

# **Certified Professional Guardian Board Meeting Minutes**

**March 8, 2010**

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

## **CHAIR**

Judge Kimberley Prochnau

## **MEMBERS PRESENT**

Gary Beagle  
Ree Ah Bloedow  
Dr. Ruth Craven  
Nancy Dapper  
John Jardine  
Judge James Lawler  
Chris Neil  
Prof. Winsor Schmidt  
Judge Robert Swisher  
Comm. Joseph Valente  
Judge Chris Wickham  
Sharon York

## **MEMBERS ABSENT**

Robin Balsam

## **VISITORS**

Shirley Bondon, Office of Public Guardianship (OPG)  
Tom Goldsmith  
Ken Curry  
Sylvia Curry

## **STAFF**

Deborah Jameson

## **CALL TO ORDER**

Judge Prochnau called the meeting to order.

## **BOARD BUSINESS**

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

A motion was made and seconded to approve the minutes as presented for the Board meeting held on February 8, 2010. The motion passed.<sup>1</sup>

### **2. Chair Report**

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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.

Judge Prochnau reported on the following topics:

- a) Sharon York will be stepping down from the Board. She has been on the Board since October 2005 and has served on the Budget, Applications, and Standards of Practice Committees. She has shared her knowledge of Robert's Rules of Order with the Board. Ms. York's calm, common-sense approach will be missed.
- b) The Regulations Committee will review a draft response to Ms. Denney's proposals and the Board will review the response at the planning meeting in April.
- c) In the March 6, 2010 Seattle Times newspaper, there was an article about a guardian who successfully prosecuted a lawsuit against a trustee in a foreclosure suit. The guardian agency was Puget Sound Guardians. The guardian was able to recover almost \$150,000 of the incapacitated person's home equity.

#### **4. Presentation re Adult Family Homes**

Nancy Dapper said that guardians are the eyes and ears for their clients in Adult Family Homes. Ms. Dapper referenced the articles that appeared in the Seattle Times from January 31, 2010 to February 2, 2010 about care issues in many Adult Family Homes. Ms. Dapper said that Initiative 1029 was passed to improve the quality of caregivers by requiring caregivers to take additional hours of training. Due to budget issues, implementation of the initiative was delayed until January 1, 2011 and it may be delayed again.

Other board members encouraged guardians to ask for surveys which all Adult Family Homes must keep. Guardians were encouraged to file complaints if there were problems found at Adult Family Homes. The phone number for reporting concerns about abuse, neglect, or a violation of the rights of an incapacitated person residing in an adult family home, boarding home, or nursing home is 1-800-562-6078 and the TTY number is 1-800-737-7931. Ms. Dapper agreed to write an article about what guardians should look for to ensure quality care at Adult Family Homes.

#### **5. COMMITTEE REPORTS**

**a. Nominating Committee** Judge Prochnau reported that she, John Jardine, and Nancy Dapper will be looking for a candidate to replace Sharon York's position.

**b. Standards of Practice Committee**

**i. DR 520 Audit Report** Comm. Valente reported that all the certified professional guardians have been selected for audit. The SOPC, even though the scope of the audit is focused on timeliness, has had to deal with other issues and this has slowed down the review. Many of the timeliness issues have been *de minimis*, but some reports have been late by as much as a year. A recurring explanation for late filings has been that the guardian's attorney failed to file, but the professional guardian is ultimately responsible for timely filing. The SOPC thinks that the process has been a valuable process.

The Board generally discussed what courts could do to ensure timely filing while remaining mindful of budget constraints. One suggestion was to have the letters of guardianship expire and to calendar the next hearing date each time the guardian is in

court—at the time of appointment and at the time of review hearings. Several courts already follow that procedure and the audit may show whether it is a successful way to ensure timeliness.

The Board also plans to consider whether to extend the DR 520 audit, and if so, whether the audit would be only on the issue of timeliness of filing reports.

ii. Regulation re definition of investigative records. A motion was made and seconded to adopt the change to Administrative Regulation 002.14 as follows:

“Investigative records” are records obtained by the Board during an investigation related to an investigation pursuant to GR 23 and the disciplinary regulations of the Board into the conduct of a professional guardian prior to the filing of a complaint by the Board imposition of any disciplinary sanction or dismissal.<sup>2</sup>

Discussion: It was noted that this regulation seeks to protect the confidentiality of board investigative records in a similar fashion as law enforcement.

The motion passed. The regulation is effective immediately.

iii. Proposed regulation change re confidentiality of records of dismissed grievances. A motion was made and seconded to adopt the change to Administrative Regulation 003.3.1 as follows:

“Dismissed grievances may be disclosed using established procedures for inspection, copying, and disclosure with identifying information about the grievant, incapacitated person, and professional guardian and/or agency redacted in response to a general request for dismissed grievances covering a specified time period (of not less than 6 months) without any specific guardian being named in the request.”

Discussion: The Board agreed that the language of the proposed regulation reflected the Board’s direction at the January meeting. Commissioner Valente reported that the SOPC has created a form that will be available to the public with information about grievances, including the allegations, the SOPC’s actions and the final result. The Board discussed the language of the proposed regulation and suggested changes. A vote was taken to post the proposed regulation and the motion failed.

A motion was made and seconded to publish an alternate regulation as follows:

“Dismissed grievances shall be disclosed upon written request using established procedures for inspection, copying, and disclosure with identifying information about the grievant, incapacitated person, and professional guardian and/or agency redacted. A request for dismissed grievances shall cover a specified time period of not less than 12 months.”

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<sup>2</sup> Within all proposed regulation amendments, additions are indicated by underlining and deletions indicated by strikethroughs.

Discussion: The question was raised about the Public Records Act and whether the Board's proposed regulation was consistent with the PRA's policy towards transparency. Currently the judicial branch is not subject to the PRA.

The Board discussed the value of information if the requestor was limited to requesting a year's worth of records. There was a concern about the costs of such a public records request. It was noted that the records would provide information to the public about the deliberative process and whether the Board was doing its job regarding grievances.

The motion passed. The regulation will be posted for comment and the Board will vote to adopt the regulation at its June 14, 2010 Board meeting.

iv. CPGB No. 2008-015. Comm. Valente reported that this Agreement Regarding Discipline involved a guardian who ran into a number of problems with his practice. The guardian agreed to decertification once he had final reports approved. He still has two cases in which the final reports have not been approved, but the court is tracking those cases. The SOPC recommends proceeding with this guardian's decertification.

v. CPGB No. 2003-011. Comm. Valente reported that this guardian agreed to undergo additional review and monitoring as part of a Supplement Agreement. The guardian has completed the monitoring period and the SOPC recommends releasing the guardian from any further monitoring and closing the disciplinary action.

#### **b. Education Committee**

i. Regulation changes re CE credits and reporting cycles. Gary Beagle reported that very few comments were received to the proposed changes. He noted that the Education Committee had revised 202.3 to allow carryover credits in person and estate to be transferred to general credits.

A motion was made and seconded to approve changes to the Continuing Education Regulations as follows:

#### **201 Regulation Definitions.**

As used in these regulations, the following definitions shall apply:

201.9 ~~"Calendar year" shall mean January 1 to December 31.~~ "Reporting period" shall mean a two-year period from January 1 to December 31 the following year.

201.11 To qualify for "person credit", a course or subject must encompass training and information pertaining to personal care, physical care, residential placement, care management, medical, psychological, social, and family matters and other issues with which a Guardian of the Person should be familiar.

201.12 To qualify for "estate credit", a course or subject must encompass training and information about the marshalling, management and sale of assets; responsibility for maintenance and protection of assets; entitlement to

federal, state, and other financial benefits; estate planning, including gifting and transfers of assets; and other financial activities with which a Guardian of the Estate should be familiar.

201.13 To qualify for “general credit”, a course or subject must encompass training and information pertaining to the business side of a Guardian’s practice, including the use of forms to assist in the practice, tax and civil liability, insurance and bond issues, relationship with counsel and other professionals, fee issues and billing practices, and business development. It also includes matters that apply generally to guardianship of person and estate such as the roles of guardians ad litem, petitions for direction, general civil procedure or the role of the court.

## **202 Continuing Education Requirement**

~~202.2 Each Guardian shall complete a minimum of 12 credit hours of approved education during each calendar year, except as exempted by Regulation 213. Credit hours accrue for classes approved by the Education Committee and shall annually total no fewer than 12 credit hours that must include the following: Ethics, two hours; estate management, four hours; personal care issues, four hours; and general issues, two hours. (Amended May 14, 2007)~~  
Each Guardian shall complete a minimum of 24 credit hours of approved education during each reporting period, except as exempted by Regulation 213. Credit hours accrue for classes approved by the Education Committee and shall biennially total no fewer than 24 credit hours that must include the following: Ethics—4 hours; Person—6 hours; Estate—6 hours; and General—8 hours.

~~202.3 If an active Guardian completes more than 12 such credit hours in a given calendar year, the excess credit, up to 12 credits, may be carried forward and applied to such Guardian’s education requirement for the next calendar year. Only ethics credits may satisfy the annual requirement for two ethics credit hours. Credits may be carried forward in their original category or as general credits. General credits may be carried forward as general credits in their entirety, up to four hours or two hours each (a total of four) may be applied to estate management or personal care issue credits (Amended December 11, 2005; Amended May 14, 2007).~~  
If an active Guardian completes more than 24 credit hours in a given reporting period, the excess credit, up to 12 credits, may be carried forward and applied to such Guardian’s education requirement for the next reporting period. General and Ethics credits may be carried forward only as General and Ethics credits, respectively. Credits earned in Person or Estate may be carried over in their original category or may be transferred to General credits.

~~202.4 Failure to comply with the provisions of this regulation within each calendar year reporting period shall subject the Guardian to disciplinary action, including decertification for failure to comply.~~

### **203 Credits/Computation**

203.4 Excess or "carry-over" credits may be applied to the succeeding ~~calendar year's reporting period's~~ credit hour requirement. Such credits shall be reported to the Committee on or before January 31 as is required by Regulation 208.1.

203.5 Credit toward the continuing education requirements set forth in these regulations may be earned through teaching or participating in an approved continuing education activity on the following basis:

203.5.1 An active Guardian teaching in an approved education activity shall receive credit on the basis of one credit for each hour actually spent by such Guardian in attendance at and teaching in a presentation of such activity. Additionally, an active Guardian teaching in such an activity shall also be awarded further credit on the basis of one credit as defined in Section 201.3 for each hour actually spent in preparation time, provided that in no event shall more than 10 hours of credit be awarded for the preparation of one hour or less of actual presentation. The nature of the activity, person, estate, ethics, or general, will determine the type of credit hours awarded. Credit hours will be awarded in the same category as the activity.

203.5.2 An active Guardian participating in an approved educational activity shall receive credit on the basis of one credit for each hour actually spent by such Guardian in attendance at a presentation of such activity. Additionally, an active Guardian participating in such an activity shall also be awarded further credit on the basis of one credit for each hour actually spent in preparation time as defined in Section 201.8, provided that in no event shall more than five hours of credit be awarded for such preparation time in any one such continuing education activity. (Corrected 4-8-02) The nature of the activity, person, estate, ethics, or general, will determine the type of credit hours awarded. Credit hours will be awarded in the same category as the activity.

### **204 Standards for Approval**

The following standards shall be met by any course or activity for which approval is sought:

204.4 Thorough, high quality, readable, and carefully prepared written materials should be distributed to all attendees at or before the time the course is presented. It is recognized that written materials are not suitable or readily available for some types of subjects; the absence of written materials for distribution should, however, be the exception and not the rule. Providing students the materials on a computer disk or flash drive is encouraged.

### **205 Procedure for Approval of Continuing Education Activities**

205.5 No later than 30 days following the activity, the sponsoring agency must send the attendance list to the AOC, along with a copy of the

completed evaluation and copies of any materials distributed at the activity shall be available to the AOC upon request. Electronic copies are preferred. (Amended October 11, 2004) (Amended December 17, 2005) (Amended March 13, 2006)

## **208 Submission of Information--Reporting of Attendance**

208.1 Compliance Report. Each active Guardian shall, on or before January 31 of each year, commencing January 31, 2003, submit an affidavit to the Committee, at the AOC, setting forth all information required by Form No. 2, concerning such active Guardian's completion of approved continuing education during the preceding calendar year. Such affidavit shall also contain a report of "carryover" credits, if any, as delineated in Regulation 202. Within 30 days from the end of the preceding reporting period, each Guardian shall submit an affidavit to the Committee, at the AOC, setting forth all information required by Form No. 2 concerning such active Guardian's completion of approved continuing education during the preceding reporting period. Such affidavit shall also contain a report of "carryover" credits, if any, as delineated in Regulation 202.

208.2 Supplemental Report. If an active Guardian has not completed the minimum education requirement for the preceding calendar year reporting period, or complied with Regulation 208.1, compliance may still be accomplished by:

## **209 Submission of Information--Credit for Teaching or Participating**

An active Guardian who seeks credit for teaching or participating in an approved continuing education activity pursuant to Regulation 203.5 shall, on or before January 31 of the year following the calendar year in which such teaching or participating was accomplished, submit an affidavit to the Committee, at the AOC, setting forth all information required by the appropriate portions of Form 3, concerning such teaching and/or participating in approved education courses or activities during the preceding calendar year. An active Guardian who seeks credit for teaching or participating in an approved continuing education activity pursuant to Regulation 203.5, shall submit an affidavit to the Committee, at the AOC, setting forth all information required by the appropriate portions of Form 3, concerning such teaching and/or participating in approved education courses or activities during the preceding reporting period. The affidavit shall be submitted within 30 days of the end of the preceding reporting period.

## **213 Exemptions**

An active Guardian shall not be required to comply with the minimum continuing education requirements of GR 23, as implemented by these regulations, during the calendar year in which the Guardian is admitted to practice. **(change in regulation number 11-08-04)** If a Guardian is admitted during the first year of the reporting period, the Guardian needs only to complete 12 credits as described in Regulation 202.3 by the end of the reporting period. If a Guardian is admitted to practice in the second year of the reporting period, the Guardian is not required to comply with the minimum continuing education credits for that reporting period.

The motion passed. The regulation has been posted for comment and is effective January 1, 2011.

ii. Committee Update Mr. Beagle reported that the Education Committee is considering the benefits of creating an incentive for CPGs to become nationally certified guardians. He noted that CPGs currently are receiving credit for the preparation course for the exam.

Mr. Beagle said that the committee is looking at developing continuing education programs with the UWEO. The training would be on advanced issues and would be in a similar format to the current mandatory training.

iii. UWEO Program: Mr. Beagle reported that the UWEO program completed its 3<sup>rd</sup> training session. The next class will start on March 26 and 25 students have enrolled. Mr. Beagle reported that the quality of the applicants continues to be strong.

Chris Neil went to the last UWEO session in Toppenish. He spoke about the Board's disciplinary process, the interplay between the court and guardians, and he acted as a judicial officer in the student's mock court presentations. Mr. Neil said that the program has been a dramatic success. He said that the online training is dynamic and that students are talking about their case studies in between classes and are immersed in the case studies. He said that each UWEO course has been better than the previous course.

Mr. Beagle said that he recently spoke at the Arizona Fiduciary program and that Washington is the only state with a certification training program.

The Board discussed the issue of soliciting potential students from all parts of the state and the difficulty of students finding enough business to support themselves in some low-population areas. Judge Prochnau noted that achieving ethnic and cultural diversity among guardians was another concern. She mentioned that she and Ms. Bondon had looked at this issue several years earlier—contacting the minority Bar associations.

One suggestion was waiving tuition for guardians who would work in remote areas, similar to the National Health Service idea. The UWEO program does not have extra funds for tuition waivers. Ms. Bondon said that the OPG program is able to provide tuition for potential guardians, and will do so when the program receives additional funds. The Board members discussed obtaining grants, perhaps through AARP or by requesting additional funds for the Board's budget.

Judge Prochnau requested volunteer board members to work on obtaining grant money. A first step will be to determine the need for guardians. The suggestion was made to contact the Attorney General's Office and DSHS for that information. Ree Ah Bloedow offered to make the contact. A second step will be to determine the current picture. The suggestion was made to request CPGs to provide responses to data questions at the time of their annual declaration. The survey would be anonymous. Judge Prochnau and staff will create the questions.

Judge Prochnau mentioned that Ms. Bondon is chairing a committee about diversity. Ms. Bondon reported that the new Chief Justice, Barbara Madsen, wants to look at diversity and inclusiveness in the courts. They have identified 9 boards and commissions that have an Access to Justice mission and plan to meet with representatives from those boards and commissions. They will look at how the boards and commissions' work can be integrated and develop better collaboration structures.

**c. Regulations Committee** Chris Neil reported that the committee has met by phone twice and would be meeting in person after the Board meeting. He said that the committee is working on the Standards of Practice. Another issue that he said that the committee will look at is the interplay between guardians who are individuals and guardians who are in agencies.

**d. Applications Committee**

A motion was made and seconded to approve changes to the Application Regulations as follows:

**102 Definitions**

102.2 "Agency" means any legal entity in the State of Washington ~~whose articles of incorporation or bylaws authorize the agency~~ authorized by its formation documents to act as a fiduciary, guardian, or limited guardian.

**103 Qualifications**

103.3 An agency applicant must also:

103.3.1 Submit a copy of the formation documents of the legal entity.  
~~Articles of Incorporation and Bylaws.~~

~~103.3.2 Submit a "Declaration of Agency Applicant."~~

103.3.4 Submit the names of the agency's board of directors, members,  
managers, owners, and/or its officers.

103.3.5 Identify all CPGs at the agency (a minimum of two are required), and submit a copy of either meeting board minutes or a board resolution designating the CPGs employed by the agency as the persons with final decision-making authority for incapacitated persons or their estate on behalf of the agency.

The motion passed. The regulation has been posted for comment and is effective immediately.

**6. OFFICE OF PUBLIC GUARDIANSHIP – UPDATE**

Shirley Bondon, Manager of the Office of Public Guardianship (OPG), reported that money for the OPG program was in the House budget, but not yet in the Senate budget.

**7. Progress Towards 2010 Goals.** Judge Prochnau reviewed the goals as follows:

1) Improve and refine the UW Guardianship Certificate Program. This goal is being met as today's discussion has shown.

- 2) Review of DR 520 audit results is a goal to discuss in further detail when some summary data from the audit is gathered--at the long-term planning meeting.
- 3) Ensure quality continuing education is available in areas of need was discussed during the education committee's presentation.
- 4) Develop the core competencies of a successful guardian and consider testing. This issue will be discussed further at the planning meeting.

**8. EXECUTIVE SESSION**

The Board adjourned to executive session to consider the disciplinary matters and applications. Members of the SOPC recused themselves from participating in Executive Session for deliberation on the disciplinary matters.

**9. OPEN SESSION**

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

**1. Action on Disciplinary Matters**

- a. CPG No. 2008-015 A motion was made and seconded that the Board request the Supreme Court to decertify this guardian pursuant to the terms of the ARD. The motion passed. Members of the SOPC abstained.
- b. CPG No. 2003-011. A motion was made and seconded to release the guardian from any further monitoring and to close the disciplinary action. The motion passes. Members of the SOCP abstained.

**2. Action on Applications:**

(1) Motion and second for conditional approval<sup>3</sup> of each of the following applications for certification passed:

Alysha Do	CPG No. 11172
Mariann Wise	CPG No. 11185
Gloria Muhammad	CPG No. 11165
Kathryn Evans	CPG No. 11169

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

Lexie Lamborn	CPG No. 4812
Donna Hulme-Chadwick	CPG No. 5939

The Board recognized Ms. Lamborn's service as a guardian.

**Adjourn**

Judge Prochnau adjourned the meeting at approximately 12:30 pm.

Respectfully submitted,

Judge Prochnau  
Deborah Jameson

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<sup>3</sup> Conditional approval is granted pending successful completion of the mandatory training and absent any intervening disqualifying events.

Board Approved: April 2, 2010