

# **Certified Professional Guardian Board**

## **Meeting Minutes**

**May 11, 2009**

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

### **CHAIR**

Judge Kimberley Prochnau

### **MEMBERS PRESENT**

Robin Balsam

Gary Beagle

Ree Ah Bloedow

Dr. Ruth Craven

Nancy Dapper

Judge M. Karlynn Haberly

John Jardine

Chris Neil

Lori Petersen

Winsor Schmidt

Comm. Joseph Valente

Judge Chris Wickham

Sharon York

### **MEMBERS ABSENT**

None

### **VISITORS**

Shirley Bondon, Manager, Office of Public Guardianship (OPG)

Ken Fernandez, CPG, Share & Care House, CPGA

Michael L. Johnson, CPG, Washington Association of Professional Guardians (WAPG)

Lynda Ryan, CPG, WAPG

Carol Sloan, Manager, Adult Protective Services (APS)

Glenda Voller, CPG, Montlake Guardianship & Trustee Svcs, LLC

Scott Malavotte, CPG, Malavotte & Associates Services, CPGA & WAPG

### **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 meeting held on April 13, 2009. The motion passed.<sup>1</sup>

### **2. Chair Report**

Judge Prochnau congratulated Michael Johnson and Scott Malavotte as the newly elected co-presidents of the Washington Association of Professional Guardians (WAPG), and expressed the Board's continued interest in keeping open communication between the Board and the Association.

Included in the Board materials is a letter from the Washington State Bar Association (WSBA) Elder Law Section Guardianship Task Force to the Superior Court Judge's Association-Guardianship & Probate Committee (SCJA-GPC), summarizing the recommendations likely to be included in the Task Force July report. The SCJA-GPC met last month and noted that its annual meetings with the WSBA Elder Law Section demonstrates how effective it is to collaborate in promoting improvements in the guardianship arena, an excellent example of which is passage of the Uniform Interstate Guardianship Act, introduced for the first time this session.

The Spring Judicial Conference held last month included an excellent, well-attended session on Guardianship Case Management. The session was organized by Shirley Bondon, OPG Manager, and stewarded by Thurston County Superior Court Judge Thomas McPhee.

Judge Prochnau reported that Linda Moran has transferred to a different division in the Attorney General's Office and is no longer assigned to advise the Board. The Board's new AGO advisor is Mary Tennyson, Sr. Assistant Attorney General.

Lastly, Judge Prochnau asked for comment on a CPG suggestion that the Board advocate for a change in the guardian fee reimbursement rule for Department of Social & Health Services (DSHS) clients, chapter 388-79 WAC. It was commented that county superior courts handle approval of fees above the \$175 set forth in WAC 388-79-030 differently: some counties see the \$175 fee as a limit on the fee with approval of an increase the rare exception, while other counties regularly approve substantiated requests for fees above \$175. Some history was provided by those invited to comment during the original drafting of the DSHS rule and that the intent was to provide the court with the considerations necessary for determining an appropriate fee, so that the \$175 was not intended so much as a cap but a guideline for the court in making its decision. It was suggested that this type of sea change requires a united effort by advocacy groups and that this effort could appropriately be lead by WAPG. Judge Prochnau thanked Board members for their comments and reiterated the stated caution that this may not be an effort appropriate for the Board to lead, though the Board could continue to act as a clearinghouse for information related to the issue.

## **COMMITTEE REPORTS**

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<sup>1</sup> Except in the event of a tie vote, the Chair does not vote on any motions before the Board.

## 1. Standards of Practice Committee

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

At the March meeting, the Board deferred a decision on the selection of the guardian's cases to be audited and directed 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. Deborah Jameson, Guardian Investigator, reported that the AOC research professionals advised there is insufficient data to create a valid statistical random sample of a guardian's cases, which would require knowing how many total guardianship cases there are, how many types of cases, and the various number of cases per guardian or agency. AOC research did advise that if the sample size is large enough, the likelihood of obtaining a statistically valid result increases. Ms. Jameson summarized the SOPC's proposal of three options for selection of guardian cases, which were provided in the Board meeting materials:

- Option A: Once the Guardian Investigator receives the corrected list of the selected guardian's/agency's cases, the Guardian Investigator will review all (100%) of the guardian's/agency's cases.
- Option B: Once the Guardian Investigator receives the corrected list of the selected guardian's/agency's cases, the Guardian Investigator will review a statistically valid random sample of 40% of the guardian's/agency's cases. If such sampling results in no cases for review, the Guardian Investigator will re-sample.
- Option C: Once the Guardian Investigator receives the corrected list of the selected guardian's/agency's cases, the Guardian Investigator will review all of the guardian's/agency's cases in which reports or pleadings were due within the prior six months.

Judge Prochnau then asked each Board member to provide comments. Comments included: discussion of the reliability of SCOMIS; concern of burdening CPGs in responding; whether look back period should be more than six months; need for determining the total number of certified professional guardian guardianship cases; whether guardians can charge the estate for costs of responding to the audit.

Following receipt of all comments, a motion was made to require that the DR 520 audits have a look back period to November 3, 2008, when DR 520 was enacted. The motion passed.

A motion was made to include in the cases reviewed those cases that may not be open at the time of the audit, but that were closed after November 2008. The motion failed.

A motion was made that if Option B is chosen, there be 40% or a minimum of five cases selected and reviewed. The motion passed.

A motion was made that the Board approve Option B for the selection of cases to be reviewed. Comment was made that there remains the concern about valid random sampling. The motion failed.

A motion was made that the Board approve Option A for the selection of cases to be reviewed. The motion failed.

A motion was made that as part of the implementation process of DR 520, and to collect better data upon which to make a decision on the case selection process, the Board request that all CPGs submit their case lists to the Board. The motion passed.

## **2. Education Committee**

### **UWEO Guardianship Certificate Program.**

Gary Beagle, Committee Chair, reported that the Committee met in May and discussed the changes proposed for the Autumn UWEO Guardianship Certificate Program. UWEO recently adjusted program development roles as follows:

- \* Jamie Shirley, PhD, Pedagogical Consultant & Ethics Subject Matter Expert, will oversee optimal methods of instruction and ethics integration throughout the curriculum;
- \* Jan Kinney, PhC, Instructional Designer, will oversee optimal methods and design for online learning;
- \* Leesa Camerota, CPG, Guardianship Curriculum Coordinator and CPG Practice Subject Matter Expert.

Mr. Beagle reported on his recent discussions with UWEO program developers regarding the need to concentrate on fundamental skills prior to considering expanding the program into an advanced practice component. Committee members agreed on the focus on fundamentals and stressed the importance of relying on the statutory framework for instruction on the guardian's duties. Mr. Beagle will be meeting with Ms. Shirley to discuss improvements to the program structure for the 2009 September program.

### **CPG Manual Update.**

The Government Benefits section proposed as an update to the CPG Manual was distributed to the Board for review and comment. The update was also provided to the UWEO Guardianship Advisory Group and distributed during the recent UWEO classroom session on government benefits. The Government Benefits update, as well as future updates to the manual, will be reviewed by the Education Committee and brought back to the Board for approval.

## **3. Ad Hoc Committee on Certification Experience Requirement**

Chris Neil reported on the committee's first meeting which included discussion of: the necessary skills that should be gained through experience; the importance of supervised and verifiable experience; whether volunteer and paid experience should be weighted differently; and whether experience in serving the incapacitated population is required. The committee will meet next month and report again at the Board's June

meeting.

#### **4. Application Committee**

##### **Proposed Amended Regulation 103.2.5**

Robin Balsam, Committee Chair, reported that the proposed amended regulation was posted for thirty days and no comments were received and moved to adopt the regulation as amended. The motion passed.

##### **Proposed Repeal of Regulation 002.9**

Ms. Balsam proposed posting notice of repeal of CPGB Regulation 002.9 (defining “experience working in a discipline pertinent to the provision of guardianship services”) in light of the amendment to GR 23 further defining the required experience, which supersedes Board Regulation 002.9. The consensus of the Board was to defer discussions related to the certification experience requirement until the June meeting when the recommendations of the Ad Hoc Committee will be considered.

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

Shirley Bondon, Manager of the Office of Public Guardianship (OPG), reported on the Guardianship Management sessions at the three court conferences (Clerk; Administrator; Judicial), all of which revealed a focused interest in improved guardianship monitoring. Ms. Bondon will prepare a final report for the SCJA-GPC of the recommendations from the three sessions, and will forward a copy to the Board.

Ms. Bondon also reported on two committees:

(1) Alternatives to Guardianship: the committee is exploring the delivery of alternative services such as representative payees, money management, health care advocacy, through OPG and will report to the legislature by December 2009; and

(2) A subcommittee of the ATJ Impediments Committee: the subcommittee is exploring options to provide counseling about the need for guardianship services and legal counsel to individuals who are willing to file petitions for guardianship for low income individuals.

#### **Standards of Practice Committee – Presentation of Disciplinary Matters for Consideration in Executive Session**

**CPGB 2008-023** This matter involves a self-report by the guardian that guardian fees were paid out of the estate prior to court approval. The SOPC recommends the proposed Agreement Regarding Discipline in resolution of this matter, which includes findings of violations of the Standards of Practice and an Admonishment.

**CPGB 2008-012** The guardian has met the obligations required under the Agreement Regarding Discipline and the SOPC recommends that the matter be closed.

#### **Announcements prior to Executive Session**

Prior to going into Executive Session, Judge Prochnau announced that Board Member

Winsor Schmidt was appointed by the University of Louisville Board of Trustees as Endowed Chair/Distinguished Scholar in Urban Health Policy, Professor of Psychiatry and Behavioral Sciences and Professor of Family and Geriatric Medicine, School of Medicine, and Professor of Health Management and Systems Sciences, School of Public Health and Information Sciences, at the University of Louisville, effective June 1, 2009. Judge Prochnau extended the Board's congratulations to Prof. Schmidt, as well as her hopes that he is able to continue to serve on the Board. Prof. Schmidt has graciously offered to pay any increase in costs for travel to Board meetings from Kentucky.

Judge Prochnau updated the Board on plans for the June long-range planning meeting, June 19-20, at the Cedarbrook Conference Center in SeaTac. More details will be sent out in the next few weeks.

### **EXECUTIVE SESSION**

The Board adjourned to Executive Session at approximately 11:55 a.m. to consider disciplinary matters and applications for certification.

### **OPEN SESSION**

The Board reconvened in Open Session at approximately 12:30 p.m. and took the following action:

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

**CPGB No. 2008-023** A motion was made and seconded to adopt the SOPC recommendation that the Agreement Regarding Discipline as presented be accepted in resolution of the disciplinary matter. The motion passed. Members of the SOPC abstained.

**CPGB No. 2008-012** A motion was made and seconded to adopt the SOPC recommendation that the guardian has satisfied his obligations under the Agreement Regarding Discipline and the disciplinary matter should be closed. The motion passed. Members of the SOPC abstained.

**CPGB No. 2007-025** A motion was made and seconded to adopt the SOPC recommendation that the Board file a disciplinary complaint against the guardian and the guardian agency for violations of the Standards of Practice. The motion passed. Members of the SOPC abstained.

**CPGB No. 2003-002** A motion was made and seconded to adopt the SOPC recommendation that the guardian has satisfied her obligations under the Settlement Agreement Regarding Discipline and the disciplinary matter should be closed. The motion passed. Members of the SOPC abstained.

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

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

Kimberly L. Reid  
Albert Williams

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

(2) A motion to approve the requests for voluntary surrender of the following certifications passed:

Miryam Gordon, CPG #10609  
Linda Middleton, CPG #10601  
Concerned Citizens, CPGA #10600

(3) A motion to approve the requests for inactive status of the following certifications passed:

Maria Peterson, CPG #10706  
Steven Polkow, CPG #9997

**Adjourn**

Judge Prochnau adjourned the meeting at approximately 12:40 p.m.

Respectfully submitted,

Judge Prochnau  
Sharon Eckholm

Board Approved: \_\_\_\_\_