



October 9, 2017

Honorable Judge Lawler  
CPG Board Chair

Dear Judge Lawler and CPG Board Members,

I would like to thank you for the opportunity for the Washington Association of Professional Guardians (WAPG) 120 members to provide written comment on Proposed Regulation 500 and analysis conducted by the AOC staff at the in-person meeting. WAPG's position is that Regulation 500 changes should not be implemented until the overall grievance process is reviewed and steps are taken to resolve major concerns which are outlined below.

As WAPG President and Past CPG Board Member I realize the challenges facing both the CPG and Board. WAPG understands that the CPG Board sets priorities with the AOC staff. The revision of Regulation 500 may be warranted but WAPG members would request that the priority of the CPG Board and AOC staff be to ensure the backlog of 135 grievances be investigated and resolved in a timely manner. This was a concern of mine when I served on the CPG Board and continues to be with the CPG community. I have attached a copy of the CPG Board Minutes from June 8, 2015 where I specifically raised this issue.

In reviewing the Certified Professional Guardian Grievances report as of September 30, 2017, it appears that CPG Board and AOC staff are not realizing the importance of investigating and/or resolving grievances in a timely manner which is having a negative impact on the CPG's, the citizens of Washington who have Professional Guardians and the public at large. To have grievances, alleging violation to incapacitated citizens of Washington, unresolved over nearly a 5-year time span should be as unacceptable to the CPG Board and AOC staff, as it is to WAPG.

This begs the question why is Regulation 500 being revised when the current process for resolving CPG grievances is solely lacking. As you can see from the 2015, minutes, this is not a new problem. All other regulated professions have specific timelines that must be met to ensure the grievance is resolved in timely manner. Any revisions to Regulation 500 that does not address the CPG Board and AOC timeline of investigation is unacceptable. Regulation 508.3 revision states that the CPG must answer the Disciplinary Action within 30 days exclusive of the day of service. For the CPG Board to impose timelines upon the CPG without imposing similar timelines on themselves and the AOC staff

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will only continue the unacceptable delay. As a regulatory body, it is the duty of the CPG Board to ensure confidence in the process not only to the CPGs but the public; and the vulnerable citizens of Washington. The untimely resolution of the 135 grievances has eroded that confidence.

For example, the proposed change to Regulation 502.5 shift the sole cost for responding to a grievance upon the CPG. This shift places an undue burden on the CPG. By contrast, the current version of Regulation 500 makes clear, there are specific instances where it might be appropriate to seek court approval of attorney and CPG fees (see current Regulation 509.1.2). Most grievances are not filed by the incapacitated person or client but rather by a disgruntled interested party that has sought relief through the court system and did not accept the outcome or findings of facts in the court order. WAPG and CPG's know grievances are not "a mechanistic to appeal a court decision regarding the appointment or conduct of a guardian" (GR23(a)). Yet, eliminating the court's ability to address fees creates an additional burden on the CPG when they must respond to a grievance within a specific timeline that may not be investigated and resolved for up to 5-years by the CPG Board and AOC staff. It would be WAPG's recommendation to strike the revision and not change 509.1.2 should the CPG Board proceed to approve the revisions without addressing the overall grievance process.

The ultimate guardian is the Superior Court where direction is provided to the CPG regarding a wide range of issues including payment of fees as outlined in Regulation 509.1.2. Regulation 500 needs to be clear that if a Superior Court Judge has issued an order and the CPG abides by that order the CPG Board and AOC staff will honor the order and not impose their own interpretation. This has been an issue which has placed the CPG in the position of having to justify the Superior Court Judges order to the AOC staff.

WAPG would request that in reviewing the entire grievance process, changes should be made in how the CPG Board Chair appoints members to the grievance committee and how the CPG Board delegates grievance decision making to individual AOC staff. CPG Board Members can serve up to 9 years on the committee and CPG Board which does not allow for other points of view when deciding on grievances. Other guardian and/or fiduciary governing bodies have a rotating system that allows for experts within the profession or associated profession be utilized. This has been successful with the Center for Guardianship Certification and the California Professional Fiduciary Bureau which are able to investigate and resolve grievances within a year or less.

As CPG's we are bound by Standards of Practice and a Code of Ethics. WAPG would ask that the CPG Board and AOC staff be held to these same standards. Conflict of Interest are specifically outlined for CPG's which states that if there is an appearance of a conflict that the CPG must recuse themselves. As a CPG Board member, I raised this concern and received a response from the AOC staff that there was not a conflict if the individual CPG Board member did not view that their vote and/or participation resulted in a conflict. According to the AOC staff the bases for this narrow definition was part of a decision made by the Washington State Supreme Court. WAPG would request that the specific language validating this definition be provided. It is the opinion of several attorneys and Judges within the legal community that this may not be valid and the appearance of a conflict of interest would result in a CPG Board Member or AOC staff member having to recuse themselves.

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The CPG Board should address the issue of not having a statute of limitations on filing of grievances. CPG's should deserve the same consideration as other professions on which there are regulations that bar a complaint from being filed after a set time. Statute of limitations are utilized in all other areas of probate administration except in certain defined areas. WAPG would request that these same timelines be applied to a grievance as well.

In closing, the CPG grievance process is affecting the appointment of qualified professional guardians within the State of Washington. Many CPG's are electing not to serve on cases that may result in a CPG Board grievance due to: the nearly 5-year time-lag it may take to investigate and resolve the complaint; the cost to the CPG of those investigations; and the perception that the CPG Board and AOC staff are not recognizing CPG's as a profession. Instead CPG's are electing to take clients which require services other than guardianship. The chilling effect of the current CPG Board grievance process has created a disincentive to experienced CPGs serving as guardians.

Thank you for providing the opportunity for WAPG to provide written testimony to the CPG Board. WAPG would recommend that a forum be held where a resolution can be explored which may result in meaningful and productive regulation revisions and to restore confidence within the CPG community, public, CPG Board and AOC staff. A review of the CPG Board functions and authority may assist in accessing areas that require additional or revised processes in which a forum may be beneficial. WAPG would be open to underwriting the forum to provide productive and meaningful dialogue.

I apologize for not being able to attend the in-person CPG Board Meeting due to my being out of state. If the CPG Board has additional questions or comments please feel free to reach out to WAPG or myself.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Gary Beagle', with a long horizontal flourish extending to the right.

Gary Beagle, NMG, CPG, OCPF  
Washington Association of Professional Guardians  
President



## Certified Professional Guardianship Board

Monday, June 8, 2015 (9:00 a.m. – 1:00 p.m.)  
SeaTac Office Center, 18000 International Blvd., Ste 1106, SeaTac, WA

### Meeting Minutes

#### Members Present

Judge James Lawler, Chair  
Commissioner Rachelle Anderson  
Mr. Gary Beagle  
Ms. Rosslyn Bethmann  
Dr. Barbara Cochran  
Ms. Nancy Dapper  
Judge Gayle Harthcock  
Commissioner Diana Kiesel  
Mr. Gerald Tarutis  
Ms. Amanda Witthauer

#### Members Absent

Mr. Andrew Heinz  
Ms. Carol Sloan

#### Staff

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

### 1. Call to Order and Welcome

Judge Lawler called the meeting to order at 9:06 a.m. and welcomed everyone to the meeting.

### 2. Approval of Minutes

Judge Lawler asked for changes or corrections to the proposed minutes from the May 11, 2015 meeting. Mr. Jaback was listed as present, but was not. Motions attributed to Mr. Jaback at that meeting were made by Mr. Tarutis.

**Motion:** *A motion was made and seconded to approve the May 11, 2015 minutes with correction. The motion passed.*


### 3. Chair's Report

#### Update: Lori Petersen Suspension

Commissioner Anderson noted that it had been necessary to appoint a Guardian ad litem for each of Ms. Petersen's 124 cases. Many cases had no viable standby guardian assigned.

Discussion ensued regarding the certified professional guardian (CPG):

- There were allegations that incapacitated persons (IP) had not been visited regularly, some for more than a year and that guardianship billing had been inaccurate.
- One of the designated CPGs for Hallmark Care Services resigned April 21, 2015. The second designated CPG reported that he planned to resign June 30, 2015.

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- While it was felt that all IPs in Spokane County were safe with new guardians, it was noted that Ms. Petersen may have guardianship appointments in other counties that were unknown, as she had failed to provide the Board with a complete list of appointments. Staff contacted all courts where Hallmark Care Services was believed to have appointments. Each court was encouraged to take action to protect incapacitated persons.
  - Ms. Petersen has been suspended but not decertified. She has the option to request activation of her certification when her suspension ends.

This matter raised concerns about guardianship caseloads and required disclosures. The discussion came to a close with the reminder that while there are regulations in place, there is a tremendous amount of trust placed in a CPG.

**4. A number of people spoke during the Public Comment Period**

Mr. Kenneth Curry (Written comments were not provided).  
Ms. Sylvia Curry (Written comments were not provided).  
Mr. Tom Goldsmith (Written comments provided, please see attached).  
Ms. Claudia Donnelly (Written comments were not provided).

**5. SB 5607 – Guardian Grievance Procedure for the Courts**

Judge Lawler noted that the Pattern Forms Committee met and stakeholders have been asked for their comments on the proposed plain language complaint forms by July 27, 2015

Mr. Tarutis suggested including a statement regarding attorney fees and costs on the complaint form.

Each county will designate a contact person to receive complaints (forms).

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**6. Grievance Report**

Staff presented the current status of open and resolved grievances through May 31, 2015. Twenty new grievances have been opened this year. Five cases were resolved in May (4 closed for no jurisdiction, 1 closed for no actionable conduct). Thirty-three grievances remain open from 2014; 20 grievances remain open from 2013; and 2 grievances remain open from 2012. Staff stated that the 2012 grievances involve the same guardian and will be resolved together.

Mr. Beagle wondered if there is a better way to hurry the process along, and suggested there should be no more than a 60 day maximum time frame from complaint to hearing.



Staff explained that it typically takes about 30 days to investigate a grievance and because there have been times when there was only one grievance investigator, or no investigator the result has been a backlog of cases.

Staff clarified that if a grievance constitutes an emergency situation, it is forwarded directly to the court for remedy.

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**7. Executive Session (closed to public)**

**8. Vote on Executive Session Discussion (open to public)**

**Motion:** *A motion was made and seconded to conditionally approve Andrea Green's application for certification upon completion of UW Certification Program. Motion Passed.*

**Motion:** *A motion was made and seconded to deny David Keene's application for certification. Motion Passed.*

**Motion:** *A motion was made and seconded to take no further action against those CPGs who were late in submitting their affidavits, but have completed the required credits and paid their fees. Motion Passed.*

**Motion:** *A motion was made and seconded to deny late fee waivers for CPGs who as of 12/31/14 had not fulfilled the required CEUs, but subsequently have completed those requirements. One exception would be for David Trainer. Motion Passed.*

**Motion:** *A motion was made and seconded to extend the deadline to June 30 for all CPGs to complete credits for the 2013-2014 reporting period. Motion Passed.*

**Motion:** *A motion was made and seconded to file a complaint against Laura Sealey. The motion failed. No action will be taken.*

**9. Wrap Up and Adjourn**

The meeting was adjourned at 12:30 pm. The next Board meeting is scheduled for August 10, 2015 at 8:00 a.m. The meeting will be a teleconference.

**CERTIFIED PROFESSIONAL GUARDIAN GRIEVANCES**  
September 30, 2017

<b>Investigations</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>Total</b>
Grievances Needing Investigation: 8/30/2017	47	50	18	11	3	129
Resolved w/o ARD or Hearing	[4]					[4]
Resolved w/ARD						
Resolved w/Hearing						
New Grievances (Opened Since Last Report)	10					10
Re-Opened Grievances						
<b>Grievances Needing Investigation: 8/30/2017</b>	<b>53</b>	<b>50</b>	<b>18</b>	<b>11</b>	<b>3</b>	<b>135</b>

<b>Resolutions</b>	<b>2017</b>	<b>2016</b>	<b>2015</b>	<b>2014</b>	<b>2013</b>	<b>Total</b>
Dismissal – No Jurisdiction	4					4
Dismissal – No Actionable Conduct						
Dismissal – Insufficient Grievance						
Dismissal – Administrative						
Voluntary Surrender						
Admonishment						
Reprimand						
Suspension						
Administrative Decertification						
Decertification						
<b>Closed Since Last Report</b>	<b>4</b>					<b>4</b>