

# **Certified Professional Guardian Board**

## **Meeting Minutes**

**March 9, 2009**

**SeaTac Office Center, 18000 International Blvd., SeaTac, WA**

### **CHAIR**

Judge Kimberley Prochnau

### **MEMBERS PRESENT**

Robin Balsam

Gary Beagle

Dr. Ruth Craven

Nancy Dapper

John Jardine

Chris Neil

Lori Petersen

Winsor Schmidt

Comm. Joseph Valente

Judge Chris Wickham

Sharon York

### **MEMBERS ABSENT**

Ree Ah Bloedow

Judge M. Karlynn Haberly

### **VISITORS**

Shirley Bondon, Office of Public Guardianship (OPG)

Ken Curry, CPG, Your Advocates & Washington Association  
of Professional Guardians (WAPG)

Sylvia Curry, CPG, Your Advocates

David Lord, Disability Rights Washington (DRW)

### **STAFF**

Sharon Eckholm

Deborah Jameson

### **CALL TO ORDER**

Judge Prochnau called the meeting to order and asked the attending guests to introduce themselves.

### **BOARD BUSINESS**

#### **1. Approval of Minutes**

A motion was made and seconded to approve the minutes as presented for the Board meetings held on January 12 and February 9, 2009. The motion passed.

## **2. Chair Report**

Judge Prochnau welcomed Commissioner Valente on his re-appointment to the Board to complete the balance of Judge Van Deren's term following her resignation. Judge Prochnau thanked Comm. Valente for agreeing to serve as a Board member again and offer his knowledge and expertise in guardianship. Comm. Valente is appointed to the Standards of Practice Committee. Judge Prochnau also reported that she was invited to present at the next Supreme Court En Banc on April 2. The Supreme Court occasionally receives letters from the public regarding the Board's activities and guardians in general. At a recent En Banc presentation by Shirley Bondon regarding the Office of Public Guardianship, the Court asked questions about guardian fees, guardian training, and the policy-making in the area of guardianship. The April 2 presentation is an excellent opportunity to brief the Court on the Board's responsibilities and its efforts in improving the practice of professional guardians. Judge Prochnau indicated that she will be presenting at the March 25 Bridge Builders CPG continuing education program in Silverdale. Nancy Dapper and Sharon York will also attend one day of the two-day program.

### **OFFICE OF PUBLIC GUARDIANSHIP – UPDATE**

Shirley Bondon, Manager of the Office of Public Guardianship (OPG), was invited to provide an update on the OPG program, which included the following:

- The WSBA Elder Law Section proposed legislation to allow OPG to fund the training of individuals interested in obtaining their certification as professional guardians so that they can be appointed as public guardians in the underserved regions of the state has passed the Senate and moved on to the House.
- In January, OPG contracted with a CPG to provide services in King County.
- OPG has contracts with six CPGs, and provides public guardianship services in a total of 31 guardianships in six counties.
- OPG has contracted for comprehensive care assessments for all incapacitated persons served by OPG, which should be completed over the next six months.
- The WSBA Access to Justice Board Impediments Committee is convening a committee to develop a proposal for the legislature to provide counseling about alternatives to guardianship and to provide free legal services for petitioners for guardianship of low income individuals when guardianship is deemed the least restrictive alternative.

## **COMMITTEE REPORTS**

### **1. Standards of Practice Committee**

#### **Disciplinary Regulation (DR) 520 – Process & Implementation**

At its last the meeting the Board considered the SOPC's first proposed process for implementation of DR 520 and asked the SOPC to revise based on its discussion. Robin Balsam, SOPC Chair, summarized the revised Proposed Implementation Process for DR 520, which was provided to the Board in advance of the meeting. The proposed process describes: the random selection of CPGs and CPGAs to be audited; the selection of cases to be reviewed; the scope of the audit; and possible action taken following audit review.

Judge Prochnau then asked each Board member to provide comments. Comments primarily related to the proposal that the audit would encompass all of the randomly selected guardian's cases, as opposed to a percentage of the guardian's cases. It was mentioned that the Social Security Administration randomly selects a percentage of cases in performing its audits, as does the state of Arizona in its audit program, and perhaps the processes used by these agencies should be considered. Committee members responded that audit of all of the cases would provide more certainty to the scope of the audit and better represent the guardian's performance. In addition, results revealing that a majority of professional guardians were found compliant with filing requirements where the audit was based on all cases would more effectively allay public concerns.

The issue was raised whether the results of the audits would be statistically valid if a percentage of cases were reviewed. One factor in determining statistical validity is identifying the percentage that would yield a reliable representation of the total number of professional guardian cases. Neither the total number of professional guardian cases is known, nor is the variety and number of cases held by each guardian. It was suggested that perhaps the AOC Washington State Center for Court Research could advise whether these questions need to be answered in determining a statistically valid percentage.

It was questioned whether the Board's goal is to obtain statistically valid results, rather the Board implemented auditing to raise the awareness among guardians of the importance of filing requirements and to insure compliance with filing requirements. Some Board members commented that if staff has the capability to audit all cases, that is the best route to not only insure reliable results, but to enforce standards of practice in the interests of providing the best service to the incapacitated person.

Comments were also made regarding the difference among county superior courts in enforcing the statutory filing deadlines and whether the audit will be able to determine compliance without reviewing the court file or requesting information from the guardian. Committee members responded that audit review for compliance with the statutory deadlines provides a uniform standard which the courts should be following. Orders extending statutory deadlines will be considered in the audit review.

At the conclusion of the Board member comments, Judge Prochnau invited comments from the audience. Comments received were in favor of auditing all cases rather than a

percentage.

Following receipt of all comments, Judge Prochnau called for a motion on the Proposed Implementation Process for 520. It was moved and seconded to adopt the process as proposed. The motion failed on a vote of six to five. It was moved and seconded to send the proposed process back to the SOPC to research whether it is possible to identify the percentage of cases to be audited that would produce statistically valid results, and whether the total number of professional guardian guardianships can be accurately estimated. The motion passed on a vote of ten to one.

## **2. Education Committee**

### **(a) Committee Report**

Gary Beagle, Committee Chair, reported that the Committee met in February and considered: continuing education credits for CPGs attending the UWEO Guardianship Certificate Program; extending the length of time the mandatory training (UWEO program) is valid for applicants (in consultation with the Application Committee); changing the continuing education reporting period to a two-year cycle; and consideration of waiver of continuing education application requirements for state agency sponsored no-fee courses. The Committee will continue its consideration of the continuing education reporting cycle and waiver of application requirements for state sponsored courses and report to the Board at the May meeting.

A motion was made and seconded to adopt the Committee's recommendation that the following continuing education credits be awarded for CPGs attending the UWEO Guardianship Certificate Program: 10 Person credits; 10 Estate credits; 4 Ethics credits.

A motion was made and seconded to approve posting for comment proposed amendment to Application Regulation 103.2.5 to increase the length of time the mandatory training is valid from one year to two years. The motion passed.

### **(b) UWEO Guardianship Certificate Program**

Mr. Beagle reported on the UWEO Guardianship Advisory Group meeting held in February, which included a review of the first program and plans for modifications for future programs. Modifications to the program include improvement of student use of the interactive online program and increased support for the instructors. The topic of whether students should be encouraged to obtain a mentor was discussed. For the spring program, obtaining a mentor will not be recommended, but will be by student choice. Beginning with the Autumn 2009-Winter 2010 program, the UWEO proposed restructuring the courses as follows: Course 1: Guardianship Basics; Course 2: Guardianship Roles; and Course 3: Advanced Issues in Guardianship. The UWEO has also proposed lengthening the program by ten online education hours, which would increase the total program hours from 90 to 100. These proposed modifications will be considered by the Education Committee at its next meeting. The Autumn 2009-Winter 2010 program in-person instruction sessions will be held in eastern Washington.

## **3. Ethics Committee**

## **Proposed Amended Regulations 301.2 and 302.2**

At the January 12, 2009 meeting, the Board approved posting for comment amendments to Regulations 301.2 and 302.2 regarding the requirements for requests for ethics advisory opinions. One comment was received and considered by the Board. A motion was made and seconded to adopt the proposed amendments to regulations 301.2 and 302.2 as posted. The motion passed.

### **4. Nominating Committee**

Chris Neil, Committee Chair, reported on the Committee's first meeting to consider the process for nominations for the September expiring terms of Judge Haberly, Lori Petersen and Prof. Schmidt. Judicial officer nominations are provided to the Supreme Court by the Superior Court Judges Association (SCJA), therefore Judge Haberly's expiring term will be considered by SCJA. Prof. Schmidt was asked to consider whether he is interested in serving another term. Considering the GR 23 one-third membership limit on practicing guardians, it may be necessary to allow Lori Petersen's term to expire without re-appointment. The Board discussed whether attorney/CPGs are considered "practicing guardians." If all persons who are both certified professional guardians and currently serving as the guardian of two or more persons for compensation are counted as "practicing guardians", then the one-third limit would prohibit reappointing Lori Peterson in September of 2009, assuming that the current composition of the Board does not change.

### **CPG PRACTICE EXPERIENCE**

Lori Petersen, Board member and CPG, shared one of her guardian practice experiences. Ms. Petersen related her experience as guardian following her appointment in an Adult Protective Services case. One of her first priorities as guardian was to insure the incapacitated person obtained effective treatment for his alcoholism, including transporting him to AA meetings. Ms. Petersen related her rewarding experience in contributing to such a radical change in this person's quality of life.

### **EXECUTIVE SESSION**

The Board adjourned to executive session at approximately 11:50 a.m. to consider disciplinary matters and applications for certification.

### **OPEN SESSION**

The Board reconvened in open session at approximately 12:35 p.m. and took the following action:

#### **1. Action on Disciplinary Matters**

**CPGB No. 2007-026** A motion was made and seconded to adopt the SOPC recommendation that the guardian has satisfied her obligations under the Agreement Regarding Discipline and the disciplinary matter should be closed. The motion passed.

#### **2. Action on Applications:**

(1) Individual motions for conditional approval\* of each of the following applications for certification passed, abstentions noted:

Linda L. Melseth  
Mimi Park  
Jodi M. Wallace

\* Conditional approval is granted pending successful completion of the mandatory training and absent any intervening disqualifying events.

(2) Individual motions for denial of each of the following applications for certification passed:

Paul L. Calabro  
Wayne J. Houston  
Alicia M. Korkowski (Nancy Dapper abstained)  
Emily B. Purainer (John Jardine abstained)

(3) Motion to approve the requests for voluntary surrender of the following certifications passed:

Cynthia A. Rose, CPG #10434  
Ruth Ann Gedeon-Gaude, CPG #10794

Adjourn  
Judge Prochnau adjourned the meeting at approximately 12:45 p.m.

Respectfully submitted,

Judge Prochnau  
Sharon Eckholm

Board Approved: 4-13-09