

July 23, 2013

Certified Professional Guardianship Board
Judge James Lawler, Chair
c/o Washington State AOC
PO Box 41170
Olympia WA 98504-1170

Kimberly Bzotte
Guardian Program
AOC
PO Box 41170
Olympia WA 98504-1170

RE: Proposed Standards of Practice 413: Responsibilities of Certified Professional Guardian Agencies.

Proposed Regulation 413.1.1 addresses the extent in which an owner of a professional guardian agency assures that the Standards of Practice are being followed.

Response: This Regulation appears to be contained within proposed Regulation 413.1.2

Proposed rule 413.1.2 requires that professional guardians who supervise other professional guardians make reasonable efforts to ensure that other professional guardians adhere to the Standards of Practice.

Response: This rule appears duplicative to 413.1.1 above. Perhaps a cleaner and more understandable approach would be to combine the two proposed Rules into a single regulation - "An owner of a professional guardian agency and any professional guardian employed by an agency and having direct supervisor authority....."

In addition, the title of new Section 413 addresses only *guardian agencies*. Since this Regulation is included in proposed Regulation 413 which addresses duties of guardians only within an agency, WAPG recommends that this proposed Regulation be modified such that the duties of individual guardians are segregated and moved to a separate Regulation where the duties of individual guardians are identified.

Proposed rule 413.1.3 (1)(2)(3) addresses the circumstances in which a professional guardian is responsible for another guardian's violation of the Standards of Practice.

Response: In general, these three sections address how professional guardians in agencies are to supervise other guardians. Since this Regulation is included in proposed Regulation 413 which addresses duties of guardians only within an agency, WAPG recommends that this proposed regulation be modified such that the duties of individual guardians are segregated and moved to a separate Regulation where the duties of individual guardians are identified.

Proposed Regulation 413.2 addresses the obligations of a guardian to be bound by the Standards of Practice.

Response: Again, this Regulation is included in Proposed Regulation 413 which addresses duties of guardians within an agency. WAPG recommends that this proposed Regulation be modified such that the duties of individual guardians are segregated and moved to a separate Regulation where the duties of individual guardians are identified.

Proposed Regulation 413.3 addresses the supervision of non-guardian employees

Response: Again, this Regulation is included in Proposed Regulation 413 which addresses duties of guardians within an agency. WAPG recommends that this proposed Regulation be modified such that the duties of individual guardians are segregated and moved to a separate Regulation where the duties of individual guardians are identified.

WAPG notes that the Board has departed from the generally accepted universal obligation of guardians to be responsible for the activities and decisions made in their agencies. The decision by the Board to limit the potential liability of guardians is applauded at least within the context of the Board's Regulations is applauded. While what the Board means by "reasonable efforts", "reasonable assurance" and "reasonable efforts" is not defined or particularly clear and is potentially unenforceable, "reasonableness" appears to reflect a broad standard which limits the here-to-fore unlimited liability exposure of a guardian.

Proposed rule 413.4 addresses the professional independence of a professional guardian

Response: This rule is confusing and the intent not clear.

Proposed Regulation 413.4.1 appears to preclude owners of guardian agencies who are not guardians from being compensated for the work which they perform, a circumstance which would be illogical within considerations of normal marketplace economics.

Proposed Regulation 413.4.2 appears to preclude the formation of *partnerships* with those who are not guardians (without addressing other business structures besides those of partnerships), and

Proposed Regulation 413.4.3 appears to prevent associations that provide services *for profit* (a circumstance which arguably excludes any corporation, partnership, or LLC which forms for purposes other than profit).

WAPG proposes that the Board rewrite the sections of proposed Regulation 413.4 so that the intention is clear. Does the Board intend to ban the ownership interest of any guardian entity by those who are not guardians? Does the Board intend to allow such ownership under certain circumstances? What does the Board mean by *profit*. What forms of organization are intended to be included in the Regulation?

Summary: The meaning and intent of this proposed Regulation is so opaque that it's intent is not clear - guardians (and Hearing Officers, Disciplinary Committee members, and grievants) should not have to discern with a crystal ball the meaning of the Board's Regulations. The meaning and intent of the Regulations should be clear in the wording.

In addition, while the proposed Regulation applies only to guardian agencies the proposal is replete with references which suggest that the Regulation also applies to individual

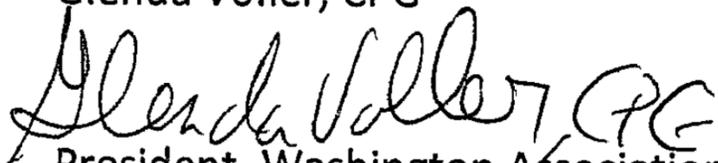
guardians. WAPG recommends that this confusion should be clarified, perhaps by including two sections – one for individual guardians and one for agencies.

WAPG recommends that this Proposed Rule be revised and republished for public comment in a more understandable format and with intentions and definitions made clear in the language.

Added Note: WAPG notes earlier drafts of Proposed Rule 413 which included the Boards extension of authority to cover the management of Trusts and powers-of-attorney. Such authority is not contained in RCW 11.88, 11.92, or in GR23. And, the management of Trusts and powers-of-attorney engage statutes which are completely separate from one another, RCW 11.88, and RCW 11.92. and which involve legal documents (Trusts and the related amendments, Court Orders, and powers-of-attorney which are written for specific purposes and with specific limitations). WAPG opposes any effort for the Board to expand its jurisdiction beyond that of guardianships.

Sincerely,

Glenda Voller, CPG



President, Washington Association of Professional Guardians

POB 2225

Seattle, WA 98111

206-860-1300 Telephone

gvoller_seattle@msn.com