

Minutes
Certified Professional Guardianship Board
May 11, 2015

Proposed Meeting Minutes

Members Present

Judge James Lawler, Chair
Commissioner Rachelle Anderson
Judge Gayle Harthcock
Commissioner Diana Kiesel
Mr. Gary Beagle
Dr. Barbara Cochrane
Mr. William Jaback
Ms. Carol Sloan
Mr. Gerald Tarutis
Ms. Amanda Witthauer

Members Absent

Ms. Rosslyn Bethmann
Ms. Nancy Dapper
Mr. Andrew Heinz

Staff

Ms. Shirley Bondon
Ms. Carla Montejo
Ms. Kim Rood

Guest

Mr. Chad Standifer, Assistant Attorney General

1. Call to Order and Welcome

Judge Lawler called the meeting to order at 8:08 a.m. and welcomed everyone to the meeting.

2. Approval of Minutes

Judge Lawler asked for changes or corrections to the proposed minutes from the April 13, 2015 meeting. Mr. Tarutis was listed both absent and present. The correction was made.

Motion: *A motion was made and seconded to approve the April 13, 2015 minutes. The motion passed.*

3. Chair's Report

Agreement Regarding Discipline, Pamela Privette, CPG No. 9714

Mr. Chad Standifer, Assistant Attorney General briefly summarized the allegations and the negotiated agreement.

- 1) Ms. Privette agreed to surrender her certification as of July 31, 2015. This would allow her time to obtain successor guardians in all her guardianship appointments.
- 2) Ms. Privette agreed not to apply to become a professional guardian anytime in the future.

- 3) Ms. Privette agreed to pay restitution to the respective estates and to reimburse the Certified Professional Guardianship Board for costs incurred in the amount of \$2,000.

Background Check Fee Increase

Judge Lawler stated that according to the Washington State Patrol (WSP), Rap Back, the new background procedure that would allow the Board to receive notification each time a guardian applicant or a certified guardian has a change in criminal history, will be implemented in 2017.

April 30, 2015, WSP also notified the Administrative Office of the Courts (AOC) that effective July 1, 2015 the fee for background checks will increase \$12. Currently, the application fee for guardian certification includes the fee for a background check; therefore, the Board will need to increase its application fee or incur a loss.

Motion: *A motion was made and seconded to increase the application fee to cover the increase in the background check fee. The motion passed.*

Correspondence Received

The meeting packet included all correspondence received since the April Board meeting. No action was required.

4. Executive Session (Closed to Public)

5. Reconvene and Vote on Executive Session Discussion (Open to the public)

Applications Committee

On behalf of the Applications Committee, Mr. Jaback reviewed one application.

Motion: *A motion was made and seconded to conditionally approve Debra Howard's application for certification. The motion passed.*

Grievances

Agreement Regarding Discipline of Pam Privette, CPG No. 9714.

Motion: *A motion was made and seconded to approve the Agreement Regarding Discipline addressing the conduct of Pam Privette, CPG No. 9714. The motion passed.*

6. Wrap Up and Adjourn

The meeting was adjourned at 8:55 a.m. The next Board meeting is scheduled for Monday, June 8th, 2015 at the SeaTac Office Facility.

Recap of Motions from May 11, 2015 Meeting

Motion Summary	Status
<i>Motion: A motion was made and seconded to increase the application fee to cover the increase in the background check fee. The motion passed.</i>	Passed
<i>Motion: A motion was made and seconded to conditionally approve Debra Howard's application for certification. The motion passed.</i>	Passed
<i>Motion: A motion was made and seconded to approve the Agreement Regarding Discipline addressing the conduct of Pam Privette, CPG No. 9714. The motion passed.</i>	Passed

Draft

Pattern Forms to Implement SB 5607
Guardianship Complaint Process for Courts

Guardianship Complaint

Instructions

1. You can file a complaint about a guardianship or a guardian if you don't have a lawyer.
2. The Guardianship Complaint is an optional form. You may complete the form or you may write a letter. Either way, the complaint goes to the court.
3. Complete the form or your letter with as much information as you can to explain your complaint to the court.
4. Give your complaint to the superior court where the guardianship is filed:

(Name) _____

(Title) _____

(Email) _____

(Telephone) _____

(Address) _____

If no one is listed above, go to this web page for a list of contacts:

[URL]

5. The court must respond to the complaint within 15 days.
6. If you want more information about the law on complaints, see RCW 11.88.120.

Complaint

1. Person Making this Complaint

Name _____

Address (mailing address) _____

Email _____

Telephone: _____

Relationship to the person in guardianship: _____

2. Person in Guardianship/Incapacitated Person

Name: _____

County in which guardianship is filed: _____

Mailing Address: _____

Guardianship Case Number (upper right corner of court paperwork, if you know it):

3. Guardian

Name of Guardian _____

Contact information:

4. Describe your Complaint

Describe your concerns here. Please be as specific as possible. Include dates and places if you can. You can use more paper or attach documents if you want. Please do not attach confidential reports, personal health care records, or financial source documents. Attach those to the *Sealed Confidential Guardian Document Cover Sheet, form GDN 03.0200*, and give the court the cover sheet and documents with your complaint.

Superior Court of Washington
County of _____

In the Guardianship of:

_____,
Incapacitated Person

Case No.:

Guardianship Complaint Cover Sheet
(RCW 11.88.120)
(****)

Guardianship Complaint Cover Sheet
(RCW 11.88.120)

Attached is a Guardianship Complaint about the guardianship or guardian in this case.

Submitted by:

Superior Court of Washington
County of _____

In the Guardianship of:

_____,
Incapacitated Person

Case No.:

Notice to Incapacitated Person
(RCW 11.88.120)
(NT)

To: _____ (name), incapacitated person.

A complaint was submitted or a motion was filed asking the court to:

- modify the guardianship
- terminate the guardianship

A hearing on the motion or complaint is scheduled for:

Date: _____ Time: _____

Hearing Location:

Court Room No.: _____

Court: _____

Address:

You have a right to be represented at the hearing by a lawyer of your own choosing.

Dated: _____.

Signature

Printed Name

Address

Telephone/Fax Number*

City, State, Zip Code

Email Address

Privacy notice: If you do not want your personal phone number on this public form, you may list your telephone number on a separate form which may be available to parties and the court, as well as its staff and volunteers, but will not be made available to the public. Use Form WPF GDN 03.0100, Guardianship Confidential Information form (Telephone Numbers), for this purpose.

**Superior Court of Washington
County of**

In the Guardianship of:

Incapacitated Person

No.

Motion/Declaration to:

- Modify a Guardianship**
 - Terminate a Guardianship;**
 - Replace a Guardian; or**
 - Modify a Guardian's Authority.**
- (Optional Use)
(MTSC)
Clerk's Action Required.**

I, (name) _____, am:

(check one)

- the attorney for _____, whose relationship to the incapacitated person is _____.
- (name) _____. My relationship to the incapacitated person is _____.

I seek the following relief to:

- modify a guardianship.
- terminate a guardianship.
- replace a guardian.
- modify the guardian's authority.

If this is a motion to modify or terminate a guardianship, I have filed or will file proof that the incapacitated person was given reasonable notice of the hearing and of his or her right to be represented at the hearing by counsel of his or her own choosing.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) _____, (state) _____, on (date) _____.

_____ Signature of person making this motion	_____ Print name of the person making this motion <input type="checkbox"/> WSBA <input type="checkbox"/> CPG #
_____ Address	_____ City State, Zip Code
_____ *Telephone/Fax Number	_____ Email Address

Privacy notice: If you do not want your personal phone number on this public form, you may list your telephone number on a separate form which may be available to parties and the court, as well as its staff and volunteers, but will not be made available to the public. Use Form WPF GDN 03.0100, Guardianship Confidential Information form (Telephone Numbers), for this purpose.

**Superior Court of Washington
County of**

In the Guardianship of:

Incapacitated Person

No.

**Order on a Complaint or Motion
Under RCW 11.88.120
(OR, ORDYMT)**

- Order Terminating Guardianship
– Capacity Returns - ORTGC**
- Order Terminating Guardianship
– IP Death - ORTGD**

**Is it important to track when the
guardianship is modified and when
the guardian’s authority is
modified? If so, we would need new
docket codes for those orders.**

**Clerk’s Action Required: para 2.1, 2.4,
2.7, 2.8, 2.9**

Basis

This court finds that (name) _____, submitted a complaint or filed a motion to the court to:

- modify the guardianship.
- terminate the guardianship.
- replace the guardian.
- modify the guardian’s authority.
- Other: _____.

Findings

The court reviewed the complaint or motion and the relevant court records, and finds that:

**Order on Complaint or Motion (OR, ORDYMT) - Page 1 of 5
under RCW 11.88.120
GDN 08.0400 (**/****) RCW 11.88.120**

1.1 **Notice.** This order follows a hearing to modify or terminate a guardianship. The incapacitated person was given reasonable notice of the hearing and of the right to be represented at the hearing by counsel of his or her own choosing.

1.2 This order follows a complaint (go to section 1.3) motion (go to section 1.4).

1.3 **Guardianship Complaint.** The court was presented with a complaint under RCW 11.88.120(2)(a) (complaints by self-represented parties or entity) or RCW 11.88.120(5) (grievances presented by certified professional guardianship board).

The court finds good cause to:

- order show cause, with 14 days' notice, directing the guardian to appear at the hearing set by the court in order to respond to the complaint;
- appoint a guardian ad litem:
 - to investigate the issues raised by the complaint; and or
 - to take emergency action the court deems necessary to protect the incapacitated person until a hearing may be held.
- dismiss the complaint without a hearing, because it appears to the court that the complaint is:
 - without merit on its face;
 - is filed in other than good faith;
 - is filed for an improper purpose;
 - regards issues that have already been decided by the court; and/or
 - is frivolous.

Facts to support these findings:

- direct the guardian to provide the court with a written report on the issues raised in the complaint.
- defer consideration of the complaint until the next regularly scheduled hearing, which is within three months. There is no indication that the incapacitated person will suffer physical, emotional, financial or other harm if the court defers to the next hearing.
- order other action in addition to one or more of the actions listed above:

Order on Complaint or Motion (OR, ORDYMT) - Page 2 of 5
under RCW 11.88.120
GDN 08.0400 (**/****) RCW 11.88.120

- This complaint was made without justification, or to harass or delay, or with malice or other bad faith, and the court exercises its discretion to impose necessary sanctions against the complainant.

1.4 **Motion.** This is a motion presented under RCW 11.88.120(1).

A. The court finds good reason to:

- terminate the guardianship.
- modify the guardianship in the following manner _____.
- replace the guardian.
- modify the guardian's authority.
- other _____.

B. Factual basis for ruling:

1.5 Emergency action is necessary based on the following facts:

Order

The court orders the following action:

- 2.1 The guardianship is hereby terminated.
 - The guardian shall file a final report within 90 days of this order. The guardian is not discharged until the court approves the final report.
 - The guardian has filed a final report, and this court has entered a separate Order Closing Guardianship and Discharging Guardian.
- 2.2. The guardianship is modified in the following manner:

Order on Complaint or Motion (OR, ORDYMT) - Page 3 of 5
under RCW 11.88.120
GDN 08.0400 (**/****) RCW 11.88.120

_____.

The court has has not entered a separate order to appoint a guardian or take other action to modify the guardianship.

2.3 The guardian's authority is modified in the following manner:

_____.

2.4 (Name of guardian) _____ shall file a written report on the issues raised in the complaint or motion by _____ (14 days from the date of this order).

2.5 The court takes the following action in a **separate order**:

- Appointment of a successor guardian _____ (name/s).
- Scheduling a show cause hearing.
- Appointment of (name) _____ as guardian ad litem (GAL), to investigate the issues raised by the motion and/or to take emergency action as ordered by the court.

2.6 (Name of GAL) _____ shall take the following emergency action:

_____.

2.7 The court dismisses the motion or complaint without a hearing based on the above findings.

2.8 The court issues sanctions in the amount of \$ _____ by (name) _____, payable to (name, or court registry) _____. Proof of such payment shall be filed by (date) _____.

2.9 **Notice**

Order on Complaint or Motion (OR, ORDYMT) - Page 4 of 5
under RCW 11.88.120

GDN 08.0400 (**/****) RCW 11.88.120

**Superior Court of Washington
County of**

In the Guardianship of:

Incapacitated Person

No.

**Order to Show Cause on Complaint
or Motion under RCW 11.88.120:
(ORTSC)**

Clerk's Action Required.

To: _____ (name of respondent).

You are ordered to appear at a show cause hearing to respond to a complaint or motion about the guardianship or guardian. You must go to the hearing and explain why the court should not take the action requested in the complaint or motion. At the hearing, the court may enter orders in the best interest of the person subject to guardianship.

When: _____ (date and time of hearing)

Where: _____ (name of calendar or judge)

_____ (court's address).

If this box is checked, you are also required to file a written response to the complaint or motion by _____ (date, within 14 days of this order).

Dated: _____

Superior Court Judge /Commissioner

Presented by:

Signature of petitioner/attorney

Print name of petitioner/attorney WSBA#

May Grievance Status Report

CERTIFIED PROFESSIONAL GUARDIAN GRIEVANCES

Status as of 5/31/15

All Grievances	2015	2014	2013	2012	Total
Open -- Needing Investigation	20	33	20	2	75
Resolved by ARD or Hearing	0	2	1	0	3
Resolved w/o ARD or Hearing	5	0	0	2	7

Year Received	2015	2014	2013	2012	Total
Dismissal - Administrative					0
Dismissal - No actionable conduct	1			2	3
Dismissal - No jurisdiction	4				4
Admonishment					0
Reprimand					0
Suspension					0
Decertification					0
Administrative Decertification					0
Other (Voluntary Surrender)		2	1		3
	5	2	1	2	10
		Total closed in 2015			10

Current Month's Activity	May
Opened in May	4
<i>ARD/Hearing/Other</i>	0
Closed in May	5