

Guardianship Program Rules

Regulation 000 Administrative Regulations

Adopted February 11, 2008

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Guardianship Program Rules

001 Purpose of Administrative Regulations

The regulations shall include administrative items for the Certified Professional Guardianship Board (Board) such as definitions applicable to all aspects of professional guardianship related to the Board, public records and records retention, policies, best practices, and related administrative items.

Guardianship Program Rules

002 Definitions

These definitions apply to any regulations adopted by the Board unless the context clearly requires otherwise.

002.1 An “Agreement Regarding Discipline” is a written settlement agreement approved by the professional guardian and the Board of a grievance or complaint against a professional guardian. The final agreement, approved by the parties, is a public record available for inspection, copying, and disclosure.

002.2 “Certification of an individual” is the process by which an individual becomes qualified to perform services as a professional guardian as defined in RCW 11.88.008. Certification is given to individuals that the Board believes to have attained a minimum level of experience and an understanding of the responsibilities of guardianship; have not been disqualified by prior conduct, such as discharge from other cases, or been shown not to be trustworthy; know how to make decisions for someone else; and who will make those decisions in an ethical manner and in compliance with the standards of practice.

002.3 “Certification of an agency” is the process by which an agency becomes qualified to perform services as a professional guardian as defined in RCW 11.88.008. Certification is given to agencies that meet the requirements for certification of an agency in General Rule of Court (GR) 23.

002.4 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. In a complaint, the Board describes how the professional guardian allegedly violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other authority. The Board must approve the filing of a complaint.

002.5 “Decertification” of a professional guardian or agency occurs when the Board or the Supreme Court cancels the certification of a professional guardian or agency for any reason.

002.6 To “deliberate” is to consult with others in a process of exercising predecisional opinions and making recommendations prior to reaching a decision. “Deliberative records” are records that contain preliminary or draft opinions or recommendations as part of a deliberative process.

002.7 “Disciplinary records” are the records maintained by the Washington State Administrative Office of the Courts (AOC) of any disciplinary review, sanction, or other action imposed by the Board on the professional guardian, which shall include the

reason for the Board's action. The AOC shall maintain such records as defined by records retention schedules of the judicial branch and the AOC.

002.8 A "disciplinary sanction" is any punitive or remedial action taken by the Board against a professional guardian as a result of a disciplinary proceeding under the rules and regulations of the Board. A disciplinary sanction may be decertification, suspension, a prohibition on taking new cases, letter of reprimand, or letter of admonition. A disciplinary sanction is also any remedy the Board imposes on the professional guardian for the purpose of ensuring compliance with the duties of a professional guardian, such as continuing education, auditing practices, restitution, payment of the costs of an investigation, and any other remedy ordered by the Board.

002.9 (Repealed section 8-10-09)

002.10 "Executive session" is a meeting of a quorum of the Board, declared by the Board as an executive session, which meeting is not open to the public.

002.11 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. The grievance must include a description of the conduct of the professional guardian that the grievant alleges violates a statute, fiduciary duty, standard of practice, rule, regulation, or other authority applicable to professional guardians, including the approximate date(s) of the conduct.

002.12 A "hearing" is a proceeding that allows parties an opportunity to be heard regarding an issue. A hearing officer, appointed by the Chair of the Board as set forth in the Disciplinary Regulations, rules on all evidence, procedures, and legal issues. The Board may be represented by an attorney or other staff, and the professional guardian may be represented by an attorney. Each party may present evidence and argument as directed by these regulations and the hearing officer.

002.13 An "incomplete grievance" is one that is unclear or substantially lacking in specificity so as to make the grievance inactionable.

002.14 "Investigative records" are records related to an investigation pursuant to GR 23 and the disciplinary regulations of the Board into the conduct of a professional guardian prior to the imposition of any disciplinary sanction or dismissal. (Revised 3/8/10).

002.15 "Professional guardian" is a guardian as defined by RCW Chapter 11.88.008 and includes both the individual and the agency.

002.16 "Revoked" or "revocation" means a professional guardian's certification is cancelled by the Board or the Washington State Supreme Court pursuant to the procedures set forth in these disciplinary regulations or any other regulations of the

Board, as a result of the professional guardian's failure to comply with any Board rule or regulation.

002.17 A "suspension" of a professional guardian occurs when the Board or the Supreme Court orders that the certification of a professional guardian or agency be temporarily cancelled for a specified period of time. A suspended professional guardian or agency may not act as a certified professional guardian for any person during the period of suspension.

002.18 "Voluntary surrender" means a process where a certified professional guardian voluntarily decides to discontinue practice in the profession and surrenders his or her certification pursuant to regulations adopted by the Board.

Guardianship Program Rules

003 Public Records

See General Rule 31.1

003.1 Records Retention. Records related to the Certified Professional Guardian Board shall be retained in accordance with records retention schedules for the judicial branch and the Washington State Administrative Office of the Courts (AOC). (Renumbered 10-14-15)

003.2 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, and any order on appeal by the professional guardian, shall be posted for public access on the website for the Administrative Office of the Court. (Adopted 10-19-15)

Guardianship Program Rules

401 Guardian's Duty to Court

401.1 The guardian shall perform duties and discharge obligations in accordance with applicable Washington and federal law and the requirements of the court.

401.2 The guardian shall not act outside of the authority granted by the court and shall seek direction from the court as necessary. If the guardian is aware of a court order that may be in conflict with these standards, the guardian shall bring the conflict to the attention of the court and seek the court's direction.

401.3 The guardian shall at all times be thoroughly familiar with RCW 11.88, RCW 11.92, GR 23, these standards, and, any other regulations or laws which govern the conduct of the guardian in the management of the affairs of an incapacitated person.

401.4 The guardian shall seek legal advice as necessary to know how the law applies to specific decisions.

401.5 The guardian shall provide reports, notices, and financial accountings that are timely, complete, accurate, understandable, in a form acceptable to the court, and consistent with the statutory requirements. The financial accounting shall include information as to the sustainability of the current budget when expenditures exceed income during the reporting period.

401.6 All certified professional guardians and guardian agencies have a duty by statute to appoint a standby guardian.

401.6.1 All certified professional guardians shall appoint a standby guardian who is a certified professional guardian who accepts the appointment and has the skills, experience and availability to assume responsibility as court appointed guardian per statutory requirements. (Revised 10-14-13)

401.6.2 The certified professional guardian will make available to the standby guardian those records and information needed to address the needs of the incapacitated person in the event of a planned or unplanned absence. (Revised 10-14-13)

Guardianship Program Rules

005 Best Practices

(Reserved)

Guardianship Program Rules

006 General Provisions

006.1 Format for Documents Filed with the Board

006.1.1 All documents filed with the Board, on any matter before the Board, must be on letter-size paper (8 ½ inches by 11 inches). Documents filed may not include any tabs or other dividers, except that colored letter-size paper may be used for dividers between sections.

006.2.2 This rule is not mandatory for exhibits, but the use of exhibits that comply with this regulation is encouraged if it does not impair legibility