



Certified Professional Guardian Board Meeting

Monday, October 8, 2012 (9:00 a.m. – 2:00 p.m.)
SeaTac Facility

Meeting Minutes

Chair

Judge James Lawler, Chair

Members Present

Commissioner Rachelle Anderson

Ms. Gary Beagle

Ms. Rosslyn Bethmann

Dr. Barbara Cochrane

Ms. Nancy Dapper

Ms. Andrew Heinz

Mr. William Jaback

Judge Sally Olsen

Ms. Emily Rogers

Members Absent

Judge Robert Swisher, Vice-Chair

Ms. Robin Balsam

Ms. Carol Sloan

Staff

Ms. Shirley Bondon

Ms. Carol Smith

Ms. Kim Rood

1. Call to Order

Judge Lawler called the meeting to order.

2. Board Business

Approval of Minutes

Judge Lawler asked for changes or corrections to the September 10, 2012 Board minutes.

Motion: *A motion was made and seconded to approve minutes from the September 10, 2012. The motion passed.*

Chair's Report

- Welcome New Members & Introductions

New members to the CPG Board are:

- Commissioner Rachelle Anderson, Spokane County Superior Court
- Ms. Rosslyn Bethmann, Arc of Spokane
- Mr. Andrew Heinz, Representing the Washington State Bar Association

- Committee Assignments

New committee assignments are:

Application/Certification Committee Members:

Bill Jaback, Chair

Comm. Rachelle Anderson

Rosslyn Bethmann
Andrew Heinz
Emily Rogers

Education Committee Members:

Gary Beagle, Chair
Dr. Barbara Cochrane
Carol Sloan

Standards of Practice Committee

Judge Swisher, Chair
Comm. Rachele Anderson
Robin Balsam
Nancy Dapper

Regulations/Ethics Committee

Judge Olsen, Chair
Gary Beagle
Dr. Barbara Cochrane

- 2013 Board Meeting Schedule

The 2013 meeting schedule is provided below:

Monday, January 14	AOC SeaTac Facility	9:00 am – 3:00 pm
February 13	No Meeting	
Monday, March 11	Teleconference	8:00 am – 9:00 am
Monday, April 8,		9:00 am – 3:00 pm
<i>Possible Long Range Planning</i>	AOC SeaTac Facility	
Monday, May 13	Teleconference	8:00 am – 9:00 am
Monday, June 11		9:00 am – 3:00 pm
<i>Possible Long Range Planning</i>	AOC SeaTac Facility	
July 8	No Meeting	
Monday, August 12	Teleconference	8:00 am – 9:00 am
Monday, September 9	Teleconference	8:00 am – 9:00 am
Monday, October 14	AOC SeaTac Facility	9:00 am – 3:00 pm
Monday, November 4	Teleconference	8:00 am – 9:00 am
Monday, December 9	No Meeting	

- Appoint Appeals Panel

Members appointed to the panel are listed below:

Judge Swisher, Chair
Nancy Dapper
Gary Beagle

3. Public Comment Period

Public persons who wished to comment during the public comment period were each given a time limit of three minutes. Persons speaking were:

- Glenda Voller, President, WAPG
- Winsor Schmidt, Former CPG Board
- Cynthia Jackson
- Claudia Donnelly
- Steven Posalski
- Tom Goldsmith (Comments included at end of Meeting Minutes)

After public comments Judge Lawler clarified that the CPG Board does not supervise individual guardianship appointments in Washington State. That role falls first and foremost to the Superior Court of the county where the guardianship is held. The Board utilizes a complaint process to review the conduct of certified professional guardians.

Judge Lawler thanked the public for their comments.

4. Regulations Committee

- Proposed Disciplinary Regulation 511 Changes

A member of the Regulations Committee explained proposed disciplinary regulation 511 and clarified that the decision to vacate a default was not subject to review, the decision will be final.

- **Motion:** *A motion was made and seconded to approve Regulations 511 as proposed. The motion passed.*

5. Proposed Change to WAC 460-24A

Bill Jaback explained the impetus for WAC 460-24A and indicated that some stakeholders believe that if regulation is to be imposed, the Board might be the appropriate regulatory body. General discussion followed.

He further clarified that some CPGs also serve as trustee for a special needs trusts, and also as a durable Power of Attorney. These are considered lesser restrictive alternatives to a guardianship.

If professional guardians are required to register as investment advisors, there are certain significant unintended consequences. Most notable would be the context of custody and certain agreements that the fiduciaries would have to enter into with what are called "qualified custodians".

A board member stated that research in California has showed that there are just as many complaints filed on trusteeships as there are filed on conservatorships. It is likely that more abuse is happening with trusts because there is no court oversight. It is reasonable to assume that it is easier for a professional to take funds from a

trust/durable power of attorney than it is to take funds when the monies are overseen by the court.

Judge Swisher commented that special needs trusts are incredibly complicated and it is not something that can be dabbled in and at this time the Board does not have the expertise to supervise trusts.

6. Guardianship Court Practices Survey

Shirley Bondon gave a brief description of the Superior Court Judges' Association's Guardian and Probate Committee (GPC). Periodically, that committee provides education to judicial officers during judicial conferences. In spring of 2012, the GPC provided training during the Spring Conference, which revealed that many courts were not using all the tools that were available for guardianship monitoring. Following the conference, Ms. Bondon prepared a survey at the request of Commissioner Valente, the co-chair of GPC.

The survey was then sent to judicial officers, court administrators and county clerks. This survey focused on each county's guardianship monitoring court practices. Ms. Bondon summarized the results for the Board. The summary is included in the Board materials, pages 71 through 84.

7. Special Recognition

Professor Winsor Schmidt, Commissioner Joseph Valente and Chris Neil were leaving the Board. During the meeting, board members thanked them for their service. Each outgoing member also received a thank you letter from Chief Justice Madsen and a token of thanks from the board.

8. Executive Session – Closed to the Public

9. Reconvene

Applications Committee

Individual Applications

Motion: *A motion was made and seconded to approve the application of Jeffrey Herder. The motion passed. Gary Beagle abstained.*

Motion: *A motion was made and seconded to approve the application of Susan Dougherty-Guild. The motion passed.*

Motion: *A motion was made and seconded to deny the application of Deanna Carter. The motion passed.*

Agency Application

Motion: *A motion was made and seconded to approve the application of Abacus. The motion was approved subject to approval of amended Articles of Incorporation. The motion passed.*

Decertification for Failure to Recertify

Motion: A motion was made and seconded to decertify the following Certified Professional Guardians for failure to recertify if required documents and fees are not received by October 10, 2012. The motion passed.

- Molly Adams
- Kathleen Aldrich
- Laura Hickerson
- Teresa Maib
- Stephanie McGruder
- Sebastian Portuesi
- Kim Reid
- Phillip Wade

Standards of Practice Committee

Agreements Regarding Discipline

Motion: A motion was made and seconded to return the two agreements regarding discipline for Hudson and Hunter to the SOPC Committee for further consideration. The motion passed.

Adjourned

The meeting adjourned at 12:30 p.m. The next meeting will be a teleconference and is scheduled for November 5th, 2012 @ 8:00 a.m.

Recap of Motions from October 8, 2012 Meeting

Motion Summary	Status
Motion: A motion was made and seconded to approve the proposed minutes from the September 10, 2012 meeting.	Passed
Motion: A motion was made and seconded to approve Regulations 511 as proposed.	Passed
Motion: A motion was made and seconded to approve the application of Jeffrey Herder.	Passed
Motion: A motion was made and seconded to approve the application of Susan Dougherty-Guild.	Passed
Motion: A motion was made and seconded to deny the application of Deanna Carter.	Passed

Motion Summary	Status
Motion: A motion was made and seconded to approve the application of Abacus. The motion was approved subject to approval of amended Articles of Incorporation.	Passed
Motion: A motion was made and seconded to decertify the following Certified Professional Guardians for failure to recertify, if required documents and fees are not received by October 10, 2012: Molly Adams, Kathleen Aldrich, Laura Hickerson, Teresa Maib, Stephanie McGruder, Sebastian Portuesi, Kim Reid and Phillip Wade.	Passed
Motion: A motion was made to send back the two stipulated agreements, Hudson and Hunter to the SOPC Committee for further consideration.	Passed
Action Item Summary	
No Action items at this time.	

Public Comments

As in the past, I am here today because I believe the end of my parents' lives was ruined by inferior Fiduciary support, followed by an un-gifted Professional Guardianship.

My father died "of a broken heart" as some say, soon after the guardianship, with its ominous restrictions, began taking shape. Two years later my mother died in isolation, even though still in their home of 22 years, under hospice care. An hour and a half before her 9:30 PM death, deaf- eared guardian-rules of an unaltered care-plan compelled me to leave her bedside. When she died, there was no family member in her house, nor even a care-giver in her room.

For more than three years, I've translated [transferred] the pain and frustration of my parents' guardianship into an effort to learn more about Washington State's guardianship system, and how it works. Primarily by attending as many meetings of this Board as I could since August of 2009; often as the sole public attendee.

The Guardianship Board's August 13th meeting brought back and underscored my pain. Let me be clear that I don't intend to "re try" the unfortunate judicial process that

culminated in a July decision against me in this state's Appeals Court. That process has ended, and what I see as the penalty has been in effect since May 2010.

Yet I *will* say, I strongly feel the Administrative Court's standards of evidence, the self-serving motives of persons who falsely witnessed against me, and a failure of the system in general to put into perspective the situation which immersed my family in 2008, did great dis-service to me and to my family.

It seemed capricious, as well as unfortunate and unfair, that an experienced DSHS investigator, in addition to reaching findings without speaking with me, waved away the clear (and logical) supportive statement my quite strong and competent father had earlier presented, claiming, "Most abuse victims say that." Because my father died months before a hearing was convened, he was never able to present his view or reasoning first hand to a Court, or even to other officials.

I myself have spent countless hours and *much* anxiety—also around \$40,000 in legal expenses—hoping to "clear my name", as one says. But more importantly, in an effort to un-yoke my mother from the consequences of the stigma that legal process put upon me, which of course impacted and had consequences for her.

Sadly, progressive dementia in my mother's late 90s left her very confused as to why the son who had always been closest to her was not visiting more freely. While surely, she never understood much at all about her guardianship.

Now, I've given you, more than ever before, background as to what has been behind the interest I've had in this State's guardianship system over the past four years. Yet I'd like to assure you that my interest is not so superficial that it faded this summer.

I will continue to be concerned that:

- I see little apparent plan or vision for dealing with a broadly-recognized **chronic lack of funding** for guardianship issues in general and guardian oversight in particular.—Not even the long-term survival of this Board seems assured.
- I note too often, that Board discussions seem to lose sight of **client-centered** concerns, even while "**business model**" assertions are put forth, on what I see as the "status-quo" side of issue debate.
- Yet most urgently, I believe lack of **transparency**, mostly in the processing, reporting, and analysis of complaints / grievances abets both of the above problems.

Regarding complaints / grievances, I see that for two decades Washington State's health care professionals, including medical doctors, nurses, psychologists, social workers, dentists, pharmacists, naturopaths, chiropractors, audiologists, care-givers, EMTs, veterinarians, and some 70 other licensed groups, have worked under Washington State's UDA, Uniform Disciplinary Act (RCW 18.130). This law's procedures and benefits are well tested, yet I have not so far heard of any serious exploration of this approach by the Courts or the professional guardian community.

I would like to see a deeper policy discussion begin, perhaps supplemented by an authorized research study of the UDA, where the accomplishments of "open" and

“transparent” health care professions complaint-handling could be evaluated. I suspect this system has been important in building trust, both among peers and with consumers, for each of the professions involved.

Finally, and tying back to my introduction, I believe good guardianship performance (as well as less-good) should be recognized. And correspondingly, that better and more open complaint / grievance handling could bring earlier focus to (always potentially present, and surely in the public mind) “bad apple” guardianship abuse situations.

Then if fewer “guardianship gone bad” situations were to occur, and with a broader feeling among professionals that accountability and transparency were “givens” across the guardianship community, perhaps public consciousness and support would grow and be stronger.

Also, in the best of circumstances (and perhaps I am too idealistic in this view) I would like to see that there was never room for the public, or even this board, to be duped, or even slightly mis-led, and that nothing but the most straight-forward of dealings would prevail in guardianship affairs. While at the same time, I wonder if openness in all dealings could somehow lead to evolving **case law** around guardianship practices, thus helping build a better, more trustworthy and workable framework for all concerned.

Thank You

Tom Goldsmith