

Certified Professional Guardian Board

Meeting Minutes

August 10, 2009

SeaTac Office Center, SeaTac, WA

CHAIR

Judge Kimberley Prochnau

MEMBERS PRESENT

Ree Ah Bloedow

Chris Neil

Lori Petersen

Winsor Schmidt

Comm. Joseph Valente

Judge Chris Wickham

Sharon York

MEMBERS ABSENT

Robin Balsam

Gary Beagle

Dr. Ruth Craven

Nancy Dapper

Judge M. Karlynn Haberly

John Jardine

VISITORS

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

Shannon Collins, Student, UW Guardianship Certificate Program

Ken Fernandez, CPG, Share & Care House, CPGA

Tom Goldsmith

Katrin Johnson, AOC Court Interpreter Program Coordinator

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

Deborah Lawrence, CPG, Share & Care House, CPGA

David Lord, Disability Rights Washington

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

STAFF

Sharon Eckholm

Deborah Jameson

CALL TO ORDER

Judge Prochnau called the meeting to order and welcomed the Board members, staff and attending guests.

EXECUTIVE SESSION

The Board adjourned to executive session to consider a proposed Agreement Regarding Discipline in CPGB 2003-011, and an appeal of denial of certification application. Staff left the room during deliberations on the proposed agreement.

OPEN SESSION

The Board reconvened in open session and took the following action:

1. Disciplinary Matter

In the Matter of Guardianship Services of Eastern Washington, CPGA No. 5136, Dale R. Frederickson, CPG No. 5184, Nancy Frederickson, CPG NO. 6497, Cheryl Wood, CPG No. 10312, CPGB No. 2003-011, it was moved and seconded to approve the Agreement Regarding Discipline in resolution of the matter. The motion passed.¹ Comm. Valente abstained. The Agreement Regarding Discipline includes findings of violations of standards of practice for failing to retain an outside manager as required by prior agreement with the Board, failing to timely file annual disclosure and insurance declarations, inappropriate self-petitioning, and imposes sanctions of a letter of admonition and a period of case monitoring.

2. Appeal from Denial of Certification

Regarding the Appeal from Denial of Certification of Alicia Korkowski a motion was made and seconded to adopt the Findings of Fact, Conclusions of Law and Recommendation of the Appeals Panel, dated June 29, 2009, to conditionally approve* Ms. Korkowski's application for certification as a professional guardian pending successful completion of the mandatory training and absent any intervening disqualifying events. The motion passed.

3. Voluntary Surrender of Certification

A motion was made and seconded to approve requests for voluntary surrender of certification by Carol DeMers, CPG No. 10781, and Karin Hunt, CPG No. 5197. The motion passed.

4. Decertification for CEU Non-compliance

A motion was made and seconded to approve the decertification for non-compliance with continuing education requirements of Amy L. Perlman, CPG No. 10286. The motion passed. Judge Wickham abstained.

BOARD BUSINESS

1. Approval of Minutes

A motion was made and seconded to approve the minutes as presented for the Board meeting held on July 22, 2009. The motion passed.

2. Chair Report

Judge Prochnau reported that she presented at the August 8th session of the UW Guardianship Certificate Program. Students provided positive feedback regarding the spring program which evidenced the improvements made in the technology and content from the prior program. The Board will honor members Judge Haberly and Lori

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

Petersen at the September 14 meeting, as it will be the last meeting of their terms. The Superior Court Judges' Association (SCJA) has asked its membership for those interested in appointment to fill the vacant judicial officer seat. The new GR 23 limit on certified professional guardian membership will not allow another guardian to be appointed. Finally, Judge Prochnau asked members to consider for future discussion whether the Board should award special recognition each year to a professional guardian who has made significant efforts to advance the profession, especially in the area of training and education.

3. Meeting Calendar 2010

The Board reviewed the proposed Board meeting dates for 2010 and discussed the possibilities of moving the long-range planning meeting to the fall and holding a meeting in eastern Washington. More information on the availability of travel funds for both of these meetings will be available in the next few months. Staff will solicit availability for the long-range planning meeting and circulate a revised calendar at the next Board meeting.

4. Committee Appointments

Committee sign-up sheets were circulated for Board members to indicate their interest in particular committees for the Chair's consideration in making appointments.

5. Goals 2010

The following goals identified by the Board at its June long-range planning meeting will be regularly reviewed to note progress.

(1) Improve and refine the UW Guardianship Certificate Program. *At today's meeting, Jamie Shirley, UW faculty, will present for the Board's review and approval the updated curriculum for the September 2009 program.*

(2) Develop the core competencies of a successful guardian, and consider whether testing should be part of the certification process. *Proposed direction for this item will be presented at the next meeting.*

(3) Review of DR 520 audit results and consider whether other types of monitoring is needed. *Deborah Jameson, Guardian Investigator, will report audit results at each in-person meeting.*

(4) Ensure quality continuing education available in areas of need. *The Washington Association of Professional Guardians (WAPG) was asked to present information regarding the next WAPG continuing education program at the Board's next meeting.*

EDUCATION COMMITTEE

1. Committee Report

In Gary Beagle's absence, Chris Neil reported for the Committee.

(a) CPG Requests for Retroactive Approval of CE

At its last meeting, the committee discussed whether CPGs should be permitted to apply for retroactive approval of continuing education. In recognizing the benefits of

allowing CPGs to attend the specific training they need for their practice, the committee proposes that individual CPGs be permitted to apply for credit after the fact and that no fee be charged. Currently, the regulations do not address retroactive applications specifically and requests are reviewed under Regulation 210, which allows petitions for waiver of continuing education requirements based on infirmity, undue hardship or other good cause. The committee proposes amending Regulation 205.1 which would specifically permit applications for retroactive approval by individual CPGs without assessing any fee.

Comments by Board members recognized the benefit to CPGs in allowing this option, but expressed concern that providing this option may discourage some sponsors from seeking approval in advance and leaving it to the individual CPGs to apply themselves, particularly where there is no fee incurred by the individual. This may result in a floodgate of applications that would inundate staff. The Board asked the committee to reconsider the request in light of these concerns and report back to the Board.

(b) UW Guardianship Certificate Program – Updated Curriculum

Mr. Neil reported that the Education Committee is very pleased with the improvements in course structure and focus on the core competencies needed to be a successful professional guardian. The Education Committee commends the UW staff for their hard work in this effort and recommends the updated curriculum for Board approval.

Jamie Shirley, Ph.D., UW School of Nursing faculty, presented the updated curriculum for Board review and approval. Ms. Shirley is the lead course developer for the UW Guardianship Certificate Program and collaborated with program staff in creating the new program format and addressing needed improvements highlighted by review of the first iteration of the certificate program. The program consists of 100 contact hours over a six-month period and is divided into three courses: (1) Guardianship Law, Concepts and Practice; (2) Roles and Duties in Guardianship; (3) Complex Issues in Guardianship. Each course has a live instruction component and online lesson component. The content of the first and third courses is more suited to live instruction and dedicates more hours to the classroom, whereas the content of the second course is more task-based and is better taught through increased hours in online lessons.

A question was asked about the level of instruction on advocacy for government benefits and recognition of the incapacitated person's residual capacity. Ms. Shirley responded that the Government Benefits lesson instructs how to apply for government benefits and what to do if the benefits are denied, including the appeal process and suggestions for finding other available resources. There is also a lesson on evaluating continued need for guardianship and how to pursue a less restrictive alternative or termination of the guardianship. Throughout the program, the guardian's need to be cognizant of the incapacitated person's residual capacity is stressed.

After questions and discussion, a motion was made and seconded to approve the updated curriculum as presented. The motion passed.

Judge Prochnau suggested that each Board member choose a different session of the program (classroom or online lesson) to review and provide feedback. Ms. Shirley responded that the classrooms should be able to accommodate a few additional

persons and that she would inquire as to the accessibility of the online lessons for review. Staff will follow-up with Ms. Shirley regarding the online component and circulate a list of lessons for sign-up to Board members.

OFFICE OF PUBLIC GUARDIANSHIP

OPG Manager, Shirley Bondon, reported on the creation of the Court Access Programs unit in AOC which she will manage. This new unit will include the Office of Public Guardianship, the Certified Professional Guardian Program, the Interpreter Program and the ADA program.

STANDARDS OF PRACTICE COMMITTEE – DR 520 Audit Update

Ms. Jameson reported that in July, 14 guardian names were randomly selected, and of those 14 guardians, 9 were affiliated with agencies. All agency guardians (40) were reviewed. There was a good blend of solo, small agencies and large agencies, including the largest agencies – one in western Washington and one in eastern Washington. The 40 guardians are responsible for approximately 750 cases.

In August, another 25 guardian names were selected. Of those guardians, 10 were affiliated with agencies and a total of 40 guardians will be audited. The guardians are responsible for approximately 430 cases.

The audits are complete on 12 guardians and there were no findings of current non-compliance. There were some guardians who had a few instances of prior non-compliance, and a few had perfect records of timely filing. Most guardians have chosen to provide documentation to demonstrate compliance with filing requirements.

PROPOSED REGULATIONS

The Board considered proposed new Application Regulations 102.3, 102.4, 102.5, 102.6, 102.7, and repeal of Administrative Regulation 002.9, as posted for comment through July 31, 2009. Five comments were received and considered by the Board. Discussion began with a comment regarding proposed Regulation 102.4, excluding services provided to a family member from the experience required for certification. As the Board discussion began to focus on Regulation 102.4, a motion was made and seconded to adopt Regulations 102.3, 102.5, 102.6, 102.7, and repeal Regulation 002.9, as proposed. The motion passed. Discussion continued on proposed Regulation 102.4.

The impetus for proposed Regulation 102.4 expressed at the June meeting was the recognition of the difficulty in determining the quality of experience gained from providing services to a family member. It was emphasized that the Board in no way intends to depreciate the value of the work of a family guardian, but is not aware of reliable measures of the quality of experience gained in those settings.

It was asserted that proposed Regulation 102.3 requiring that volunteer work be supervised and verifiable could be used to evaluate family services. The response was that applicants have most commonly demonstrated family service experience through powers of attorney where the service is supervised or verifiable, and that a clear policy is needed to inform applicants what types of experience will be eligible for credit. It was suggested that perhaps the proposed regulation could specify those family services that are verifiable, such as where services provided to family members are supervised by

DSHS, and where the family guardianship court records evidence sufficient oversight and detail via court records.

A motion was made and seconded to adopt Regulation 102.4 as proposed. There was a tie vote. Based on the limited number of Board members in attendance at the meeting (8 of 14), the Chair suggested deferring consideration of proposed Regulation 102.4 until the September Board meeting when more members would be present. The motion to adopt Regulation 102.4 was withdrawn.

DSHS Reimbursement and EAO 2005-001 re Self-Petitioning

An attorney who recently petitioned for guardianship for a Medicaid recipient forwarded a request to the Board to review Ethics Advisory Opinion (EAO) 2005-001 which delineates certain protective steps to be taken to remove potential conflicts of interest where a guardian self-petitions. Apparently, DSHS will only reimburse attorney costs incurred by the guardian, which the requester interprets as inconsistent with the Board's EAO regarding self-petitioning. Judge Prochnau asked the Board members for their thoughts and noted that the Ethics Committee is scheduled to meet later this month and review EAO 2005-001. It was suggested that perhaps DSHS had interpreted its regulation too restrictively in requiring that the attorney fee costs related to establishing the guardianship must be costs actually incurred by the guardian in retaining counsel to petition for guardianship, as opposed to legal costs incurred by the estate for the petition for guardianship and paid out of the estate by the guardian. In light of the upcoming review of EAO 2005-001 by the Ethics Committee, the Board deferred any further discussion until the committee's review.

Adjourn

Judge Prochnau adjourned the meeting at approximately 1:00 p.m.

Respectfully submitted,

Judge Prochnau
Sharon Eckholm

Board Approved: 9-14-09