



Certified Professional Guardian Board Meeting

Monday, April 9, 2012 (9:00 am – 4:00 pm)

SeaTac Office Center, 18000 International Blvd. Ste 1106
Planning Meeting

Meeting Minutes

Chair

Judge James Lawler

Members Absent

Carol Sloan

Members Present

Robin Balsam
Gary Beagle
Dr. Barbara Cochrane
William Jaback
Chris Neil
Judge Sally Olsen
Emily Rogers
Prof. Winsor Schmidt
Judge Robert Swisher
Comm. Joseph Valente

Staff

Shirley Bondon
Katrin Johnson
Kim Rood
Carol Smith
LueRachelle Brim-Atkin

Public

Tom Goldsmith
Ken Curry
Michael Johnson
Claudia Donnelly
Mary Ciancio

1. Call to Order

Judge Lawler called the meeting to order at 9:00 am.

2. Public Comment Period

Public comments are attached.

3. Board Business

Approval of Minutes

Motion: *A motion was made and seconded to approve the meeting minutes from the February meeting. The motion passed.*

Judge Lawler introduced LueRachelle Brim-Atkin, the facilitator for the meeting.

Revising Regulations to Increase Efficiencies and Effectiveness—Bill Jaback & Gary Beagle

3. Applications Committee Report

The applications committee was charged to revisit regulations, streamline efforts and make efforts cost neutral. They recommended:

- A three-tiered structure for decision making:
 - Strategic—Board

- Review of Applications (and some approval)—Committee
- Administrative Decisions (with no discretion)—Staff
- A split into two categories
 - Applications
 - Ongoing Certification Regulations

Summary of proposed changed to Regulation 100 presented by Bill Jaback:

RE: Titles and Organization

As currently written, the Application Regulations encompass two different categories of requirements: (1) the process for guardians and agencies to apply for certification; and (2) ongoing reporting requirements for already certified guardians and agencies.

To provide better clarity to guardians, agencies and the public, the Application Committee recommends separating out the Application Regulations into two separate Chapters: Application Regulations and Certification Maintenance Regulations. This would also require renaming the Application Committee to the “Certification and Application Committee.”

RE: Applications Regulations

101 Definitions

1. All specific references to fees are removed from the Regulations. Rather, the Regulations will make reference to a “Fees and Filing Requirements Table.” This Table will be published on the Board’s web site. The Board may make changes to the fees without having to undergo Regulations revisions, and more efficiently respond to current financial situations. (102.8)
2. An explicit definition is given to the term of “GR 23.” (new 102.9)

102 Qualifications

1. Placement of training requirement to more prominent location. (new 103.2 instead of old 103.5)
2. The AOC is authorized to set a timeline for the submission of applications. (new 103.3)
3. A clear listing of the items that guardian applicants are required to submit for a complete application packet. (new 103.3.1 thru 103.3.10)
4. A clear listing of the items that agency applicants are required to submit for a complete application packet. (new 103.4.1 thru 103.4.7)

105 Internal Review and Verification of Applications

1. AOC staff is authorized to review applications for completeness, and may deny incomplete applications. (105.1, new 105.2)

106 Processing Applications

1. Changing the title of the “Application Committee” to the “Certification and Application Committee.” The purpose for this name change is that the Committee

would oversee activity of both the Applications Regulations, and the newly named Certification Maintenance Regulations. (106.1)

2. The notification requirements of former 106.2.3 are deleted because they are already addressed elsewhere in the Regulations (106.2.3, 106.3, new 109.1, new 107.1).

107 Right to Appeal Denial of Application

1. Clarification language – this is denial of the application, not denial of certification. Most candidates have not yet completed the UW class when application is made. (new 107, new 107.3)
2. Appeals will be limited strictly to review of the documentation submitted by the guardian or agency in the application process. Applicants may not subsequently submit additional information after review by the Board. This will create an incentive for applicants to file all necessary information when required, and limit the scope of appeals to only the information previously reviewed. (new 107.4.5, new 107.4.8, new 107.4.10)
3. Notification of the appeal will not be made until the Board has made a final decision. (elimination of 109.4.10)

108 Training

1. More explicit language regarding the UW training course.

110 Fees

1. Reference is made to the Fees and Filing Requirements Table, instead of inserting actual fee amounts in the Regulations. (new 110.1)
2. All language pertaining to fees and declaration for currently certified guardians and agencies has been moved to the Certification Maintenance Regulations.

114, 115, 116 Examination

1. The examination regulation titles, which were only included as placeholders, are removed.

RE: Certification Maintenance Regulations

701 Purpose

1. Added for consistency with other Regulations chapters.

702 Definitions

1. There are no new definitions from here. The applicable ones from the Applications Regulations are repeated here.

703 Annual Certification Fee and GR 23(e) Disclosure

1. The title to this section is changed from “Fees” to a more clear description of the content.

2. Change of name from “Declaration” to “GR 23(e) Disclosure” to more accurately identify which document the requirement pertains to. (Found throughout this section.) This also helps to distinguish this reporting requirement from the E & O Declaration.
3. Reference is made to the Fees and Filing Requirements Table instead of identifying specific fee amounts. (new 703.1, new 703.2.4)
4. The Board is granted authority to set a tiered annual certification fee structure consistent with whether guardians/agencies are exempt from E & O insurance. (new 703.2.2)

704 Insurance

1. Clarification language for “E & O Insurance Declaration” because the document was previously just referred to as “declaration”. (new 704.5, new 704.5.1)

707 Inactive Status

1. AOC staff is authorized to grant inactive status to CPGs or agencies that qualify per the Regulations. Staff denials would be reviewed and approved by the Certification and Application Committee. (new 707.1)

708 Voluntary Surrender of Certification

1. AOC staff is authorized to grant voluntary surrender to CPGs or agencies that qualify per the Regulations. Staff denials would be reviewed and approved by the Certification and Application Committee.

Next Steps—Clean up a few things

- Regulation 108: There was a suggestion that regulation 108 be made less specific and replace the specific reference to the UW training program with a training program that has been approved by the board.
- 107 Initial Application—It was suggested that they change the language to read denial of “certification” not “application.” It was explained that it is worded that way because they are actually denying the applicant an opportunity to attend certification classes to become certified. After some discussion, it was suggested that the wording be changed to “certification or provisional certification.” It was noted that a specific definition for “provisional certification” might be needed.
- There was a recommendation to have a set of definitions that apply to all regulations and to define what constitutes an agency.
- There was some discussion regarding the use of the term “oral appeal” that is used in the regulations.
- A question was asked regarding the tiered fees. Why is the distinction being made? There was an extended discussion of the policies and reasoning behind tiered fees.

It was decided that the regulation would be sent back to Committee to do some of the cleanup and bring it back to the next meeting before making it available for public comment.

Staff noted that the issue of allowing staff to approve agencies was absent from this version of recommendation. The general agreement was that there is very little discretion in the approval of applications, so staff should be able to make that decision, but that denials are more complicated and should probably continue to be brought before committee. It was agreed that draft language would be added to the recommendation to that effect and discussed at the next meeting.

There was some concern about the Board not making approval decisions, particularly in light of the possibility that one of the board members may have information that isn't brought out during the application process. It was suggested that the language be drafted and that it be discussed at the next meeting.

The Board paused for a brief break.

Before continuing on to the Education Committee report, it was announced that:

- The University of Washington CPG Advisory Committee will be meeting on April 17th to get an update and to discuss any other changes to the program. It will be held in Seattle at the UW Conference Center.
- National Guardianship Association Conference will be held October 20-23 at the Red Lion on the Columbia River in Portland, Oregon. There will be a judge's panel with members from Oregon, Washington and other states. The panel discussion topic is conflict of interest.

4. Education Committee Report

There was review and discussion of the suggested changes to Continuing Education Regulations 201.11, 201.12, 201.13, 202.2, 202.3, 205.1, 205.3, 208.1, 208.2, 208.2.1, 208.2.2, 211.1 from page 39-43 of the meeting packet. There was also some discussion of the issue of emerging issues. A question was posed about when these regulations would be going into effect; the Board must decide on emerging issue by July.

Motion: *A motion was made and seconded to revise 201.12 as provided below. The motion passed.*

201.10 To qualify for "ethics credit," a course or subject must deal with the ethical issues and ethical conflicts relative to the legal rights, duties, or responsibilities of Guardians or must include discussion, analysis, interpretation, or application of the Standards of Practice, judicial decisions interpreting the Standards of Practice or guardianship ethics, and /or ethics opinion published by the CPG Board.

Motion: *A motion was made and seconded to revise 201.11 as provided below. The motion passed.*

201.11 To qualify for "general credit", a course or subject must encompass training and information pertaining to the business side of a Guardian's practice, the personal care of Guardian clients, and/or the management of assets, estates and benefits. Topics qualifying for general credit include, but are not limited to the following: 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, business development, information pertaining to personal and physical care, residential placement, medical/psychological/social/family matters, marshalling/management/sale of/maintenance of assets, entitlement to state/federal benefits, estate planning, and other issues and activities with which a Guardian should be familiar. 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.

5. Regulations Committee

Drafting and Revising SOPs

SOP 407: Residential Decisions

The term “meaningful visits” was addressed in January 2010, but not fully. There remains an inconsistency between the standards of agencies and those of CPGs. If the agency is named as the guardian, a representative of the agency may do the visit. Whereas, if an individual CPG is the guardian, he/she may not delegate.

The committee’s recommendation is “to allow both individual and agency CPGs to delegate the duty to visit to their employee.”

There was some discussion about whether the board should set specific standards on qualifications of non-CPGs who conduct visits, or whether the board should give CPGs discretion to determine what’s best for the client?

If the CPG/agency delegates visit to non CPG, that fact will be disclosed, including the person’s identity, training and experience, making it reasonable to accept the delegation.

It was suggested that the board take a break from making changes to the SOPs in light of the fact that they are still making adjustments to the most recent SOP changes.

A question was raised as to whether the delegation should be of the duty or the visit.

After a lengthy discussion, it was agreed that the discussion on the matter would continue, and that the Regulations Committee would provide specific regulation language at a later meeting.

Proposed Standard of Practice: Professional Guardians as Representative Payees

There was a discussion regarding the issues that arose regarding a grievance filed in the case of Sean Sexton.

Although it was decided by the Committee that the case in question was not a violation of current Standards of Practice, it was noted that the behavior was inconsistent with the preferred practice for a professional guardian.

The Committee proposed the following modifications to the SOPs; these recommendations are not unanimous:

- Modification to 406.7 to strike “by a party other than the incapacitated person” and insert “from any source” in its place; also to insert “and approved by the Court” at the end of the regulation
- Modification to 410.1 to insert “from any source” between “expenses” and “except.”

These recommendations are intended to close loopholes that allow undesirable, although not illegal, fiduciary behavior.

An argument was made that the language “and approved by the Court” should be removed because the Court has no jurisdiction to approve or deny compensation.

After an extended discussion, a motion was made.

Motion: *A motion was made and seconded to post 410.1 for public comment. The motion passed.*

Motion: *A motion was made and seconded to add the words “other than the guardian’s estate” after the words “other source” to 406.7. After further discussion, the motion was withdrawn.*

Motion: *A motion was made and seconded to post a proposal to eliminate 406.7 for public comment. The motion failed.*

6. Executive Session – Meeting Closed the Public

7. Open Session – Meeting Opened to the Public

Motion: *A motion was made and seconded to revoke the provisional certification for Katherine Adkins. The motion passed.*

Motion: *A motion was made and seconded to accept the agreement regarding discipline with the admonishment of Cynthia Hanning. The motion passed. Robin Balsam and Gary Beagle abstained.*

Motion: *A motion was made and seconded to accept the Hearing Officer’s recommendation to revoke the certification of Sharon Nielson. The motion passed. Judge Swisher abstained.*

Motion: *A motion was made and seconded to initiate the formal complaint process against Pam Privette. The motion passed. Robin Balsam abstained.*

8. Improving Public Perception

The Board discussed the pros and cons of downsizing the board based on a conversation with the Supreme Court regarding budget issues. After discussion, they decided against downsizing.

Commissioner Valente gave a presentation on Understanding the Roles of the Court and the CPGB in Cases of Guardian Misconduct.

9. Adjourn

Judge Lawler noted the next meeting will be a phone conference on Monday, May 14, 2012. Judge Lawler adjourned the meeting at approximately 3:55 pm.

Recap of Motions from April 9, 2012 Meeting

Motion Summary	Status
<p>Motion: <i>A motion was made and seconded to approve the meeting minutes from the February meeting.</i></p>	<p>Passed</p>
<p>Motion: <i>A motion was made and seconded to revise 201.12 as provided below. The motion passed.</i></p> <p>201.10 To qualify for "ethics credit," a course or subject must deal with the ethical issues and ethical conflicts relative to the legal rights, duties, or responsibilities of Guardians or must include discussion, analysis, interpretation, or application of the Standards of Practice, judicial decisions interpreting the Standards of Practice or guardianship ethics, and /or ethics opinion published by the CPG Board.</p>	<p>Passed</p>

Motion Summary	Status
<p>Motion: <i>A motion was made and seconded to revise 201.11 has provided below. The motion passed.</i></p> <p>201.11 To qualify for “general credit”, a course or subject must encompass training and information pertaining to the business side of a Guardian’s practice, the personal care of Guardian clients, and/or the management of assets, estates and benefits. Topics qualifying for general credit include, but are not limited to the following: 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, business development, information pertaining to personal and physical care, residential placement, medical/psychological/social/family matters, marshalling/management/sale of/maintenance of assets, entitlement to state/federal benefits, estate planning, and other issues and activities with which a Guardian should be familiar. 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.</p>	<p>Passed</p>
<p>Motion: <i>A motion was made and seconded to post 410.1 for public comment.</i></p>	<p>Passed</p>
<p>Motion: <i>A motion was made to adopt new language for 406.7. After further discussion, the motion was withdrawn.</i></p>	<p>Motion Withdrawn</p>
<p>Motion: <i>A motion was made and seconded to post a proposal to eliminate 406.7 out for public comment.</i></p>	<p>Failed</p>
<p>Motion: <i>A motion was made and seconded to revoke the provisional certification for Katherine Adkins.</i></p>	<p>Passed</p>
<p>Motion: <i>A motion was made and seconded to accept the agreement regarding discipline with the admonishment of Cynthia Hanning.</i></p>	<p>Passed</p>
<p>Motion: <i>A motion was made and seconded to approve the decertification of Sharon Nielson.</i></p>	<p>Passed</p>
<p>Motion: <i>A motion was made and seconded to initiate a formal complaint process against Pam Privette.</i></p>	<p>Passed</p>

Action Items for Next Meeting

Action Item	Who	Status
Regulation 100 - Incorporate suggestion changes.	Application Committee	In Progress
Regulation 200 - Incorporate approved changes.	Staff	Complete
Draft SOP language defining meaningful visit.	Regulation Committee	In Progress
Initiate formal complaint.	SOPC	In Progress

Approved May 14, 2012.