the review for an earlier, or later date.

109.4.8 Review by the Appeals Panel. The assigned Appeals Panel shall consider the written material submitted. The Appeals Panel may, in its sole discretion, make a decision based solely on the written record, or it may request an oral presentation by the applicant. The applicant shall be informed of the place, time, and duration of an oral presentation. Telephone conferences may be held at the discretion of the Appeals Panel.

109.4.9 Decision of the Appeals Panel. Within twenty (20) days after the date of review of the appeal, the assigned Appeals Panel shall file with the AOC written findings of fact, conclusions of law, and a recommendation to the Board to approve or deny the appeal. (Amended 11-12-02)

109.4.10 Notification of Findings. The AOC shall notify the applicant of the findings, conclusions, and recommendation of the Appeals Panel within five (5) business days.

109.4.11 Decision of Board. Within sixty (60) days, the Board shall review the findings, conclusions and recommendation of the Appeals Panel. No further oral or written argument will be allowed the parties, and no further evidence may be submitted to the Board. The Board shall adopt, modify, or reverse the findings, conclusions, and recommendation of the Appeals Panel. A copy of the Board's decision, as set forth in the minutes of the Board meeting or in a separate written decision of the Board, shall be served on the applicant by mail within 30 days.

109.4.12 Approval of Application. If the application has been approved by the Board, the applicant will be supplied any additional forms or information necessary for certification.

110 Necessary Letters and Forms

The AOC shall prepare all the necessary letters and forms pertaining to application and certification and submit them to the Certified Professional Guardian Board for approval.

111 Fees

111.1 Schedule of Fees. The Board shall determine a schedule of fees for application, annual certification, and other processing as may be required. Every CPG and Certified Professional Guardian Agency shall pay one annual fee, based on the state fiscal year, through the AOC. Failure to pay the required fees shall subject the CPG or Agency to revocation of existing certification or denial of an application for certification.

111.2 Amount of Fees.

111.2.1 The application fee for individuals is \$110.00.

111.2.2 For an applicant who possesses a license granted by another agency, there may be a background research fee charged by that agency to verify the status of the applicant's license. The AOC shall notify the applicant of the fee and applicant shall send the fee to the AOC, by check made payable to the agency charging the background research fee.

111.2.3 The application fee for agencies is \$110.00.

111.3 Initial Certification Fee

111.3.1 The initial certification fee for both individuals and agencies is due sixty (60) days after notice of the application's approval by the Board for certification.

111.3.2 The initial certification fee is not prorated.

111.3.3 Upon receipt of the initial certification fee, the application will be forwarded to the Supreme Court with the Board's recommendation for certification.

111.4 Failure to Pay Initial Certification Fee. In the event an applicant does not timely pay the initial certification fee, the Board will not forward the application to the Supreme Court for certification, and the Board will deny certification.

111.5 Declaration. Every certified guardian, individual and agency, shall file a Declaration annually, on the form provided by the Board, disclosing under oath the information required by GR 23(e).

111.6 Annual Certification Fee and Declaration

111.6.1 The annual certification fee for individuals is \$150.00. In accordance with the state fiscal year, it is due annually on August 1. The Declaration is also due on August 1.

111.6.2 The annual certification fee for agencies is \$150.00. In accordance with the state fiscal year, it is due annually on August 1. The Declaration is also due on August 1.

111.6.3 The annual fee for individuals on inactive status is one-half the full annual fee. In accordance with the state fiscal year, it is due annually on August 1.

111.7 Annual Certification Late Fees and Declaration

111.7.1 Failure to pay the annual certification fee and submit the required declaration by August 1 will subject the individual to a late fee of \$50.00 if paid before September 1.

111.7.2 Failure to pay the annual certification fee and submit the required declaration by September 1 will subject the individual to a late fee of \$100.00 if paid before October 1.

111.7.3 Failure to pay the annual certification fee and submit the required declaration by August 1 will subject the agency to a late fee of \$50.00 if paid before September 1.

111.7.4 Failure to pay the annual certification fee and submit the required declaration by September 1 will subject the agency to a late fee of \$100.00 paid before October 1.

111.8 Failure to Pay the Annual Certification Fee and File the Required Declaration

111.8.1 Failure to pay the required annual certification fee and late fee and submit the required declaration by October 1 shall subject the CPG or Agency to revocation of certification by the Board.

111.8.2 To effect such decertification, the Board shall send a written notice of non-compliance to the CPG or Agency by certified mail, directed to the CPG's or Agency's last known address as maintained on the records of the Administrative Office of the Courts. The notice shall advise the CPG or Agency of the pendency of decertification for failure to pay the required annual certification fee and late fee and submit the required declaration. The notice shall further advise the CPG or Agency that if the CPG or Agency believes that an administrative error has been made and that the CPG or Agency is not in default on the obligation to submit the annual certification fee and late fee and the required declaration, the CPG or Agency may file a petition requesting an administrative hearing. The petition shall set forth in detail the facts supporting the CPG's or Agency's claim that an administrative error has been made by the Board and must be signed under penalty of perjury. The CPG or Agency must file the petition within ten calendar days of notice of the pendency of decertification. (Amended 11-8-04)

111.8.3 If a petition is filed, the Chair of the Board shall appoint a three-member Review Panel to conduct a hearing on the petition. In the sole discretion of the Review Panel, the hearing may be held by telephone. The Review Panel shall make written findings and a recommendation as to whether the petition should be granted. The findings and recommendation of the Review Panel shall be filed with the Board and served by first-class mail on the CPG or Agency. (Amended 11-8-04)

111.8.4 The Board shall review the decision of the Review Panel and shall make a decision approving or denying the petition. If the petition is denied, then the Board shall decertify the CPG or Agency. The members of the Review Panel shall not participate in the decision of the Board. A copy of the Board's order shall be sent by certified mail to the CPG or Agency. Any such order shall be final. (Amended 11-8-04)

111.9 Training Fee. This is an administrative fee unrelated to the cost of training that may be paid to the trainer.

112 Inactive Status

112.1 A CPG or Agency may voluntarily request inactive status by notifying the Board in writing of the date the change in status is to be effective and by complying with the requirements of this regulation.

112.2 A CPG on voluntary inactive status by the Board is not required to pay the full annual fee, but shall pay in accordance with Regulation 111.6.3. A CPG on voluntary inactive status is required to file an E&O declaration and the Annual Disclosure.

112.3 A CPG on voluntary inactive status may return to active status by filing a petition to return to active status with the Board within two (2) years from the date that voluntary inactive status was granted. The CPG must pay the annual fee and meet any additional requirements for CPGs.

112.4 A CPG on inactive status longer than two years from the date of transfer to inactive status can only be returned to active status after review by the Application Committee. The Application

Committee may require the Guardian to complete all or a portion of the initial certification process.

112.5 Prior to requesting inactive status, the CPG shall:

112.5.1 Comply with all statutory and court-ordered requirements for discharge from responsibilities as a guardian in each case in which the CPG has been appointed, with the exception that a guardian who is not a member of the incapacitated person's family and who charges fees for carrying out the duties of court-appointed guardian may retain guardianship over two incapacitated persons;

112.5.2 File with the Board an affidavit showing:

112.5.2.1 Compliance with these requirements.

112.5.2.2 The address where communications may be directed to the inactive CPG or Agency, and acknowledging a requirement to keep their address current with the AOC for 36 months following surrender.

112.5.2.3 After being placed on inactive status, the former CPG shall not accept any new clients or engage in work as a CPG until return to active status.

112.5.2.4 The CPG or Agency shall file the affidavit or declaration required by this regulation within sixty (60) days of the date of the written notice to the Board of the intent to go on inactive status.

112.6 Failure to file the compliance affidavit or failure to comply with other statutory and court-ordered requirement shall subject the CPG or Agency to revocation of existing certification.

112.7 The CPG or Agency may revoke the notice of intent to go on inactive status by notifying the Board in writing.

113 Voluntary Surrender of Certification

113.1 A CPG or Agency may voluntarily surrender certification by notifying the Board in writing of the date the surrender is to be effective and by complying with the requirements of this regulation. (Adopted 11-12-01) (Amended 1-13-03)

113.2 The surrender of certification shall not be effective until the CPG or Agency has met the following requirements:

113.2.1 Complied with all statutory and court-ordered requirements for discharge from responsibilities as a guardian in each case in which the CPG or Agency has been appointed, with the exception that a guardian who is not a member of the incapacitated person's family and who charges fees for carrying out the duties of court-appointed guardian may retain guardianship over two incapacitated persons;

113.2.2 Filed with the Board an affidavit or declaration signed under penalty of perjury stating:

113.2.2.1 Compliance with these requirements.

113.2.2.2 The address where communications may be directed to the former CPG or Agency, and acknowledging a requirement to keep their address current with the AOC for 36 months following surrender.

113.2.2.3 That after surrender of certification, the former CPG or Agency shall not accept any new clients or engage in work as a CPG or Agency unless recertified following the rules and regulations applicable to new applicants.

113.2.3 The CPG or Agency shall file the affidavit or declaration required by this regulation within sixty (60) days of the date of the written notice to the Board of the intent to surrender certification.

113.3 Failure to file the affidavit or declaration required by this regulation or failure to comply with other statutory or court-ordered requirements regarding discharge from responsibilities as a guardian shall subject the CPG or Agency to revocation of certification.

113.4 The CPG or Agency may revoke the notice of intent to surrender certification by notifying the Board in writing.

114 Examination

RESERVED.

115 Examination Frequency and Locations

RESERVED.

116 Examination Standards and Notification of Results

RESERVED.

117 Insurance

117.1 Purpose. The purpose of this regulation is to provide coverage for damages resulting from unintentional errors and omissions of the guardian and its employees.

117.2 Requirements. Certified professional guardians (guardians) and certified professional guardian agencies (agencies) shall maintain a minimum of \$500,000.00 of errors and omissions insurance which covers the acts of the guardian or agency, and employees of the guardian or agency, unless exempted or waived by this regulation.

117.3 Exemptions. Guardians or agencies with 25 or fewer guardianship case appointments at one time and with less than \$500,000.00 total countable guardianship assets under management are exempt from the requirement of maintaining errors and omissions insurance as set forth in this regulation. With respect to this regulation, only those appointments held in the name of the guardian or agency shall be counted toward the caseload or monetary limit.

117.4 Countable Guardianship Assets

117.4.1 "Countable guardianship assets" shall consist of all real property, money, stocks, bonds, promissory notes and other investments in all of the guardianship estates currently managed by the guardian or agency. The value of an asset shall be its fair market value. In determining the value of an asset, the value as determined by a county assessor, or public price listed on a recognized exchange, may be used as its fair market value. The value of an asset shall not be reduced by the amount of any encumbrance on the asset. Insurance policies and other securities shall be included at face value or as listed on a recognized exchange. Countable guardianship assets shall not include burial trusts, pensions, or personal property other than as described in this regulation.

117.4.2 Issues as to whether or not an asset should be included in the countable guardianship assets of a guardian or agency shall be resolved with a preference toward including the asset as a countable guardianship asset.

117.5 Annual Report

117.5.1 By August 1 each year, every guardian and agency shall file with the Board a declaration signed under penalty of perjury, on a form approved by the Board, stating that the guardian or agency either maintains a policy of errors and omissions insurance, or is exempt from said requirement, or has petitioned for and received a waiver based on a determination by the Board that it is impractical for the guardian or agency to comply with this regulation and the guardian or agency has provided a satisfactory alternative that meets the purpose of this regulation.

117.5.2 A guardian or agency who is required by this regulation to carry an errors and omissions policy shall include a declaration page from its policy of errors and omissions insurance of not less than five hundred thousand dollars (\$500,000) with the guardian's or agency's annual declaration signed under penalty of perjury.

117.5.3 At any time, the Board may request information from the guardian or agency to determine whether the guardian or agency meets the requirements of this regulation. Failure of the guardian or agency to cooperate may subject the guardian or agency to disciplinary action under this regulation.

117.6 Duty to Report Loss of Insurance or Change of Status

117.6.1 A guardian or agency shall report to the Board in writing any lapse or cancellation of errors and omission coverage within fifteen (15) days of the notice to the guardian or agency of that cancellation or lapse and provide a copy of the notice of non-renewal from the insurance company. The guardian or agency shall have forty-five (45) days from notice to the guardian or agency of that cancellation or lapse to meet the requirements of this regulation and to file a declaration under penalty of perjury on a form approved by the Board stating that the guardian or agency meets the requirements of regulation 117.

117.6.2 A guardian or agency who has previously claimed exempt status pursuant to this regulation, whose caseload changes during the year so that the guardian or agency is no longer exempt, shall within fifteen (15) calendar days of the status change file a declaration under penalty of perjury with the Board on a form approved by the Board stating how the guardian or agency meets the requirements of this regulation.

117.7 Failure to Comply

117.7.1 Failure to comply with this regulation in any part may subject the guardian and/or agency to the disciplinary sanctions listed in the Disciplinary Regulations, including suspension or revocation of certification.

117.7.2 Failure to submit the required declaration by August 1 will subject the guardian and/or agency to a special service fee of \$50.00 if paid before September 1.

117.7.3 Failure to submit the required declaration by September 1 will subject the guardian and/or agency to a special service fee of \$100.00 if paid before October 1.

117.7.4 Failure to pay the required annual certification fee and late fee and submit the required declaration by October 1 shall subject the CPG and/or Agency to revocation of certification by the Board.

117.7.5 In the event of a guardian's or agency's failure to comply with this regulation, the Board shall send a written notice of noncompliance with this regulation to the guardian or agency by certified mail, directed to the last known address as maintained on the records of the Administrative Office of the Courts. The notice shall advise the CPG or Agency of the pendency of decertification for failure to submit the required declaration. The notice shall further advise the CPG or Agency that if the CPG or Agency believes that an administrative error has been made and that the CPG or Agency is not in default on the obligation to submit the required declaration, the CPG or Agency may file a petition requesting an administrative hearing. The petition must set forth facts either explaining how the guardian or agency has complied with this regulation or, if the guardian or agency acknowledges that there has not been compliance with the regulation, then the facts in support of why the Board should not take disciplinary action against the guardian or agency. The petition must be signed under penalty of perjury by the guardian. The guardian or agency must file the petition with the Board within ten (10) calendar days of notice of noncompliance by the Board.

117.7.6 If a petition is filed, the Chair of the Board shall appoint a three-member Review Panel to conduct a hearing on the petition. In the sole discretion of the Review Panel, the hearing may be held by telephone. The Review Panel shall make written findings and a recommendation as to whether the petition should be granted. The findings and recommendation of the Review Panel shall be filed with the Board and served by first-class mail on the CPG or Agency.

117.7.7 The Board shall review the decision of the Review Panel and shall make a decision approving or denying the petition. If the petition is denied, then the Board shall decertify the CPG or Agency. The members of the Review Panel shall not participate in the decision of the Board. A copy of the Board's order shall be sent by certified mail to the CPG or Agency. Any such order shall be final.

117.8 Waiver

117.8.1 A guardian may request a waiver from the requirement in this regulation that the guardian maintain errors and omissions insurance. (The term "guardian" in this section refers to either an individual or an agency.) To be eligible for a waiver, the guardian must show that it is impractical for the guardian to obtain such insurance and that the guardian will provide a satisfactory alternative to such insurance.

117.8.2 It is impractical for a guardian to obtain errors and omissions insurance if a guardian provides documentation and verifies under penalty of perjury that the guardian has applied and has been rejected by at least two insurance carriers for errors and omissions coverage or that the guardian has had errors and omissions insurance cancelled by the insurance provider or underwriter.

A satisfactory alternative to such insurance is one which provides an adequate guarantee that any damages resulting from the unintentional errors and omissions of a guardian and its employees will be compensated in like amounts as the amount of coverage required under this regulation for errors and omissions insurance. Such alternatives may include a general purpose bond in the amount of \$500,000, or evidence of security in the amount of \$500,000, or such other alternative that provides for financial responsibility in the amount of \$500,000.

117.8.3 To request a waiver, the guardian must file a written petition with the Board stating why it is impractical for the guardian to obtain insurance and describing the alternative to insurance that the guardian will provide. The petition must be signed by the guardian under penalty of perjury. If the petitioner is an agency, one of the designated guardians for the agency must sign the petition. The petitioner must submit copies of the denial or cancellation of coverage received by the petitioner, and copies of the applications submitted by the guardian for said coverage. The petitioner may include other written materials in support of its petition. The petitioner must file the petition and supporting materials electronically with the Board unless permission is granted by the Board to file materials in a paper format.

117.8.4 Petitions will be reviewed by the Financial Responsibility Committee of the Board. The members of such committee shall be appointed by the Chair of the Board. The Chair of the Board shall designate one of the members as the Chair of the committee. The term of all members, including the Chair of the committee, shall be one year.

117.8.5 The Financial Responsibility Committee shall report to the Board on the merits of the petition.

117.8.6 The Board may approve the petition, with or without conditions, or refer the petition back to the Financial Responsibility Committee for additional information, or deny the petition.

117.8.7 If the Board denies a petition, the petitioner will be given written notice of the denial and the right to appeal under these regulations.

117.9 Right to Appeal the Board's Denial of a Waiver

117.9.1 Every petitioner shall have a right of appeal before an Appeals Panel.

117.9.2 A petitioner may appeal the Board's denial of a waiver of the insurance requirement in this regulation by submitting a written request to:

Certified Professional Guardian Board
Administrative Office of the Courts
PO Box 41170
Olympia WA 98504-1170

The request must:

Be filed within sixty (60) calendar days of the date of the denial of the waiver by the Board;

Identify the petitioner; and

Explain fully the grounds on which the petitioner bases an appeal of the denial of waiver.

117.9.3 The Chair shall appoint an Appeals Panel made up of three Board members who did not serve on the Financial Responsibility Committee. The Chair shall name one member of the panel as the chair of the panel.

117.9.4 The petitioner may submit to the AOC additional written material which may include statements, correspondence, affidavits, and memoranda of law or other information

which the petitioner believes will assist the Appeals Panel in reviewing the denial of the waiver. All written materials must be received by the AOC within 30 days after the filing of the notice of appeal. AOC will supply the Appeals Panel with the appeal, all attachments, and all other material relating to the original petition for a waiver and the appeal. The Appeals Panel may use written stipulations.

The date of review of the appeal will be not more than sixty (60) days from the date of receipt of the appellant's materials by the AOC. The AOC will notify the appellant of the scheduled date for the consideration of the appeal.

An Appeals Panel will not consider any request for appeal that does not strictly comply with the times stated, unless waived by the Appeals Panel. Upon a showing of good cause, the Appeals Panel may waive the time requirements.

The assigned Appeals Panel shall consider the written material submitted. The Appeals Panel may, in its sole discretion, make a decision based solely on the written record, or it may request an oral presentation by the appellant. The appellant shall be informed of the place, time, and duration of an oral presentation. Telephone conferences may be held at the discretion of the Appeals Panel.

Within twenty (20) days after the date of review of the appeal, the assigned Appeals Panel shall file with the AOC written findings of fact, conclusions of law, and a recommendation to the Board to approve or deny the appeal.

The AOC shall notify the petitioner of the findings, conclusions, and recommendation of the Appeals Panel within five (5) business days.

Within sixty (60) days, the Board shall review the findings, conclusions and recommendation of the Appeals Panel. No further oral or written argument will be allowed the parties, and no further evidence may be submitted to the Board. The Board shall adopt, modify, or reverse the findings, conclusions, and recommendation of the Appeals Panel. A copy of the Board's decision, as set forth in the minutes of the Board meeting or in a separate written decision of the Board, shall be served on the appellant by mail within 30 days.

117.10 An individual may not practice as a professional guardian unless he or she maintains errors and omissions insurance or has been granted a waiver by the Board except during any periods that the Board suspends the requirement to maintain errors and omission insurance.

117.11 Regulation 117 shall not apply to guardians or agencies if the Board determines that errors and omissions insurance is not generally available, is cost prohibitive, or for any other reason the Board decides to suspend the requirements of this regulation.

118 Obligation to Disclose

118.1 Pursuant to GR 23(e), a certified professional guardian or certified agency shall disclose to the Board on a continuing basis the circumstances listed in the rule. Disclosure shall take place in writing within forty-five (45) calendar days of the occurrence of the circumstance. If the event is the issuance of a court order, ruling or judgment, then the forty-five (45) days shall start to run upon entry of the court order, ruling or judgment. (Adopted 5-10-04)

118.2 The guardian shall disclose every court order, ruling or judgment of the type described in GR 23(e) issued by any judicial officer. (Adopted 5-10-04)

- 118.3 The guardian shall disclose every court order, ruling or judgment of the type described in GR 23(e) even if the guardian or another party has filed a motion for revision, a motion for reconsideration, a notice of appeal, or any other motion or petition requesting a review, reconsideration or appeal of the court order, ruling or judgment. (Adopted 5-10-04)
- 118.4 Failure to disclose pursuant to GR 23(e) or these regulations shall be grounds for discipline of the guardian. (Adopted 5-10-04)

119 Changes in Designated Guardians

- 119.1 Pursuant to General Rule of Court (GR) 23, a certified agency must have at least two individual certified professional guardians designated as having final decision-making authority for incapacitated persons or their estates (“designated guardians.”)
- 119.2 If the agency adds an additional designated CPG, the agency must provide the AOC with an Acceptance of Designated CPG form within 30 days of the addition. Failure to do so may result in disciplinary action. (Adopted 1-9-12)
- 119.3 If a change in circumstances results in an agency having only one designated guardian, the agency shall notify the Board within five (5) calendar days of the change of circumstances. The agency shall have sixty (60) calendar days from the date the agency is no longer in compliance with GR 23 to add a designated guardian to the agency. During that sixty-day period, the agency must file a copy of its board minutes or a board resolution designating an additional guardian as a person with decision-making authority for incapacitated persons or their estates with the Certified Professional Guardian Board. If the agency fails to meet the requirements of GR 23 and these regulations regarding the required number of designated guardians, the Board may decertify the agency. The Board shall send the agency written notice that the Board intends to decertify the agency at least fifteen (15) calendar days before the Board takes action.
- 119.4 If a change in circumstances results in an agency no longer having any designated guardians, the agency shall notify the Board within five (5) calendar days of the change of circumstances. The AOC shall send the agency a notice of noncompliance by mail. The notice shall state that the Board will decertify the agency unless within fifteen (15) calendar days the agency files proof with the Board that the agency has at least one designated guardian. Said proof shall be in the form of board minutes or a board resolution designating a certified professional guardian with decision-making authority for incapacitated persons or their estates. If the agency files proof with the Board that it has one designated guardian, then Regulation 119.2 shall apply. The sixty-day period referenced in Regulation 119.2 shall be deemed to have commenced on the same date as the fifteen-day period in this regulation. If the agency does not file proof within the fifteen-day period in this regulation that the agency has at least one designated guardian, then the Board may decertify the agency.
- 119.5 If a change in circumstances results in an agency having no designated guardians, the agency shall within ten (10) calendar days notify any Superior Court that has appointed the agency as guardian in a case that is still an active guardianship case. The agency shall file a notice in each active guardianship case stating that the agency has no designated certified professional guardian with final decision-making authority for incapacitated persons or their estates. In the notice, the agency shall describe a plan to correct this situation or to transition the guardianships to qualified guardians or agencies. The agency shall file a copy of this notice with the Board.

If the agency fails to file this notice with the court or the Board, the Board may decertify the agency.

119.6 The Board may decertify an agency for its failure to file any notice required under Regulation 119. The Board shall send the agency notice at least fifteen (15) calendar days before the Board intends to take such action.

119.7 When an agency is decertified, the Board shall notify the superior courts of the state.

