

RECEIVED *vsc*  
SUPREME COURT  
STATE OF WASHINGTON  
Feb 19, 2013, 11:32 am  
BY RONALD R. CARPENTER  
CLERK *E*

No. 87483-2

RECEIVED BY E-MAIL *bjh*

**SUPREME COURT OF THE STATE OF WASHINGTON**

---

RESA RAVEN,

Petitioner,

v.

WASHINGTON STATE DEPARTMENT OF SOCIAL  
AND HEALTH SERVICES,

Respondent.

---

**PETITIONER RAVEN'S STATEMENT OF ADDITIONAL  
AUTHORITY**

---

Jeff B. Crollard, WSBA No. 15561  
CROLLARD LAW OFFICE, PLLC  
1904 Third Ave., Suite 1030  
Seattle, WA 98101  
Tel: (206) 623-3333  
[jbc@crollardlaw.com](mailto:jbc@crollardlaw.com)  
Attorney for Petitioner Resa Raven

Pursuant to RAP 10.8, the Petitioner Resa Raven offers the following additional authority:

(1) **WAC 388-71-0505(2)** (establishing an employer/employee relationship with an individual provider), and **WAC 388-71-0105** (definition of “legal representative”), relevant to the holding in *Cummings v. Guardianship Services of Seattle*, 128 Wn.App. 742, 750-52, 110 P.3d 796 (2005), *rev. denied* 157 Wn.2d 1006 (2006), that a guardian who employs individual providers must become a licensed home care agency, as discussed in Raven’s Motion for Reconsideration (before the Court of Appeals) at 2, Raven’s Petition for Review at 19, DSHS’ Response to Amici Briefs (1/31/2013) at 20, fn. 18, and Raven’s Answer to Amici Briefs (2/1/2013) at 14.

(2) **Supreme Court General Rule 23(i)**, concerning certified professional guardians, which states: “This rule shall not expand, narrow, or otherwise affect existing law, including but not limited to, Title 11 RCW.” This is relevant to the holding in *Hizey v. Carpenter*, 110 Wn.2d 251, 258-62, 830 P.2d 646 (1992) that professional standards of practice cannot be used as evidence of negligence, as discussed in Raven’s Motion for Reconsideration at 19, and is relevant to the citations by DSHS to the certified professional guardians standards of practice, *see e.g.*, in DSHS

Response to Amici Briefs (1/31/2013) at 8 to 10, to establish Ms. Raven's duties and alleged neglect.

RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of February, 2013.

CROLLARD LAW OFFICE, PLLC

  
Jeff B. Crollard, WSBA No. 15561  
Attorney for Petitioner Resa Raven

CERTIFICATE OF SERVICE:

I certify that on the 19<sup>th</sup> day of February, 2013, a true and accurate copy of the *Petitioner Raven's Statement of Additional Authority* was served by First Class Mail and electronic mail to the following persons:

Catherine Hoover, AAG  
Office of the Attorney General  
7141 Cleanwater Drive SW  
PO Box 40124  
Olympia, WA 98504-0124  
[CatherineH1@atg.wa.gov](mailto:CatherineH1@atg.wa.gov)  
*Attorneys for Respondent DSHS*

Karen Marie Thompson  
Carol Vaughn  
Thompson & Howle  
601 Union Street, Suite 3232  
Seattle, WA 98101  
[karent@ud.thompsonhowle.com](mailto:karent@ud.thompsonhowle.com)  
[carolv@thompsonhowle.com](mailto:carolv@thompsonhowle.com)  
*Attorneys for Amicus Curiae Washington Association of Professional Guardians*

Susan Kas  
Disability Rights Washington  
315 Fifth Avenue S., Suite 850  
Seattle, WA 98104  
[susank@dr-wa.org](mailto:susank@dr-wa.org)  
*Attorneys for Amici Curiae Disability Rights Washington, Long-Term Care Ombudsman Program, and ARC of Washington State*

Michael L. Olver  
Christopher C. Lee  
Kameron L. Kirkevold  
Helsell Fetterman, LLP  
1001 - 4<sup>th</sup> Avenue, Suite 4200  
Seattle, WA 98154  
[molver@helsell.com](mailto:molver@helsell.com)  
[clee@helsell.com](mailto:clee@helsell.com)  
[KKirkevold@helsell.com](mailto:KKirkevold@helsell.com)  
*Attorneys for Amicus Curiae Washington Academy of Elder Law Attorneys*

Dated this 19<sup>th</sup> day of February, 2013.

  
\_\_\_\_\_  
Jeff Crollard



# WASHINGTON STATE LEGISLATURE

[Legislature Home](#) | [Senate](#) | [House of Representatives](#) | [Contact Us](#) | [Search](#) | [Help](#) | [Mobile](#)

## Inside the Legislature

- \* [Find Your Legislator](#)
- \* [Visiting the Legislature](#)
- \* [Agendas, Schedules and Calendars](#)
- \* [Bill Information](#)
- \* [Laws and Agency Rules](#)
- \* [Legislative Committees](#)
- \* [Legislative Agencies](#)
- \* [Legislative Information Center](#)
- \* [E-mail Notifications](#)
- \* [Civic Education](#)
- \* [History of the State Legislature](#)

## Outside the Legislature

- \* [Congress - the Other Washington](#)
- \* [TVW](#)
- \* [Washington Courts](#)
- \* [OFM Fiscal Note Website](#)

[WACs](#) > [Title 388](#) > [Chapter 388-71](#) > [Section 388-71-0505](#)

[388-71-0500](#) << [388-71-0505](#) >> [388-71-0510](#)

## WAC 388-71-0505

[Agency filings affecting this section](#)

### How does a client hire an individual provider?

The client, or legal representative:

- (1) Has the primary responsibility for locating, screening, hiring, supervising, and terminating an individual provider;
- \* (2) Establishes an employer/employee relationship with the provider; and
- (3) May receive assistance from the social worker/case manager or other resources in this process.

[Statutory Authority: RCW [74.08.090](#), [74.09.520](#), [43.20A.050](#), [43.43.842](#), [74.39A.090](#), [43.20A.710](#), [74.39.050](#), [43.43.830](#), [74.39.095](#), [01-11-019](#), § 388-71-0505, filed 5/4/01, effective 6/4/01. Statutory Authority: RCW [74.08.090](#), [74.09.520](#), [43.20A.050](#), [43.43.842](#), [74.39A.090](#), [43.20A.710](#), [74.39.050](#), [43.43.830](#), 00-03-043, § 388-71-0505, filed 1/13/00, effective 2/13/00.]





# WASHINGTON STATE LEGISLATURE

[Legislature Home](#) | [Senate](#) | [House of Representatives](#) | [Contact Us](#) | [Search](#) | [Help](#) | [Mobile](#)

## Inside the Legislature

- \* [Find Your Legislator](#)
- \* [Visiting the Legislature](#)
- \* [Agendas, Schedules and Calendars](#)
- \* [Bill Information](#)
- \* [Laws and Agency Rules](#)
- \* [Legislative Committees](#)
- \* [Legislative Agencies](#)
- \* [Legislative Information Center](#)
- \* [E-mail Notifications](#)
- \* [Civic Education](#)
- \* [History of the State Legislature](#)

## Outside the Legislature

- \* [Congress - the Other Washington](#)
- \* [TVW](#)
- \* [Washington Courts](#)
- \* [OFM Fiscal Note Website](#)



[WACs](#) > [Title 388](#) > [Chapter 388-71](#) > [Section 388-71-0510](#)

[388-71-0505](#) << [388-71-0510](#) >> [388-71-0513](#)

## WAC 388-71-0510

[Agency filings affecting this section](#)

### How does a person become an individual provider?

In order to become an individual provider, a person must:

- (1) Be eighteen years of age or older;
- (2) Provide the social worker/case manager/designee with:
  - (a) Picture identification; and
  - (b) A Social Security card; or
  - (c) Authorization to work in the United States.

(3) Complete and submit to the social worker/case manager/designee the department's criminal conviction background inquiry application, unless the provider is also the parent of the adult DDD client and exempted, per chapter [74.15](#) RCW;

- (a) Preliminary results may require a thumb print for identification purposes;
- (b) An FBI fingerprint-based background check is required if the person has lived in the state of Washington less than three years.
- (4) Sign a home and community-based service provider contract/agreement to provide services to a COPES, MNIW, or medical personal care client.

[Statutory Authority: 2004 c 276 § 206 (6)(b) and *Townsend vs. DSHS*, U.S. District Court, Western District of Washington, No. C 00-0944Z. 04-16-029, § 388-71-0510, filed 7/26/04, effective 8/26/04. Statutory Authority: RCW [74.08.090](#), [74.09.520](#), [43.20A.050](#), [43.43.842](#), [74.39A.090](#), [43.20A.710](#), [74.39.050](#), [43.43.830](#), [74.39.095](#). 01-11-019, § 388-71-0510, filed 5/4/01, effective 6/4/01. Statutory Authority: RCW [74.08.090](#), [74.09.520](#), [43.20A.050](#), [43.43.842](#), [74.39A.090](#), [43.20A.710](#), [74.39.050](#), [43.43.830](#). 00-03-043, § 388-71-0510, filed 1/13/00, effective 2/13/00.]



# WASHINGTON STATE LEGISLATURE

Legislature Home | Senate | House of Representatives | Contact Us | Search | Help | Mobile

## Inside the Legislature

- \* Find Your Legislator
- \* Visiting the Legislature
- \* Agendas, Schedules and Calendars
- \* Bill Information
- \* Laws and Agency Rules
- \* Legislative Committees
- \* Legislative Agencies
- \* Legislative Information Center
- \* E-mail Notifications
- \* Civic Education
- \* History of the State Legislature

## Outside the Legislature

- \* Congress - the Other Washington
- \* TVW
- \* Washington Courts
- \* OFM Fiscal Note Website

Access  
Washington®  
General State Government Website



[WACs](#) > [Title 388](#) > [Chapter 388-71](#) > [Section 388-71-0105](#)

[388-71-0100](#) << [388-71-0105](#) >> [388-71-0110](#)

## WAC 388-71-0105

[Agency filings affecting this section](#)

### What definitions apply to adult protective services?

In addition to the definitions found in chapter [74.34](#) RCW, the following definitions apply:

"ADSA" means DSHS aging and disability services administration.

"ALJ" means an administrative law judge, an impartial decision-maker who is an attorney and presides at an administrative hearing. The office of administrative hearings (OAH), which is a state agency, employs the ALJs. ALJs are not DSHS employees or DSHS representatives.

"APS" means adult protective services.

"Basic necessities of life" means food, water, shelter, clothing, and medically necessary health care, including but not limited to health-related treatment or activities, hygiene, oxygen, and medication.

"BOA" means the DSHS board of appeals. The board of appeals consists of lawyers who are members of the Washington State Bar Association. An ALJ's decision can be appealed to the board of appeals, allowing a level of review before an appeal to the court system may be considered.

"DSHS" means the department of social and health services.

"Entity" means any agency, corporation, partnership, association, limited liability company, sole proprietorship, for-profit or not-for-profit business that provides care and/or services to vulnerable adults under a license, certification or contract issued by DSHS or DSHS' contractor. An entity does not include a boarding home licensed under chapter [18.20](#) RCW, an adult family home licensed under chapter [70.128](#) RCW, or a nursing home licensed under chapter [18.51](#) RCW, but does include such facilities if they are required to be licensed but are not currently licensed.

"Facility" means a residence licensed as a boarding home under chapter [18.20](#) RCW, an adult family home under chapter [70.128](#) RCW, a nursing home under chapter [18.51](#) RCW, a soldier's home under chapter [72.36](#) RCW, a residential habilitation center under chapter [71A.20](#) RCW, or any other facility licensed by DSHS.

"Final finding" means the department's substantiated finding of abandonment, abuse, financial exploitation or neglect is upheld through the administrative appeal process specified in WAC [388-71-01205](#) through [388-71-01280](#), or is not timely appealed to the office of administrative hearings. The alleged perpetrator can appeal a final finding to Superior Court and the Court of Appeals under the Administrative Procedure Act, chapter [34.05](#) RCW.

"Initial finding" means a determination made by the department upon investigation of an allegation of abandonment, abuse, financial exploitation, neglect or self-neglect.

(1) If the department determines it is more likely than not the incident occurred, the department shall document the finding as "substantiated."

(2) If the department determines it is more likely than not the incident did not occur, the department shall document the finding as "unsubstantiated."

(3) If the department cannot make a determination about whether the incident occurred or did not occur on a more probable than not basis, the department shall document the finding as "inconclusive."



"Legal representative" means a guardian appointed under chapter [11.88](#) RCW.

"Person or entity with a duty of care" includes, but is not limited to, the following:

(1) A guardian appointed under chapter [11.88](#) RCW; or

(2) A person named in a durable power of attorney as the attorney-in-fact as defined under chapter [11.94](#)

RCW.

(3) A person or entity providing the basic necessities of life to a vulnerable adult [adults] where:

(a) The person or entity is employed by or on behalf of the vulnerable adult; or

(b) The person or entity voluntarily agrees to provide, or has been providing, the basic necessities of life to the vulnerable adult on a continuing basis.

"Personal aide" as found in RCW 74.39.007.

"Self-directed care" as found in RCW 74.39.007.

"Willful" means the nonaccidental action or inaction by an alleged perpetrator that he/she knew or reasonably should have known could cause harm, injury or a negative outcome.

[Statutory Authority: RCW 34.05.020, 74.08.090, 74.39A.050, chapter 74.34 RCW. 04-19-136, § 388-71-0105, filed 9/21/04, effective 10/22/04. Statutory Authority: RCW 74.08.090, 74.34.165, and 74.39A.050(9). 00-03-029, § 388-71-0105, filed 1/11/00, effective 2/11/00.]

### Notes:

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WASHINGTON  
COURT RULES

VOLUME I – STATE

2013

**WEST.**

A Thomson Reuters business

Mat #41130629

(3) The court may order that any financial source documents containing restricted personal identifiers, personal health care records, any report containing information described in (e)(2)(B), or copies of unredacted JIS database records considered by the court for parenting plan approval as described in (f) be sealed if they have not previously automatically been sealed pursuant to this rule.

(4) These coversheets may not be used for any documents except as provided in this rule. Sanctions may be imposed upon any party or attorney who violates this rule.

#### COMMENT

See comment to (d)(3) above.

(h) Access by Courts, Agencies, and Parties to Restricted Documents.

(1) Unless otherwise provided by statute or court order, the following persons shall have access to all records in family law or guardianship cases:

(A) Judges, commissioners, other court personnel, the Commission on Judicial Conduct, and the Certified Professional Guardian Board may access and use restricted court records only for the purpose of conducting official business of the court, Commission, or Board.

(B) Any state administrative agency of any state that administers programs under Title IV-A, IV-D, IV-E, or XIX of the federal Social Security Act.

(2) Except as otherwise provided by statute or court order, the following persons shall have access to all documents filed in a family law or guardianship case, except the Personal Information Sheet, Vital Statistics Form, Confidential Information Form, Domestic Violence Information Form, Law Enforcement Information Form, and Foreign Protection Order Form.

(A) Parties of record as to their case.

(B) Attorneys as to cases where they are attorneys of record.

(C) Court appointed Title 11 guardians ad litem as to cases where they are actively involved.

(i) Access to Court Records Restricted Under This Rule.

(1) The parties may stipulate in writing to allow public access to any court records otherwise restricted under section (c)(2) above.

(2) Any person may file a motion, supported by an affidavit showing good cause, for access to any court record otherwise restricted under section (c)(2) above, or to be granted access to such court records with specified information deleted. Written notice of the motion shall be provided to all parties in the manner required by the Superior Court Civil Rules. If the person seeking access cannot locate a party to provide the notice required by this rule, after making a good faith reasonable effort to provide such notice as required by the Superior Court Rules, an affidavit may be

filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provision of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are not likely to be successful, or if the motion requests access to redacted JIS database records.

(A) The court shall allow access to court records restricted under this rule, or relevant portions of court records restricted under this rule, if the court finds that the public interests in granting access or the personal interest of the person seeking access outweigh the privacy and safety interests of the parties or dependent children.

(B) Upon receipt of a motion requesting access, the court may provide access to JIS database records described in (f) after the court has reviewed the JIS database records and redacted pursuant to GR 15 (c), any data which is confidential or restricted by statute or court rule.

(C) If the court grants access to restricted court records, the court may enter such orders necessary to balance the personal privacy and safety interests of the parties or dependent children with the public interest or the personal interest of the party seeking access, consistent with this rule.

[Adopted effective October 1, 2001; amended effective July 1, 2006; August 11, 2009.]

#### RULE 23. RULE FOR CERTIFYING PROFESSIONAL GUARDIANS

(a) Purpose and Scope. This rule establishes the standards and criteria for the certification of professional guardians as defined by RCW 11.88.008 and prescribes the conditions of and limitations upon their activities. This rule does not duplicate the statutory process by which the courts supervise guardians nor is it a mechanism to appeal a court decision regarding the appointment or conduct of a guardian.

(b) Jurisdiction. All professional guardians who practice in the state of Washington are subject to these rules and regulations. Jurisdiction shall continue whether or not the professional guardian retains certification under this rule, and regardless of the professional guardian's residence.

(c) Certified Professional Guardian Board.

(1) Establishment.

(i) Membership. The Supreme Court shall appoint a Certified Professional Guardian Board ("Board") of 12 or more members. The Board shall include representatives from the following areas of expertise: professional guardians; attorneys; advocates for incapacitated persons; courts; state agencies; and those employed in medical, social, health, financial, or other fields pertinent to guardianships. No more than one-third of the Board membership shall be practicing professional guardians.

(ii) *Terms.* The term for a member of the Board shall be three years. No member may serve more than three consecutive full three-year terms, not to exceed nine consecutive years, including any unfilled term. Terms shall be established such that one-third shall end each year. All terms of office begin October 1 and end September 30 or when a successor has been appointed, whichever occurs later.

(iii) *Leadership.* The Supreme Court shall designate the Chair of the Board. The Board shall designate the Vice-Chair, who shall serve in the absence of or at the request of the Chair.

(iv) *Vacancies.* Any vacancy occurring in the terms of office of Board members shall be filled for the unexpired term.

(2) *Duties and Powers.*

(i) *Applications.* The Board shall process applications for professional guardian certification under this rule. The Board may delay or deny certification if an applicant fails to provide required basic or supplemental information.

(ii) *Standards of Practice.* The Board shall adopt and implement policies or regulations setting forth minimum standards of practice which professional guardians shall meet.

(iii) *Training Program.* The Board shall adopt and implement regulations establishing a professional guardian training program.

(iv) *Examination.* The Board may adopt and implement regulations governing the preparation and administration of certification examinations.

(v) *Recommendation of Certification.* The Board may recommend certification to the Supreme Court. The Supreme Court shall review the Board's recommendation and enter an appropriate order.

(vi) *Denial of Certification.* The Board may deny certification. If the Board denies certification, it shall notify an applicant in writing of the basis for denial of certification and inform the applicant of the appeal process.

(vii) *Continuing Education.* The Board may adopt and implement regulations for continuing education.

(viii) *Grievances and Disciplinary Sanctions.* The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians. 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 may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.

(ix) *Investigation.* The Board may investigate to determine whether an applicant for certification meets the certification requirements established in this rule. The Board may also investigate to determine whether a professional guardian has violated any statute, duty, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians.

(x) *Authority to Conduct Hearings.* The Board may adopt regulations pertaining to the orderly conduct of hearings.

a) *Subpoenas.* The Chair of the Board, Hearing Officer, or a party's attorney shall have the power to issue subpoenas.

b) *Orders.* The Chair or Hearing Officer may make such pre-hearing or other orders as are necessary for the orderly conduct of any hearing.

c) *Enforcement.* The Board may refer a Subpoena or order to the Supreme Court for enforcement.

(xi) *Disclosure of Records.* The Board may adopt regulations pertaining to the disclosure of records in the Board's possession.

(xii) *Meetings.* The Board shall hold meetings as determined to be necessary by the chair. Meetings of the Board will be open to the public except for executive session, review panel, or disciplinary meetings prior to filing of a disciplinary complaint.

(xiii) *Fees.* The Board shall establish and collect fees in such amounts as are necessary to support the duties and responsibilities of the Board.

(3) *Board Expenses.* Board members shall not be compensated for their services. Consistent with the Office of Financial Management rules, Board members shall be reimbursed for actual and necessary expenses incurred in the performance of their duties. All expenses shall be paid pursuant to a budget submitted to and approved by the Supreme Court. Funds accumulated from examination fees, annual fees, and other revenues shall be used to defray Board expenses.

(4) *Agency.* Hearing officers are agents of the Board and are accorded rights of such agency.

(5) *Immunity from Liability.* The Board, its members, or agents, including duly appointed hearing officers, shall enjoy quasi-judicial immunity if the Supreme Court would have immunity in performing the same functions.

(6) *Conflict of Interest.* A Board member should disqualify himself or herself from making any decisions in a proceeding in which his or her impartiality might reasonably be questioned, including but not limited to, when the Board member has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding.

(7) *Leave of Absence.* The Board may adopt regulations specifying that a Board member who is the subject of a disciplinary investigation by the Board must take a leave of absence from the Board. A Board member

may not continue to serve as a member of the Board if the Board or Supreme Court has imposed a final disciplinary sanction on the Board member.

(8) *Administration.* The Administrative Office of the Courts (AOC) shall provide administrative support to the Board and may contract with agencies or organizations to carry out the Board's administrative functions.

(d) *Certification Requirements.* Applicants, Certified Professional Guardians, and Certified Agencies shall comply with the provisions of Chapter 11.88 and 11.92 RCW. In addition, individuals and agencies must meet the following requirements.

(1) *Individual Certification.* The following requirements apply to applicants and do not apply to currently certified professional guardians, except as stated in subsection (d)(1)(vii). An individual applicant shall:

- (i) Be at least 18 years of age;
- (ii) Be of sound mind;
- (iii) Have no felony or misdemeanor convictions involving moral turpitude;
- (iv) Possess an associate's degree from an accredited institution and at least four full years' experience working in a discipline pertinent to the provision of guardianship services, or a baccalaureate degree from an accredited institution and at least two full years' experience working in a discipline pertinent to the provision of guardianship services, or a Masters, J.D., Ph.D., or equivalent advanced degree from an accredited institution and at least one year experience working in a discipline pertinent to the provision of guardianship services;

(v) The experience required by this rule is experience in which the applicant has developed skills that are transferable to the provision of guardianship services and must include decision-making or the use of independent judgment for the benefit of others, not limited to incapacitated persons, in the area of legal, financial, social services or healthcare or other disciplines pertinent to the provision of guardianship services;

(vi) Have completed the mandatory certification training.

(vii) Applicants enrolled in the mandatory certification training on September 12, 2008, and who satisfactorily complete that training, shall meet the certification requirements existing on that date, or the date the applicant submitted a complete application for certification, whichever date is earlier, and not the requirements set forth in this rule.

(2) *Agency Certification.* Agencies must meet the following additional requirements:

(i) All officers and directors of the corporation must meet the qualifications of Chapter 11.88.020 RCW for guardians;

(ii) Each agency shall have at least two (2) individuals in the agency certified as professional guardians, whose residence or principal place of business is in

Washington State and who are so designated in minutes or a resolution from the Board of Directors; and

(iii) Each agency shall file and maintain in every guardianship court file a current designation of each certified professional guardian with final decision-making authority for the incapacitated person or their estate.

(3) *Training Program and Examination.* Applicants must satisfy the Board's training program and examination requirements.

(4) *Insurance Coverage.* In addition to the bonding requirements of Chapter 11.88 RCW, applicants must be insured or bonded at all times in such amount as may be determined by the Board and shall notify the Board immediately of cancellation of required coverage.

(5) *Financial Responsibility.* Applicants must provide proof of ability to respond to damages resulting from acts or omissions in the performance of services as a guardian. Proof of financial responsibility shall be in such form and in such amount as the Board may prescribe by regulation.

(6) *Application Under Oath.* Applicants must execute and file with the Board an approved application under oath.

(7) *Application Fees.* Applicants must pay fees as the Board may require by regulation.

(8) *Disclosure.* An applicant for certified professional guardian or certified agency shall disclose upon application:

(i) The existence of a judgment against the applicant arising from the applicant's performance of services as a fiduciary;

(ii) A court finding that the applicant has violated its duties as a fiduciary, or committed a felony or any crime involving moral turpitude;

(iii) Any adjudication of the types specified in RCW 43.43.830, and RCW 43.43.842;

(iv) Pending or final licensing or disciplinary board actions or findings of violations;

(v) The existence of a judgment against the applicant within the preceding eight years in any civil action;

(vi) Whether the applicant has filed for bankruptcy within the last seven years. Disclosure of a bankruptcy filing within the past seven years may require the applicant or guardian to provide a personal credit report from a recognized credit reporting bureau satisfactory to the Board;

(vii) The existence of a judgment against the applicant or any corporation, partnership or limited liability corporation for which the applicant was a managing partner, controlling member or majority shareholder within the preceding eight years in any civil action.

(  
cert  
the  
  
vi  
ca  
st  
  
it  
ir  
  
F  
a  
  
ii  
c  
P  
  
fi  
b  
(  
this  
ind  
sior  
ma;  
ian  
nar  
"ce  
sior  
(  
(  
Ag  
day  
  
s  
i  
  
v  
e  
  
j  
c  
c  
  
t  
  
(  
pre  
ple  
ing  
  
to

(9) *Denial of Certification.* The Board may deny certification of an individual or agency based on any of the following criteria:

- (i) Failure to satisfy certification requirements provided in section (d) of this rule;
- (ii) The existence of a judgment against the applicant arising from the applicant's performance of services as a fiduciary;
- (iii) A court finding that the applicant has violated its fiduciary duties or committed a felony or any crime involving moral turpitude;
- (iv) Any adjudication of the types specified in RCW 43.43.830, and RCW 43.43.842;
- (v) Pending or final licensing or disciplinary board actions or findings of violations;
- (vi) A Board determination based on specific findings that the applicant lacks the requisite moral character or is otherwise unqualified to practice as a professional guardian;
- (vii) A Board determination based on specific findings that the applicant's financial responsibility background is unsatisfactory.

(10) *Designation/Title.* An individual certified under this rule may use the initials "CPG" following the individual's name to indicate status as "Certified Professional Guardian." An agency certified under this rule may indicate that it is a "Certified Professional Guardian Agency" by using the initials "CPGA" after its name. An individual or agency may not use the term "certified professional guardian" or "certified professional guardian agency" as part of a business name.

(e) *Guardian Disclosure Requirements.*

(1) A Certified Professional Guardian or Certified Agency shall disclose to the Board in writing within 30 days of occurrence:

- (i) The existence of a judgment against the professional guardian arising from the professional guardian's performance of services as a fiduciary;
- (ii) A court finding that the professional guardian violated its fiduciary duties, or committed a felony or any crime involving moral turpitude;
- (iii) Any adjudication of the types specified in RCW 43.43.830, and RCW 43.43.842;
- (iv) Pending licensing or disciplinary actions related to fiduciary responsibilities or final licensing or disciplinary actions resulting in findings of violations;
- (v) Residential or business moves or changes in employment; and
- (vi) Names of Certified Professional Guardians they employ or who leave their employ.

(2) Not later than June 30 of each year, each professional guardian and guardian agency shall complete and submit an annual disclosure statement providing information required by the Board.

(f) *Regulations.* The Board shall adopt regulations to implement this rule.

(g) *Personal Identification Number.* The Board shall establish an identification numbering system for professional guardians. The Personal Identification Number shall be included with the professional guardian's signature on documents filed with the court.

(h) *Ethics Advisory Opinions.*

(1) The Board may issue written ethics advisory opinions to inform and advise Certified Professional Guardians and Certified Agencies of their ethical obligations.

(2) Any Certified Professional Guardian or Certified Agency may request in writing an ethical advisory opinion from the Board. Compliance with an opinion issued by the Board shall be considered as evidence of good faith in any subsequent disciplinary proceeding involving a Certified Professional Guardian or Certified Agency.

(3) The Board shall publish opinions issued pursuant to this rule in electronic or paper format. The identity of the person requesting an opinion is confidential and not public information.

(i) *Existing Law Unchanged.* This rule shall not expand, narrow, or otherwise affect existing law, including but not limited to, Title 11 RCW.

[Adopted effective January 25, 2000; amended effective April 30, 2002; April 1, 2003; September 1, 2004; January 13, 2009; September 1, 2010.]

#### RULE 24. DEFINITION OF THE PRACTICE OF LAW

(a) *General Definition:* The practice of law is the application of legal principles and judgment with regard to the circumstances or objectives of another entity or person(s) which require the knowledge and skill of a person trained in the law. This includes but is not limited to:

(1) Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration.

(2) Selection, drafting, or completion of legal documents or agreements which affect the legal rights of an entity or person(s).

(3) Representation of another entity or person(s) in a court, or in a formal administrative adjudicative proceeding or other formal dispute resolution process or in an administrative adjudicative proceeding in which legal pleadings are filed or a record is established as the basis for judicial review.

(4) Negotiation of legal rights or responsibilities on behalf of another entity or person(s).

(b) *Exceptions and Exclusions:* Whether or not they constitute the practice of law, the following are permitted:

(1) Practicing law authorized by a limited license to practice pursuant to Admission to Practice Rules 8 (special admission for: a particular purpose or action; indigent representation; educational purposes; emeri-

## OFFICE RECEPTIONIST, CLERK

---

**To:** Patrick Leary  
**Subject:** RE: Raven v. Department of Social & Health Services, SC No. 87483-2

Received 2-19-13

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

---

**From:** Patrick Leary [<mailto:patrick@crollardlaw.com>]  
**Sent:** Tuesday, February 19, 2013 11:30 AM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** Hoover, Catherine (ATG); [karent@ud.thompsonhowle.com](mailto:karent@ud.thompsonhowle.com); [carolv@thompsonhowle.com](mailto:carolv@thompsonhowle.com); [susank@dr-wa.org](mailto:susank@dr-wa.org); [molver@helsell.com](mailto:molver@helsell.com); [cleee@helsell.com](mailto:cleee@helsell.com); [KKirkevold@helsell.com](mailto:KKirkevold@helsell.com); Jeff Crollard  
**Subject:** Raven v. Department of Social & Health Services, SC No. 87483-2

Dear Clerk and Counsel,

Please find attached Petitioner Raven's Statement Of Additional Authority . Thanks.

**Patrick Leary**  
**Paralegal**

Crollard Law Office, PLLC  
1904 Third Avenue, Suite 1030  
Seattle, WA 98101-1170  
Phone: 206-623-3333  
Fax: 206-623-3838  
Email: [patrick@crollardlaw.com](mailto:patrick@crollardlaw.com)

This e-mail is confidential and may contain information that is protected by attorney-client, work product or other privileges. If you are not the intended recipient, any dissemination, use or reliance upon its contents is strictly prohibited. If you received this e-mail in error, please notify me and then delete the e-mail.