

2014

Certified Professional Guardianship Board



Grievance Report

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# CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD GRIEVANCE REPORT 2014

## INTRODUCTION

We are pleased to present the 2014 Certified Professional Guardianship Grievance Report. We make this report available to all with the goal of increasing public awareness of the grievance process. We hope that the disclosure of these grievances will facilitate understanding of the rules and standards applied and the most common concerns of grievants.

Pursuant to legislative mandate, the Washington State Supreme Court established a certification process and procedure for professional guardians by promulgating General Rule (GR) 23. GR 23 created a Certified Professional Guardian ship Board<sup>1</sup> to implement the activities necessary to develop a process to certify individuals who choose to become professional guardians. The Supreme Court, however, retains primary jurisdiction over the Board and its functions:

- The Supreme Courts retains jurisdiction over all professional guardians who practice in the state of Washington. GR 23(b).
- The Supreme Court appoints all members to the Board. GR 23(c)(1)(i).
- The Supreme Court designates the Chair of the Board. GR 23(c)(1)(iii).
- The Supreme Court enters the order certifying an individual or agency as a certified professional guardian. GR 23(c)(2)(v).
- The Board may seek Supreme Court enforcement of an order or subpoena that it issued. GR 23(c)(2)(x)(c).
- The Supreme Court approves the Board's expense budget. GR 23(c)(3).
- The Supreme Court, pursuant to its statutory authority to direct the administrative office of the courts, instructs the Administrative Office of the Courts (AOC) to provide administrative support to the Board and authorizes AOC to contract with other agencies or organizations on behalf of the Board. GR 23(c)(8).
- The Supreme Court extends quasi-judicial immunity to the Board where the Supreme Court would have immunity in performing the same functions. GR 23(c)(5).

The Board is charged with all the substantive duties of certification:

- Processing applications;
- Implementing standards of practice;
- Establishing a training program;
- Adopting regulations for continuing education;
- Approving or denying certification; and
- Investigating grievances and issuing disciplinary sanctions.

In any certification program, a grievance process is requisite to maintaining the standards and integrity of the process. The role of the professional guardian is to protect the incapacitated person. By definition, the incapacitated person may not be able to understand or execute the

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<sup>1</sup> The Board is a board of the judicial branch and is therefore exempt from compliance with the Washington Administrative Procedures Act. RCW 34.05.010.

actions needed to protect himself or herself. It is vital to protecting the public that a professional guardian's actions be open to review:

The guardian shall recognize that his or her decisions are open to the scrutiny, criticism, and challenge of others. Subject to orders of the court, the guardian alone is ultimately responsible for decisions made by the guardian on behalf of the incapacitated person.

Standards of Practice 402.1.

This report summarizes the Board's efforts to investigate grievances received from the public regarding certified professional guardians or certified professional guardian agencies.

## **THE GRIEVANCE PROCESS**

### **Purpose and Scope**

GR 23(a) recites its purpose and scope as:

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.

GR 23(c)(2) outlines in greater detail the duties assigned to the Board in receiving and reviewing grievances:

(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.

Among the many regulations governing the certified professional guardians are the Disciplinary Regulations 500 et seq. These regulations detail the grounds for disciplinary action and the procedures for investigation, review, settlement, and hearing.

## How the Grievance Process Works

Knowing how the Board defines a grievance and a complaint is key to understanding the grievance process.

A “grievance” is a written document filed by any person with the Board, or filed by the Board itself, for the purpose of commencing a review of the professional guardian’s conduct under the rules and disciplinary regulations applicable to professional guardians.

A “complaint” is the document filed by the Board during a disciplinary proceeding for the purpose of bringing the matter before a hearing officer for a factual hearing on the issue of whether or not the professional guardian’s conduct provides grounds for the imposition of disciplinary sanctions by the Board.

If a grievance is not dismissed or resolved without a formal proceeding, it will become a complaint.

Any person may file a grievance with the Administrative Office of the Courts (AOC) regarding a certified professional guardian or a certified professional guardian agency. Grievances may be completed on-line on the Washington Courts website at [www.courts.wa.gov](http://www.courts.wa.gov), or by submitting a written grievance to AOC.

AOC staff reviews the grievance and makes an initial determination if the Board has jurisdiction over the issues raised. AOC provides the professional guardian or agency identified with a copy of the grievance and requests a response.

To ensure that the Standards of Practice Committee (SOPC), the committee of board members responsible for supervising the grievance process, has the information needed to determine if a grievance should be dismissed or action taken, AOC may perform other necessary investigation of the grievance including interviewing the grievant, interviewing the professional guardian, and obtaining relevant records or documentation from any person or entity. AOC then reports the results of its investigation to the Standards of Practice Committee (SOPC).<sup>2</sup>

The SOPC reviews the reports and takes action on the grievance. The SOPC may request further action as designated from AOC staff, dismiss the grievance, request that the Board file a complaint, or request that the Board enter into an Agreement Regarding Discipline.

AOC forwards a grievance involving an active guardianship case that is not dismissed by the Board’s disciplinary committee to the appropriate superior court with a request that the court review the matter, take any action necessary including modification, removal of the guardian, and clarification of rights and duties and report to the Board.

Dismissed grievances, including the investigative records, are available upon request; however, before disclosure, identifying information about the grievant, the incapacitated person, and professional guardian and agency are redacted. All grievances dismissed during the twelve months prior to a request will be provided with each request.

An Agreement Regarding Discipline is a conditional settlement agreement negotiated between the SOPC and the certified professional guardian (or agency). Once an agreement has been

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<sup>2</sup> The Standards of Practice Committee is comprised of at least three (3) members of the Board including at least one judicial officer or attorney and at least one certified professional guardian. DR 505.1.

reached, it is presented to the Board in Executive Session for review. The Board then votes to approve or deny the Agreement in open session. The Board's decision is recorded in the meeting minutes. Approved Agreements are posted on the Washington Courts website for public disclosure.

If a settlement cannot be reached, the SOPC may request that the Board file a complaint regarding disciplinary action against the certified professional guardian. Filing of a complaint commences a hearing process not dissimilar to an administrative hearing. Once filed, the complaint is of public record and is posted on the website. All subsequent proceedings are open to the public.

AOC contracts with a hearing officer (administrative law judge) to conduct the remainder of the hearing proceedings. The administrative law judge must prepare a written findings of fact, conclusions of law, and recommendations to the Board regardless of the disposition of the matter. The Board then reviews the findings, conclusions, and recommendation and determines what further action to take.

### **GR 31.1 Impact**

GR 31.1, the Supreme Court's rule governing access to administrative records, was adopted in 2013 and is scheduled for implementation in 2015.

Per GR 31.1, standards for public access to records of the Certified Professional Guardianship Board have been revised to allow for greater access to records concerning grievances filed against certified professional guardians.

A grievance shall be open to public access, along with any response to the grievance submitted by the professional guardian or agency, once the investigation into the grievance has been completed or once a decision has been made that no investigation will be conducted. The name of the professional guardian or agency shall not be redacted from the grievance.

### **Proposed Posting Rule**

April 13, 2015, the Board will consider the following rule for posting grievances and complaints. According to the proposal, dismissed grievances will not be posted.

**Posting Records.** For a grievance or complaint that results in discipline to a professional guardian, the grievance or complaint, any response submitted by the professional guardian, the agreement or order imposing discipline, any order on appeal by the professional guardian, and all attachments or exhibits to the foregoing records shall be posted for public access on the website of the Administrative Office of the Court.

## Flow chart of grievance process.



### Structure and Funding

The Supreme Court delegated primary responsibility to the Board to investigate and sanction professional guardians regarding continued certification however, the Supreme Court retains primary jurisdiction over professional guardians practicing in the State of Washington. Any Board recommendation of suspension or decertification resulting from a disciplinary proceeding must be filed with the Supreme Court. The Supreme Court must review such a recommendation after consideration of the transmitted record. By written order, the Court may adopt, modify, or reverse the Board's recommendation.

The Supreme Court approves the Board's budget. Funds from application fees, annual recertification fees, and any other revenue are used to defray expenses. Board members do not receive any compensation for service. Board members are only reimbursed for actual and necessary expenses incurred in the performance of their duties.

The Supreme Court has instructed AOC to provide administrative support to the Board. Staff members who provide support to the Board are AOC employees and receive compensation and benefits according to the human resources policies of AOC at large.

## **Disciplinary Actions/Sanctions**

Any disciplinary sanction against a certified professional guardian or agency is undertaken with only the utmost gravity. A sanction is only appropriate upon a finding of a preponderance of the evidence that the guardian has engaged in professional conduct in violation of an applicable statute, duty, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians, and that conduct caused, or potentially could cause, harm to the incapacitated person, the public, or a legal proceeding. Alternatively, any conduct that adversely reflects on the guardian's fitness to serve as a guardian, such as criminal activities or deceit, may result in disciplinary action or sanctions regardless of actual or potential harm.

Disciplinary Regulations (DR) 515 Sanctions and Remedies authorize five types of sanctions to be issued against a certified professional guardian:

- Decertification,
- Suspension,
- Prohibition against taking new cases,
- Reprimand, or
- Admonishment.

All five sanctions constitute disciplinary action and are open to public disclosure. If the Board approves of a sanction against a certified public guardian, an announcement of disciplinary action is sent to all superior courts in Washington. The disciplinary action is maintained in the guardian's file and posted on the Washington Courts website at:

[http://www.courts.wa.gov/programs\\_orgs/guardian/](http://www.courts.wa.gov/programs_orgs/guardian/)

### **Decertification**

Decertification is the most severe sanction. If a professional guardian is decertified, RCW 11.88.008 limits the number of guardianship cases for which a guardian may accept compensation to two (2).

The Disciplinary Regulations describe factors to be considered for decertification:

**DR 515.2.1** Decertification is generally appropriate when a professional guardian engages in:

- 515.2.1.1 Professional misconduct; or deceive the court; or cause serious or potentially serious injury to a party...,
- 515.2.1.2 Felonious criminal conduct,
- 515.2.1.3 Any other intentional misconduct involving dishonesty, fraud, deceit, or misrepresentation...,
- 515.2.1.4 Gross incompetence as demonstrated by a pattern or practice of late filings, accounting errors, case tracking, or other violations of the SOPs, and where the guardian has not corrected the behavior despite previous attempts by the courts or the board to correct the behavior.



To warrant the sanction of decertification the guardian actions must have intentionally violated one or more Standards of Practice or other specified regulation. As a fiduciary, a guardian has the duty to act primarily for another's benefit, selflessly, and with undivided loyalty. Conduct intended to benefit his/herself or involving dishonesty, fraud, deceit or misrepresentation may result in decertification.

A guardian may also be decertified for gross incompetence. The certification process is to establish a baseline of competency among professional guardians. Professional conduct that falls below such a baseline may be deemed "gross incompetence." In considering whether actions constitute gross incompetence, the Board may apply a "reasonableness" standard.

A guardian who has demonstrated a pattern and practice of a particular behavior that falls below the Standards of Practice may also be decertified for gross incompetence. DR 506.4 authorizes the Standards of Practice Committee to direct a guardian to take corrective actions where an issue is of minor significance or of a nature not potentially harmful to clients or other persons. However, repeated failure to meet a SOP may rise to the level of gross incompetence.

For example, a guardian may not file an annual report on time. A few instances are likely correctible and unlikely to cause a client harm. The SOPC may request that the guardian participate in additional training, audit the guardian's cases on a frequent basis, or set up monitoring by an independent third party for a period of time.

However, if the guardian's conduct persists despite these or other attempts to correct the behavior, the pattern and practice of late filing may arise to the level of gross incompetence and warrant decertification.

### **Administrative Decertification**

Guardians are required to renew their certification annually and complete 24 credit hours of continuing education biennially. Failure to comply with these professional responsibilities may result in administrative decertification.

#### **DR 522 Administrative Decertification**

If the board decertifies a professional guardian for an administrative reason, including but not limited to the professional guardian's failure to: pay required fees, satisfy the continuing education requirements, provide proof of insurance or waiver of insurance, or file required information with the board, any pending disciplinary grievance against the professional guardian may be dismissed. ... Information that a grievance was pending at the time of administrative decertification shall be placed in the guardian's licensing records and shall be available to the public.

Once the renewal deadline has passed, AOC provides a notice to the guardian to comply. In addition to completing the renewal process, the guardian may be required to pay a late fee. Failure to timely complete these actions and file the appropriate applications and disclosures with AOC is a basis for disciplinary action against a guardian for noncompliance. If the guardian fails to comply, the guardian may be decertified upon approval of the Board.

### **Prohibition on taking new cases/Suspension**

In some cases, an appropriate sanction may be to place limits on the professional guardian's on-going practice. These limitations may be temporary pending a change in the guardian's circumstances or an ongoing limitation or suspension of the guardian's practice.

**DR 515.2.2** Prohibition against taking new cases or suspension for a period of time, or both, is generally appropriate when a professional guardian engages in:

515.2.2.1 Professional conduct incompatible with the Standards of Practice and causes injury or potential injury to a party, the public, or the legal system, or causes interference or potential interference with a legal proceedings, or

515.2.2.2 Criminal conduct that seriously adversely reflects on the professional guardian's fitness to serve.

### **Reprimand**

A reprimand typically does not disrupt a guardian's practice; however, it indicates a serious error in a guardian's conduct. Repeated actions that warrant multiple reprimands may rise to the level of gross incompetence and subject the guardian to decertification.

**DR 515.2.3** A letter of reprimand is generally appropriate when a professional guardian engages in:

515.2.3.1 Professional misconduct incompatible with the Standards of Practice and causes injury to a party, the public, or the legal system, or causes interference with a legal proceeding, or

515.2.3.2 Any other misconduct that involves dishonesty, fraud, deceit, or misrepresentation and that adversely reflects on the professional guardian's fitness to practice.

### **Admonishment**

Admonishment is the lowest sanction available. Admonishment is appropriate in minor or single events of misconduct.

**DR 515.2.4** A letter of admonishment is generally appropriate when a professional guardian engages in professional misconduct incompatible with the standards of practice and not rising to the level justifying a reprimand.

### **Remedies**

In addition to the five sanctions, the Board may implement various remedies for the purpose of ensuring the guardian complies with the duties, standards, and requirements of a professional guardian. For example, the Board may place a guardian on probation, prohibit the guardian from taking new cases, or require the guardian complete additional training. The Board may also require monitoring on a periodic basis or mentoring with regular reports back. Finally, the Board may always review a guardian's caseload through internal audit.

### **Dismissal**

All grievances received by AOC are investigated as appropriate. AOC may dismiss grievances in limited circumstances: administratively and for lack of jurisdiction.

AOC may dismiss a grievance for administrative reasons. The most common administrative dismissal occurs because the grievant decides not to pursue the grievance. The withdrawal of a grievance does not mandate administrative dismissal; however, circumstances may indicate that dismissal is appropriate.

Second, the Board's jurisdiction is limited to certified professional guardians or agencies acting in the capacity of a guardian.<sup>3</sup> For example, grievances may be filed regarding a guardian ad litem's investigation and report. Some certified professional guardians also act as trustees. However, the Board has no jurisdiction to investigate a grievance in these circumstances. If the Board clearly has no jurisdiction, AOC will promptly dismiss the grievance and may notify the entity with jurisdiction.

The most common basis for dismissal is that the guardian's conduct does not rise to the level of a violation of a Standard of Practice. Following AOC's investigation and report, the SOPC may dismiss any grievance and is not required to obtain Board approval. However, the SOPC may present a grievance to the Board if there has not been a clear consensus on dismissal, or the SOPC believes that the Board should be consulted for other reasons.

In some grievances, the SOPC determines that a guardian's conduct may not clearly violate a Standard of Practice; however, the guardian's conduct or practice may be improved with additional training, counseling, or other remedial steps. If the guardian complies with the SOPC's direction, the matter is then reported to the Board for approval of the correction. If the Board approves of the SOPC's actions, the grievance may be dismissed with no sanction reported on the guardian's file.

Alternatively, if the guardian does not comply with the SOPC's recommendation, the SOPC may reconsider the grievance, request additional investigation, and the noncompliance may constitute an addition factor in whether to proceed to the level of a sanction.

## **Termination**

Termination of a grievance is distinguished from dismissal as discussed above. Termination is not based on an investigation and determination on the merits of a grievance. Termination of open grievances serves primarily to conserve the Board's efforts once a CPG is no longer acting as a professional guardian.

As discussed above, a CPG may be decertified for either violation of a Standard of Practice or noncompliance with certification maintenance requirements, including annual certification fee and disclosure, continuing education, or E&O insurance requirements. Once the CPG has been decertified and no longer acting as a guardian, there is no longer a substantial risk of harm to the public.

Similarly, a CPG may request to be on inactive status or to voluntarily surrender of his/her certification. The CPG must comply with all statutory and court-ordered requirements for discharge as a guardian prior to completing transition to inactive status or surrender. Once the former CPG has been discharged, s/he may not accept any new clients or engage in work as a CPG.

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<sup>3</sup> The limited exception is if the guardian's conduct indicates a lack of fitness to be a guardian, such as criminal actions or fraud unrelated to their guardian duties.

A former CPG may petition for reinstatement or return to active status. At that time, AOC may reinitiate investigation in any terminated grievance pursuant to DR 504.1.

## GRIEVANCES AT A GLANCE 2014

In 2014 the Board opened sixty-one (61) grievances. Of those, twenty-three (23) grievances were closed by December 31, 2014. Three more cases were terminated. Of the grievances received, sixteen (16) were closed for lack of jurisdiction. The majority of the cases dismissed for lack of jurisdiction – nine (9) - were filed against guardian ad litem. Three (3) grievances dismissed for lack of jurisdiction were filed against lay guardians, and four (4) against other persons who were not professional guardians.

Forty-five (45) grievances required resolution on the merits. Six (6) were closed by the end of the year for no actionable conduct and one (1) was an administrative dismissal. Currently, there are thirty-five (35) cases still pending. The grievances involved twenty-eight (28) guardians or guardianship agencies, approximately 9% (nine percent) of the professional guardians in Washington State. In 2014 there were two hundred and eighty-two (282) professional guardians in Washington State. Several guardians were involved in multiple grievances.

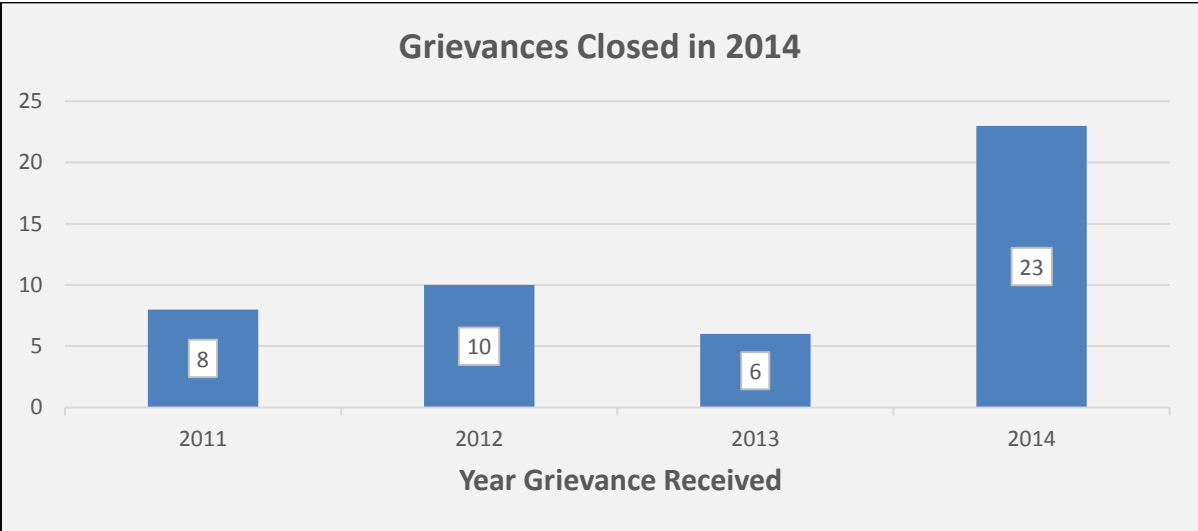
### **2014 CERTIFIED PROFESSIONAL GUARDIAN GRIEVANCES**

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<b>Grievances</b>	<b>2014</b>
Total Opened	61
Total Closed	23
Total Terminated	3
EOY - Pending	35

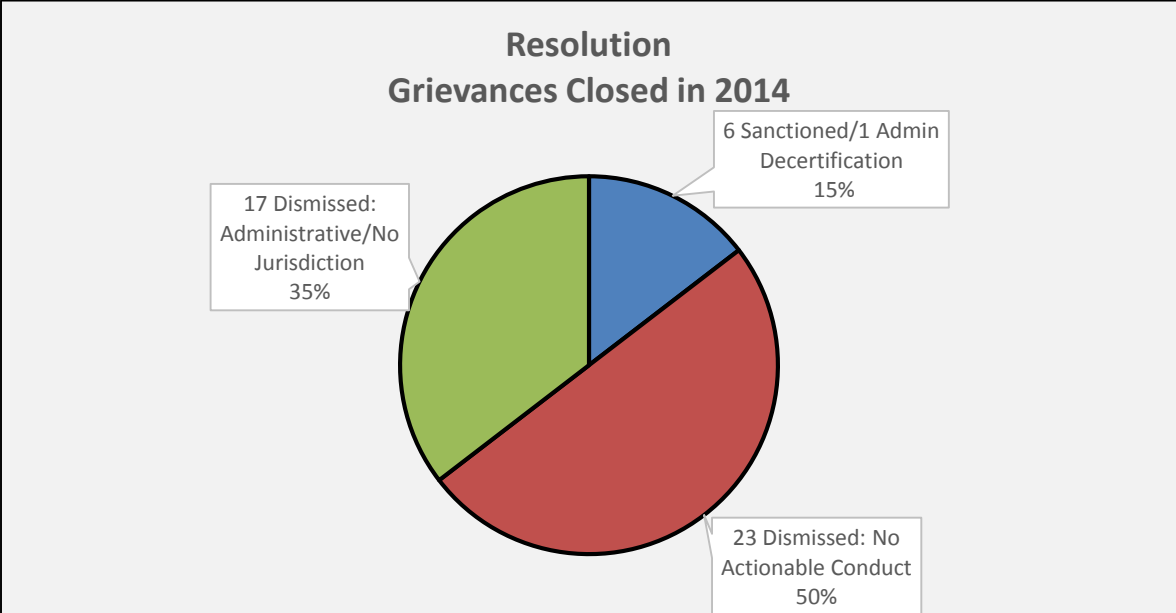
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The chart below shows the number of grievances closed in 2014 progression by year opened. Grievances that proceed to hearing require substantially more time. No hearings have been held for any grievance opened in 2013 or 2014.



**Resolution**

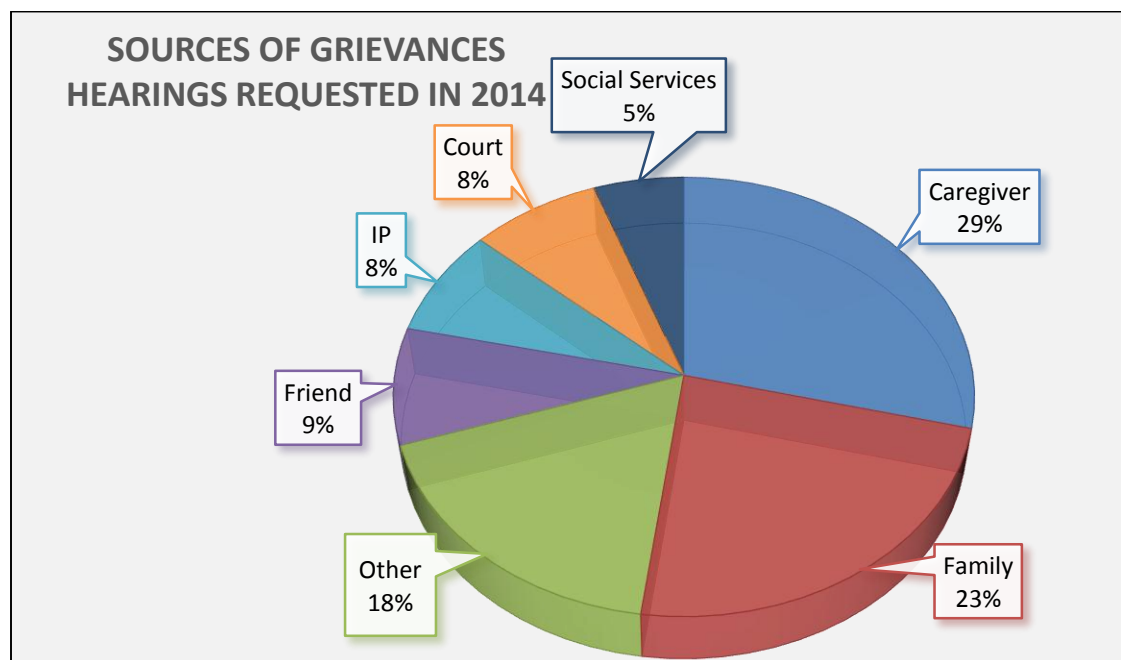
Grievances were closed in 2014 that had been received between 2011 and 2014. Approximately 85% of the grievances closed were dismissed; about 35% were dismissed for lack of jurisdiction, and in 50% of the dismissed grievances no actionable conduct was found. Sanctions were imposed in 15% of grievances closed in 2014.



<b>Resolution<sup>4</sup></b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>Total</b>
Dismissal - Administrative				1	1
Dismissal - No actionable conduct	1	10	6	6	23
Dismissal - No jurisdiction				16	16
Admonishment	4				4
Reprimand	2				2
Suspension					
Decertification					
Administrative Decertification	1				1
<b>Total Closed</b>	<b>8</b>	<b>10</b>	<b>6</b>	<b>23</b>	<b>47</b>

### Sources of Grievances.

Any person may file a grievance regarding the conduct of a certified professional guardian. The Board may on its own authority file a grievance against a guardian either as a result of a random audit or concerns that have been brought to the Board’s attention.



<sup>4</sup> The data on resolution is calculated on each individual grievance closed. A sanction against a single professional guardian, however, may have been based on multiple grievances. For example, there were six grievances that were opened in 2011 which were closed in 2014, but there were two CPGs involved in one of the grievances, each of whom received a different sanction. Therefore, there were 7 sanctions in those six cases.

In 2014 most grievances were requested by family members (51%). The second most common group who requested grievances were caregivers or care facilities (19.5%) It is not surprising that the two groups of individuals who have the most frequent and the closest contact with the incapacitated person are most likely to see conduct that causes them concern.

A minor source for grievance requests is “Social Services” (4.8%). Social Services includes Adult Protective Services (APS), Developmental Disability, social workers, and/or other medical personnel. Most commonly concerns are referred first to APS, which has its own intake and investigation process. Although both APS and the Board are concerned about the protection of vulnerable individuals, their purposes and remedies are different.

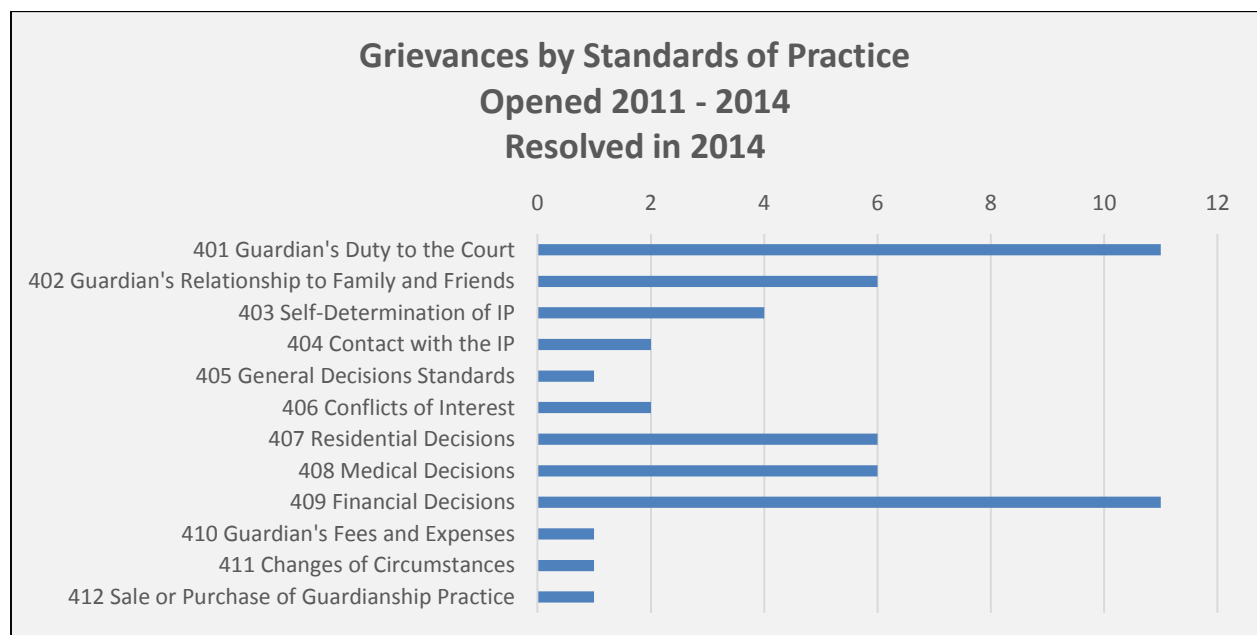
## Grievances by Standards of Practice

Grievances are evaluated against the Standards of Practice, which are fairly comprehensive statements of the professional conduct expected from professional guardians. The Standards of Practice may be found in their entirety at:

[http://www.courts.wa.gov/content/publicUpload/CPG/20131014\\_SOP\\_Regulations.pdf](http://www.courts.wa.gov/content/publicUpload/CPG/20131014_SOP_Regulations.pdf)

The Standards of Practice cover the broad range of a professional guardian’s responsibilities. In 2014 the two largest number of grievance violations involved either the failure to manage the Incapacitated Person’s financial affairs, or for the guardian to appropriately carry out his/her duties and follow all laws.

Generally grievances about financial matters fall into one or more of these subcategories: 1) mismanagement of the estate; 2) failure to timely pay bills; or 3) failure to apply for public benefits. The other significant category of violations arose from the guardian’s failure to perform duties and discharge obligations in accordance with applicable Washington and federal law and the requirements of the court. A guardian’s duty to the court includes timely filing of all required annual reports to the court, maintaining current letters of guardianship, and timely filing of a designation of stand-by guardian.



## **GRIEVANCE CASE SUMMARIES**

### **Pending Disciplinary Actions**

#### **Decertification - Pending<sup>5</sup>**

CPGB No. 2012-039 Emerald City Guardianship Services [11249] and Crystal Jordan [CPG No. 10941] [King County], decertified for failure to have designated two certified professional guardians for the agency and to notify the Board within five days of not having two CPGs; to charge guardian fees in addition to compensation received from the Office of Public Guardianship; to provide IP with basic clothing; to visit the IP regularly or make arrangements for qualified visits; to properly manage the financial affairs of the IP to meet his personal needs; and for making multiple false statements under oath. SOP 404.1, 404.1.1, 404.2, 406.1, 406.2, 409.1, 409.2, 409.3, 409.4, 410.2, CMR 706.1, CMR 706.3, DR 515.2.1.1 and DR 515.2.1.3.

#### **Suspension - Pending<sup>6</sup>**

CPGB No. 2010-005 and 2010-006 Lori Petersen [CPG No. 9713] [Spokane County], suspension for failure to consider the views and opinions of professionals, family and friends knowledgeable about the IP, to consult with IP and respect the feelings, values and opinions of the IP, and to consult with IP before relocating to a new residence. SOP 402.2, 403.2, and 407.7. The CPG appealed the suspension to the Supreme Court. The Supreme Court affirmed the findings, but remanded the case to the Board for consideration of the proportionality of the discipline imposed. The Board reviewed the case. It petitioned the Supreme Court 1) to affirm the Board's sanction against Lori A. Petersen of one year suspension as proportional; 2) to affirm the Board's recommendations for the remedy of monitoring for 24 months following the end of the suspension at Lori A. Petersen's expense; and 3) to affirm the Board's recommendation that the CPG pay costs to the Board in the amount of \$7,500.00.

#### **Hearings - Pending**

CPGB 2012-002, 2012-013, 2012-038, 2012-045 and 2012-046 Maureen Carroll [CPG No. 10908] [King County], alleged failure to file timely reports, to appoint standby guardian, and to report change of status regarding the need for Errors and Omissions Insurance. SOP 401.1, 401.3, 401.5, 401.6 and CMR 704.6.

CPGB 2012-044 Holly Surface [CPG No. 11393] [King County], alleged failure to disclose to the court that the CPG was employed by the law firm seeking her appointment as certified professional guardian for the IP, and failure to disclose to the court prior to providing direct legal services to the IP. SOP 406.1; 406.3, 406.4 and former 403.1.

CPGB 2013-052, 2013-060 and 2014-003 Pamela Privette [CPG No. 9714] [Thurston], alleged failure to perform duties and discharge her obligations as a guardian, failure to file court reports in a timely manner and in an accurate and truthful form, to acquire Letters of Guardianship prior

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<sup>5</sup> The Court affirmed and adopted the Board's recommendations in 2015.

<sup>6</sup> The Court affirmed and adopted the Board's recommendations in 2015.



to acting as a guardian, to competently manage the property and income of the estate primarily for the benefit of the IP, to apply for all public and insurance benefits for the IP and maintain the IP's eligibility, to seek court approval prior to advancing herself and others fees, to properly disclose all compensation received, and to comply with a prior Agreement Regarding Discipline. SOP 401.1, 401.2, 401.3, 401.5, 409.1, 409.4, 410.2 and 410.3.

## **Grievances Resolved in 2014**

Below are brief summaries for the grievances investigated and closed by the Certified Professional Guardian Board in 2014.

Agreements Regarding Discipline (sanctions) are of public record and posted on the Washington Courts website at: [http://www.courts.wa.gov/programs\\_orgs/guardian/](http://www.courts.wa.gov/programs_orgs/guardian/). Although dismissals are not subject to public disclosure at this time, they are summarized below without the identity of the guardian.

The five types of sanctions authorized in the Disciplinary Regulations are discussed above. As briefly discussed in footnote 4 above, a sanction is issued against the professional guardian. Multiple grievances may support issuance of a sanction. All grievances associated with a particular sanction are noted in each entry below.

## **Administrative Decertification**

CPGB No. 2011-038 and 2011-042 Reliable Guardianship Agency [CPGA No. 11286] [Lewis County], administratively decertified for failure to designate two certified professional guardians. CMR 706.4.

## **Reprimand**

CPGB No. 2011-038 and 2011-042 Marykay Lamoureux [CPG No. 10455] [Lewis County], reprimanded for failure to perform her duties and discharge her obligations in accordance with the court's orders, to comply with the approved budget, to manage the estate to provide for the needs of the incapacitated person, to properly account for guardian's fees, and for advancing fees without court approval. SOP 401.1, 401.5, 409.1, 409.4, 410.1, 410.2, and 410.3.

## **Admonishment**

CPGB No. 2011-032 and -047 Sarah Mills [CPG No. 11155], [King County], admonished for failure to manage IP's estate for her benefit, to provide services and incur fees so as to preserve the IP's estate, and to ensure continuity of care to the IPs during the sale or transfer of an agency. SOP 406.1, 409.1, 409.4, 410.1, and 412.1.

CPGB No. 2011-038 and 2011-042 Paula Zamudio [CPG No. 10691] [Lewis County], admonished for failure to perform her duties and discharge her obligations in accordance with the court's orders, to manage the estate to provide for the needs of the incapacitated person, to properly account for guardian's fees, and for advancing fees without court approval. SOP 401.1, 409.1, 409.4, 410.1, 410.2, and 410.3.

## Dismissal

CPGB No. 2011-041 [Snohomish County], alleged failure to place the IP in an appropriate residential facility, and to be available for a medical emergency; dismissed for no actionable conduct. SOPs 407.6 and 408.5.

CPGB No. 2012-006 [Spokane County], alleged failure to properly manage public benefits and the estate for the IP's benefit; dismissed for no actionable conduct. SOP 409.1 and 409.7.

CPGB No. 2012-015 [Benton/Franklin County], alleged failure to manage the estate to provide for IP's needs; dismissed for no actionable conduct. SOP 409.4.

CPGB No. 2012-016 [Benton/Franklin County], alleged failure to manage the estate to provide for IP's needs; dismissed for no actionable conduct. SOP 409.4.

CPGB No. 2012-019 [Kitsap County], alleged failure to make appropriate medical decisions and to appoint an attorney for IP; dismissed for no actionable conduct. SOP 408.1 and 411.4.

CPGB No. 2012-031 [Clallam County], alleged failure to competently manage the IPs' estate for the IPs' benefit and to protect and preserve the estate; dismissed for no actionable conduct. SOP 409.1, 409.4, and 409.11.

CPGB No. 2012-041 [Spokane County], alleged failure to properly notify court and obtain approval of sale of guardianship agency; dismissed for no actionable conduct. SOP 412.

CPGB No. 2012-042 [Spokane County], alleged failure to timely notify the Board of change in agency's designated CPG; dismissed for no actionable conduct. CMR 706.3.

CPGB No. 2012-043 [Thurston County], alleged failure to assure proper preventive health care for IP; dismissed for no actionable conduct. SOP 408.4.

CPGB No. 2012-047 [Kitsap County], alleged failure to make appropriate medical decisions for IP; dismissed for no actionable conduct. SOP 408.1.

CPGB No. 2012-049 [Pierce County], alleged appearance of a conflict of interest; dismissed for no actionable conduct. SOP 406.1 and 406.2.

CPGB No. 2013-014 [Spokane County], alleged failure to perform duties and discharge obligations in accordance Washington law; to consult with friends and family regarding IP's health and condition; and to assess the IP's physical appearance and condition; dismissed for no actionable conduct. SOP 401.1, 402.2, and 404.1.1.

CPGB No. 2013-031 [Clark County], alleged failure to assure IP resided in the least restrictive environment which was appropriate and available and to research and evaluate the IP's residential alternatives; dismissed for no actionable conduct. SOP 407.1 and 407.8.

CPGB No. 2013-041 [Spokane County], alleged failure to communicate with family members and to protect IP's personal property; dismissed for no actionable conduct. SOP 402.2, 406.9, and 409.11.

CPGB 2013-047 [Clark County], alleged failure to make the most appropriate residential placement for the IP and to treat IP with respect, and to acknowledge preferences of the IP; dismissed for no actionable conduct. SOP 403.2, 403.3, and 407.1.

CPGB No. 2013-055 [Spokane County], alleged failure to accurately report IP's public benefits and to provide services and incur fees to reflect the duty to conserve the estate of IP; dismissed for no actionable conduct. SOP 401.5 and 410.2.

CPGB No. 2013-059 [Snohomish County], alleged failure to consider views of family; to treat the IP's feelings, values, and opinions with respect; to maintain regular communication with service providers, caregivers, and others attending to IP; and to consult with IP regarding relocation to a new residence; dismissed for no actionable conduct. SOP 402.2, 403.2, 404.1.2, and 407.7.

CPGB No. 2014-02 [King County], alleged failure to perform duties and discharge obligations in accordance with Washington law by guardian ad litem; dismissed for lack of jurisdiction. SOP 400 and 401.1.

CPGB No. 2014-04 [Yakima County], alleged failure to perform duties and discharge obligations in accordance with Washington law by guardian ad litem; dismissed for lack of jurisdiction. SOP 400 and 401.1.

CPGB No. 2014-006 [Kitsap County], alleged failure to provide requested financial information to the IP; to apply the Substituted Judgment Standard based upon person's historic preferences; to avoid a conflict of interest and refrain from providing direct services to IP; to select a residential placement to enhance IP's quality of life; and to protect and preserve the guardianship estate; dismissed for no actionable conduct. SOP 403.6, 405.1, 406.4, 407.1, and 409.11.

CPGB No. 2014-010 [Thurston County], alleged failure to ensure that the incapacitated person was in a safe and appropriate residential setting by lay guardian; dismissed for lack of jurisdiction. SOP 401.1 and 404.1.1.

CPGB No. 2014-011 [Snohomish County], alleged failure to make decisions in the best interest of the beneficiaries by guardian ad litem; dismissed for lack of jurisdiction. SOP 401.1 and 405.2.

CPGB No. 2014-012 [King County], alleged failure to communicate with family and apply substituted judgment standard in decision-making; dismissed for no actionable conduct. SOP 402.2 and 405.1.

CPGB No. 2014-013 [King County], alleged failure to investigate and take family's opinion into consideration by guardian ad litem; dismissed for lack of jurisdiction. SOP 400 and 402.2.

CPGB 2014-017 [Clark County], alleged interference with the relationship between the IP and his wife, to permit the IP and his wife to leave the facility without third party supervision, to fail to provide the IP with requested treats and personal items, to include the IP and his wife in care conferences, and to assist the IP to facilitate an appropriate change in the guardianship; dismissed for no actionable conduct. SOPs 403.1, 403.2, 403.3, 403.6, 403.8.1, 409.1, 407.1, 409.2 and 411.1.

CPGB 2014-018 [Cowlitz County), alleged failure to arrange for independent representation for the IP; and to promote the health of the IP; and claim that the guardian lost an important report; dismissed for no actionable conduct. SOPs 402.1 and 401.2.

CPGB No. 2014-019 [Clark County], alleged provision of direct services as housekeeper, sale of the IP's possessions without court direction, and reliance on religious reasons for determinations made on IP's behalf by lay guardian; dismissed for lack of jurisdiction. SOPs 403.1, 406.3, and 406.1.

CPGB No. 2014-021 [King County], alleged a certified professional guardian (CPG) while acting as a guardian ad litem advanced appointment of a guardian for an IP without revealing that the CPG was representing the prospective guardian in an unrelated matter; dismissed for lack of jurisdiction. SOP 406.1, 406.2, and 406.3.

CPGB No. 2014-022 [Kitsap County], alleged failure to be available for a medical emergency experienced by the IP and to arrange transportation home from hospital; dismissed for no actionable conduct. SOPs 408.4, 408.5; and 404.1.1.

CPGB No. 2014-023 [Walla Walla County], alleged failure to provide DSHS with needed information, delaying approval of Medicaid; dismissed for no actionable conduct. SOP 409.7.

CPGB 2014-026 [King County], alleged failure to provide the IP with food, dental care and a clean residential placement; dismissed for lack of jurisdiction. SOPs 404.1.1 and 408.4.

CPGB 2014-027 [King County], alleged failure to investigate and monitor the alcohol abuse of a child's father by guardian ad litem; dismissed for lack of jurisdiction. SOP 404.1.

CPGB 2014-032 [Pierce County], alleged failure to adequately investigate reported sexual abuse of child by guardian ad litem; dismissed for lack of jurisdiction. SOPs 401.1, and 404.1.1.

CPGB 2014-033 [Cowlitz County], alleged failure to comply with the duty assigned by court order to investigate what was in the best interest of the child by guardian ad litem; dismissed for lack of jurisdiction. SOPs 401.1, and 404.1.1.

CPGB 2014-042 [Kitsap County], alleged failure to comply with the duty assigned by court order to investigate what was in the best interest of child by guardian ad litem; dismissed for lack of jurisdiction. SOP 401.1, and 404.1.1.

CPGB 2014-048 [Kittitas County], alleged failure to manage the IP's financial affairs and to cooperate with DSHS to establish eligibility for Medicaid; dismissed for lack of jurisdiction. SOPs 409.1 and 409.7.

CPGB 2014-053 [Pierce County], alleged verbal and physical abuse of a child and isolating him from other family members by the child's mother; dismissed for lack of jurisdiction. SOPs 401.1, and 404.1.1.

CPGB 2014-054 [Thurston County], alleged interference with the mail of the wife of the IP and refusal to release IP's funds following IP's death; administrative dismissal as grievant had raised these identical claims in an earlier grievance. SOP 404.1, and 409.1.

CPGB 2014-055 [King County], alleged removal of the IP from her preferred residence and placement in a facility far from IP's family and friends by lay guardian; dismissed for lack of jurisdiction. SOPs 407.1, 407.3, and 402.2.

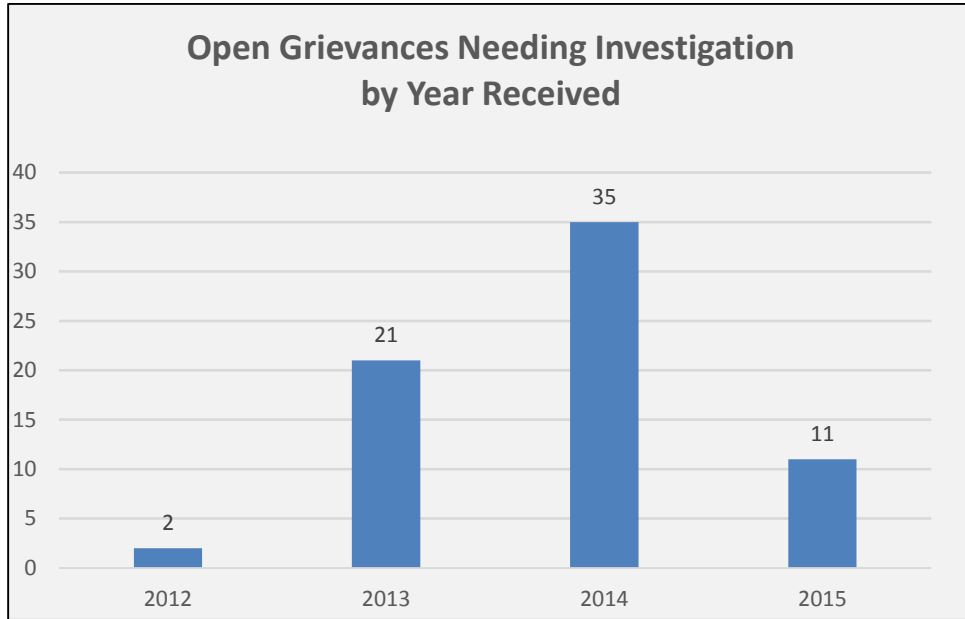
CPGB 2014-057 [Broward County, FL], alleged failure to comply with court duty to investigate best interest of the child by guardian ad litem in Florida; dismissed for lack of jurisdiction. SOPs 401.1.

### **Termination.**

CPGB No. 2011-036, 2013-053, 2013-056 and 2013-057, Emerald City Guardianship Services [CPGA No. 11249] and Crystal Jordan [CPG No. 10941] [King County], terminated due to decertification of agency and guardian (see CPGB No. 2012-039 *above*).

CPGB No. 2013-010, 2013-058, 2014-008, 2014-028, and 2014-058 [King County], terminated due to CPG's voluntary surrender.

Appendix A



Appendix B

