

509.5 INTERIM SUSPENSION FOR CONVICTION OF A CRIME

1. Definitions.

A. "Conviction" means:

~~i. for the purposes of this rule occurs upon~~ An entry of a plea of guilty, or a verdict of guilty for a crime, unless the ~~defendant~~ person affirmatively shows that the ~~guilty~~ plea or verdict was not accepted or ~~was~~ withdrawn, or

~~ii. upon~~ An entry of a finding or verdict of guilty for a crime, unless the ~~defendant~~ person affirmatively shows that the judgment was arrested or a new trial was granted.

Conviction does not include findings or verdicts that were disclosed by the person at the time of application for professional guardian or conservator certification. Convictions previously disclosed at the time of application are not addressed by this regulation and are governed by Washington State Court General Rule 23 and the Board's Series 100 Application Regulations.

B. ~~"Serious Crime" includes any means, regardless of whether under a law of~~ Washington, any other state, or the United States:

~~i. Felony~~ Any felony criminal offense;

~~ii. Crime~~, A criminal offense, a necessary element of which, as determined by its statutory or common law definition, includes ~~any of the following~~ dishonesty, neglect, abuse, violence, or use of physical force;

~~a. Commission of an act of violence;~~

~~b. Interference with the administration of justice;~~

~~c. Perjury;~~

~~d. Fraudulent misrepresentation;~~

~~e. Bribery;~~

~~f. Extortion;~~

~~g. Misappropriation;~~

~~h. Theft.~~

~~iii. Attempt, or a conspiracy, or solicitation of another, to commit a~~ "serious crime" Any criminal offense listed under RCW 43.43.830
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iv. Any criminal offense listed under RCW 43.43.842 Vulnerable adults – Additional licensing requirements for agencies, facilities, and individuals providing services; or

v. Any criminal offense relevant to the functions assumed as guardian or conservator.

2. Procedure upon Conviction.

~~If a CPGC is convicted of a felony or other serious crime involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, or, is convicted of a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, AOC must file with the Board a certified copy of the judgment and sentence that sets out such conviction. The Board shall decertify a professional guardian and conservator upon the conviction of such crimes, under either state or federal law, regardless whether such conviction is after a plea of guilty, nolo contendere, not guilty, or otherwise, and regardless of the pendency of any appeal.~~

~~AOC must also petition the Standards of Practice Committee Chair for an order suspending the respondent CPGC during the pendency of disciplinary proceedings.~~

~~The decertification shall be effective upon the filing of a certified copy of such conviction with the Board. The Board shall file the certified copy of the conviction with other Board records pertaining to the professional guardian's certification. The Board shall provide written notice of the decertification to the professional guardian and conservator by certified mail, directed to the guardian and conservator's last known address maintained by the AOC. The notice shall advise the professional guardian and conservator of the decertification and the reason(s) for the decertification. The notice shall further advise that if the professional guardian and conservator should not have been decertified by the Board, the professional guardian and conservator may file a petition requesting an administrative hearing. The petition shall set forth in detail the facts supporting the professional guardian and conservator's claim that an administrative error has occurred and that the professional guardian and conservator has not been convicted of a felony, or a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator. The petition must be signed by the professional guardian and conservator under penalty of perjury. The professional guardian and conservator must file the petition within 15 days of the date of mailing of the Board's notice of decertification. Any petition not filed within 15 days shall be dismissed by the Board. If a timely petition is filed by the professional guardian and conservator, the Board Chair shall appoint a three-person Review Panel to conduct a hearing on the petition. The sole issue before the Review Panel shall be to determine whether the professional guardian has been convicted of a felony, or of a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator. In the sole discretion of the Review Panel, the hearing may be held by telephone. The Review Panel shall make written findings and a recommendation about whether the petition should be granted. The findings and recommendation of the Review Panel shall be filed with the Board and served by first-class mail on the professional guardian and conservator.~~

~~The Board shall review the decision of the Review Panel and shall make a decision approving or denying the petition. If the petition is approved, then the professional guardian and conservator shall be eligible for recertification, if the professional guardian and conservator shows proof of compliance with all other requirements for certification. The members of the Review Panel shall not participate in the decision of the Board. A copy of the Board's order shall be sent by first-class mail to the professional guardian and conservator. Any such order shall be final.~~

~~A. If a CPGC is convicted of a crime that is not a felony, a serious crime, or a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, the Standards of Practice Committee considers a report of the conviction in the same manner as any other report of possible misconduct by a CPGC~~

~~3. Petition. A petition to the Standards of Practice Committee for suspension under this rule must include a copy of any available document establishing the fact of conviction. AOC may also include additional facts, statements, arguments, affidavits, and documents in the petition. AOC must serve a copy of the petition on the respondent, and proof of service filed with the AOC.~~

~~24. Immediate Interim Suspensionsuspension procedure. If the crime of conviction is a felony or other serious crime or a misdemeanor or gross misdemeanor involving dishonesty, neglect, abuse, or use of physical force, or otherwise relevant to the functions of a guardian or conservator, the Standards of Practice Committee must enter an order immediately suspending the respondent's CPGC certification.~~

~~A. If suspended, the respondent must comply with DR 509.4.4. Upon conviction of a certified professional guardian or conservator (CPGC) of a crime, the Administrative Office of the Courts (AOC) must file a certified copy of the judgment and sentence with the Board.~~

~~A.B. Suspension under this rule occurs: The Standards of Practice Committee (SOPC) shall review the certified copy of the judgment and issue an order suspending the CPGC (respondent) during the pendency of disciplinary proceedings under these rules.~~

~~i. Whether the conviction was under a law of this state, any other state, or the United States;~~

~~ii. Whether the conviction was after a plea of guilty, nolo contendere, not guilty, or otherwise; and~~

~~iii. Regardless of the pendency of an appeal of the underlying conviction.~~

C. The SOPC will direct service of a copy of the order on the respondent.

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D. When suspended, the CPGC must comply with DR 509.4.4 – Duties of CPGC upon suspension.

~~5. Duration of Interim Suspension. An interim suspension under this rule must terminate when the disciplinary proceedings in response to the complaint are fully completed or after appeal of the Standard of Practice Committee's decision.~~

~~63. Termination of interim Suspensionssuspension.~~

~~A. Petition and Response. A respondent may at any time petition the Standards of Practice Committee to recommend termination of an interim suspension. AOC, through disciplinary counsel, may file a response to the petition. An interim suspension will terminate when the disciplinary proceeding under these rules, including any review or appeal of a disciplinary sanction, is complete.~~

~~B. Standards of Practice Committee Recommendation. If either party requests, the Standards of Practice Committee must hear oral arguments on the petition at a time and place and under terms as the Standards of Practice Committee Chair directs. The Standards of Practice Committee may recommend termination of a suspension only if the Committee makes an affirmative finding of good cause to do so. There is no right of appeal from a Standards of Practice Committee's decision regarding interim suspension. At any time, the suspended CPGC may petition the Board to terminate the interim suspension.~~

i. The SOPC, through disciplinary counsel, may file a response. Any response must be filed within 5 business days. The response shall be served on the respondent CPGC.

ii. If either the suspended CPGC or the SOPC requests, a Hearing Officer appointed for the matter must hear oral arguments on the petition at a time and place and under terms as the Hearing Officer directs.

iii. The Hearing Officer shall make written findings and may recommend to the Board that the interim suspension be terminated only upon an affirmative finding of good cause to do so. Any recommendation of the Hearing Officer shall be considered by the Board at its next scheduled meeting.

iv. There is no appeal right from a decision on this petition.