

## Faulk, Camilla

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**From:** David Lord [davidl@dr-wa.org]  
**Sent:** Wednesday, April 30, 2008 8:50 AM  
**To:** Faulk, Camilla  
**Subject:** comments on proposed changes to GR 23  
**Attachments:** Disability Rights Washington Comments 4-25-08.mht

Ms. Faulk -

Please accept the attached my comments on proposed changes to GR 23. I have also inserted the text of the comments below.

Thank you.

- David Lord  
Disability Rights Washington  
Director of Public Policy  
(206) 947-6643

Disability Rights Washington Comments

Proposed Changes to GR 23

Rule for Certifying Professional Guardians

By: David Lord  
Director of Public Policy  
Disability Rights Washington  
davidl@dr-wa.org

Date: April 24, 2008

Thank you for the opportunity to comment on these proposed changes in GR 23, the rule for certifying Professional Guardians. Disability Rights Washington (DRW) strongly supports the proposed changes, with the following modifications and comments.

1. Membership of CPGs should be limited; representation by stakeholder advocates should be strengthened.

DRW supports the limitation of the number of certified professional guardians (CPG) to no more than one third of the Board. We also support the proposal to make the current requirement that there be "advocates" on the Board more specific. Under the amended rule, the provision would require membership by "advocates for incapacitated persons".

In addition, Disability Rights Washington (DRW) encourages the Supreme Court to take steps to increase the participation of the disability and senior advocacy communities on the Certified Professional Guardianship Board. DRW recommends that the rule contain additional language as follows:

Prior to filling vacancies in the Board, the Supreme Court shall solicit nominations for Board membership from the Governor's Committee on Disability Issues and Employment, the Developmental Disabilities Council, the state-designated protection and advocacy system (Disability Rights Washington), and the Long-Term Care Ombudsman.

This language would ensure that the Supreme Court is presented with candidates for vacancies who would be effective advocates for incapacitated persons.

We recognize that the members of the professional guardianship organizations advocate for stronger representation by guardians on the Board, as is evident from comments on the proposed changes in the rule that are currently posted on the Washington Courts website. [http://www.courts.wa.gov/court\\_rules/?fa=court\\_rules.commentDisplay&ruleId=126](http://www.courts.wa.gov/court_rules/?fa=court_rules.commentDisplay&ruleId=126)  
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Some of these posted comments point out that professional guardianship is a profession, and suggest that other professions are largely self-regulating. This is advanced as an argument against a limitation on CPG membership. However, professional guardianship is a very young profession. The profession has yet to win public confidence comparable to other established professions. Professional guardians have great power over the decisions (and lives) of people who are very vulnerable to abuse, neglect and exploitation. Media reports regarding guardianship - including professional guardianship - have fueled public skepticism about the profession.

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More work needs to be done to establish confidence among disability and senior advocates - and in the general public - that the profession has matured to the point where it can be compared with the legal, medical, or other professions. Enhanced involvement by these stakeholders (through membership on the Board) has the potential to increase their confidence in the profession, as the Board implements improvements in investigation and response to complaints, initiates a certificate program for CPGs, and makes other changes. In addition, the Board would benefit from the experience, perspectives, and knowledge of advocates for persons with developmental and other disabilities and seniors.

We recommend that the proposed changes to the membership section be adopted, with the addition we have proposed.

2. Terms should be limited to six years.

The proposed change in the rules would limit CPG service to nine years. While this is too long in our view, it is preferable to the current language, which has no limit on the number of consecutive three year terms. DRW supports a limit of six years.

3. Discipline should be mandatory where violations are found. This proposed change provides that the Board "may take disciplinary action and impose disciplinary sanctions based on findings that establish a violation of an applicable statute, duty, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians. Sanctions include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians." (emphasis added) DRW recommends replacing "may" with "shall" at line 30, page 2 of the Suggested Rule Changes for GR 23, ( c ), (2), vii.

DRW maintains that where findings have established that a violation has occurred, the Board must take action. The Board should not merely refer the matter to the courts or otherwise defer or delay.

4. Educational, training and experience requirements should be enhanced.

DRW endorses the proposed requirement of an associate's degree for guardians, and the clarification that the requirement of two years experience must include "decision making or the use of independent judgment on behalf of client(s) in the area of legal, financial, social services or healthcare or other disciplines pertinent to the provision of guardianship services".

DRW would also like to see the requirements of the Board's mandatory certification program specified in rule, as well. We support the current effort to develop a certificate program, and recommend that both new and current guardians be required to fulfill the planned certification requirements.

5. Notice requirements: Board should invite stakeholders to attend.

DRW recommends that the rule be modified to mandate notice of Board meetings be provided to specific stakeholder groups. We recommend that the Board extend an invitation to advocates who are particularly interested, invested, and knowledgeable with respect to the rights and needs of incapacitated persons.

In particular, we recommend:

"Thirty days prior to meeting, the Board shall distribute notice of Board meetings, and the meeting agenda, to service and advocacy groups who serve incapacitated persons.

This notice should provide the following additional information: "Upon request, the Certified Professional Guardianship Board provides accommodations for individuals with disabilities who attend meetings as board members, witnesses, or spectators, in accordance with the requirements of the Washington State Law Against Discrimination and the Americans with Disabilities Act. "

# Disability Rights Washington Comments

## Proposed Changes to GR 23 *Rule for Certifying Professional Guardians*

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