



## Certified Professional Guardian Board Annual Planning Meeting

Monday, April 14, 2014 (9:00 a.m. – 3:00 p.m.)  
SeaTac Office Center, 18000 International Blvd., Suite 1106,  
SeaTac, WA

### Meeting Minutes

#### Members Present

Judge James Lawler, Chair  
Judge Robert Swisher, Vice-Chair  
Commissioner Rachelle Anderson  
Mr. Gary Beagle  
Ms. Rosslyn Bethmann  
Ms. Nancy Dapper  
Mr. Andrew Heinz  
Mr. Bill Jaback  
Ms. Emily Rogers  
Ms. Carol Sloan  
Mr. Gerald Tarutis

#### Members Absent

Dr. Barbara Cochran  
Judge Sally Olsen

#### Staff

Ms. Shirley Bondon  
Ms. Carla Montejo  
Ms. Sally Rees  
Ms. Kim Rood

#### 1. Call to Order

Judge James Lawler called the meeting to order at 9:10 a.m.

#### 2. Welcome and Introductions

Judge Lawler welcomed Board members and members of the public to the meeting.

#### 3. Chair's Report

##### Approval of Minutes

Judge Lawler asked for changes or corrections to the March 10, 2014 telephone conference proposed minutes. There were no changes or corrections.

**Motion:** *A motion was made and seconded to approve minutes from the March 10, 2014 meeting. The motion passed.*

##### Correspondence

Judge Lawler asked everyone to review correspondence from the University of Washington Educational Outreach. Dave Szatmary, Vice Provost of UW Educational Outreach will retire in the spring after a 30-year career with the University of Washington. A national search for his replacement is currently underway.

#### 4. Public Comment Period (Please see attached)

## 5. Achieving Workable Unity

During the January 2014 Board meeting, stakeholder involvement was identified as a priority. As a result, reading materials were compiled to assist in understanding and achieving workable unity.

To provide a foundation for further discussion, staff presented the following:

### Professional Regulation

The primary reason for regulation is to protect and act in the interest of the public. Generally there are two models of professional regulation – self regulation and government regulation.

Professional **self-regulation** is a regulatory model which is based on the concept of an occupational group formally regulating the activities of its members. **Government regulation** generally involves a rule of order having the force of law, prescribed by a superior or competent authority, relating to the actions of those under the authority's control.

Often professional guardians and others compare the Board to the Washington State Bar Association (WSBA), but the comparison is not on point. To a certain degree, attorneys are self-regulated, but WSBA is a hybrid body, it serves as both a regulatory body and an association. The Guardian Board, however, is a regulatory body only.

The enabling legislation for the Guardian Board is General Rule (GR) 23. Generally, the government regulates when the following conditions exist:

- The public does not have the capacity to evaluate the competence of the professional (before it may be too late).
- The public does not have the choice of practitioner.
- There is an imbalance in the power of the service provider and those who receive services.
- When the consequences of unethical practitioners are serious.

All the circumstances above are applicable to professional guardian; thus, it's reasonable to expect that professional guardians are government regulated rather than self-regulated.

### Comparing a Regulatory Body to a Professional Association

The function of an association is to provide networking opportunities, publish information, conduct research, hold educational conferences, and to negotiate preferential rates for its members. The association's priority is its membership. Dues are collected from members who expect to get something back from the association.

The function of a regulatory body is to establish credentialing criteria, to provide a code of ethics and professional standards, to investigate and enforce requirements

and restrictions to protect the public. A regulatory body places a stamp of approval on certified or licensed professionals for the public's protection. The regulatory body's main function is to serve the public.

The following is a list of "shall" items that the Board is bound to comply with:

- The Board **shall** process applications . . .
- The Board **shall** adopt standards . . .
- The Board **shall** implement a training program . . .
- The Board shall adopt and implement disciplinary procedure
- The Board **shall** collect fees . . .
- The Board shall hold meetings.

The listing above mirrors a regulatory body. There is nothing noted above other than "training" that might be viewed as related to an association.

A comment was made, that in order to effectively regulate, a body needs to educate, gain consensus and ensure that the people being regulated are part of the process. People should be the first priority while regulation should be used as a last resort. Voluntary participation with guidelines and standards needs to be promoted.

### Stakeholder Involvement

The Board reviewed the history of stakeholder involvement from House Bill 1771 to General Rule 23. Involvement had not significantly changed over the years. Stakeholder representation has been consistent with government regulation and GR 23 as provided below:

*"(c) Certified Professional Guardian Board. (1) Establishment. (i) Membership. The Supreme Court shall appoint a Certified Professional Guardian Board ("Board") of 12 or more members. The Board shall include representatives from the following areas of expertise: professional guardians; attorneys; advocates for incapacitated persons; courts; state agencies; and those employed in medical, social, health, financial, or other fields pertinent to guardianships. **No more than one-third of the Board membership shall be practicing professional guardians.**"*

The last sentence of the paragraph above was added four or five years ago, to ensure that sufficient positions were available to enable significant participation by all stakeholders.

### Stakeholder Identification Exercise

Meeting participants were asked to identify stakeholders and for each stakeholder identified select a stakeholder type and an involvement type from the lists below.

**Stakeholder types:**

1. Decision-makers –Those with the formal power to make decisions.
2. Decision-blockers – Those with the power to block decisions.
3. Those Affected – Those affected by decisions.
4. Subject Matter Experts – Those with relevant information or expertise.

**Involvement types:**

1. Representative - Representatives of a particular stakeholder groups might be members of the regulatory body. The assumption is that these individuals can effectively speak about or act in the interests of the group community they represent.
2. Consultant - Individual and group stakeholders are consulted about their perspectives and concerns. Their views are considered by the decision-makers when making decisions. Comment coordinators may be assigned to consult with; forum discussions may be held or surveys administered.
3. Advisor - Group stakeholders form advisory panels, meet to discuss issues and share advice with the regulatory body.
4. Are Informed - Some stakeholders need to be informed about issues and plans via Listservs, and the website etc., but not invited to play an active role.

During the exercise and discussion, participants recommended the following:

- The Board should form an advisory committee which would include a representative from SCORE (retired business persons who advise small businesses) or the small business development council. These individuals could advise guardians in applying state regulations to their own businesses.
- Develop statewide discussion groups to gain and share knowledge regarding statewide regulatory and business issues.
- Reach out to guardians statewide via email. Use the certified professional guardian Listserv to send out email notification to guardians regarding topics to be discussed in order to gather feedback prior to the meetings.
- Utilize press releases to obtain more participation from family members of incapacitated persons.
- Contact parent coalitions who have contact with many other subgroups in the community. Because these participants are active parents who are committed to the welfare of incapacitated person they would be more likely to participate with the Boards and serve on advisory groups.

The Board decided that a structured listing of professional contacts needs to be formulated in order to reach out to stakeholder organizations. A primary contact person should be identified for each organization. To facilitate discussion, Board members could travel to various associations and CPG locations to participate in meetings.

Staff agreed to develop a Communications Plan, which would include the suggestions discussed.

## 10. Proposed SOP 413, Reg. 102.4 and Reg. 702.2

Andy Heinz presented the following proposed revisions on behalf of the Regulations Committee:

### Application Regulation 102.4

102.4 “Designated CPG” means the certified professional guardians within an agency working for an agency who have the final decision-making authority for incapacitated persons or their estate on behalf of the agency. ~~The designated CPG is responsible for the actions of the agency(ies) for which they serve as designated CPG (Adopted 1-9-12)~~

### Certification Regulation 702.2

702.2 “Designated CPG” means the certified professional guardians within an agency working for an agency who have the final decision-making authority for incapacitated persons or their estate on behalf of the agency. ~~The designated CPG is responsible for the actions of the agency(ies) for which they serve as designated CPG (Adopted 1-9-12)~~

### Proposed SOP 413

#### 413 Responsibilities of Certified Professional Guardian Agencies

413.1 The designated Certified Professional Guardian (CPG) is responsible for the actions of the agency for which they serve as designated CPG.

413.2 A CPG is bound by the Standards of Practice not withstanding that the professional guardian acted at the direction of another person.

413.3 A designated CPG shall make reasonable efforts to ensure that the conduct of non-guardian agency employees is compatible with the professional obligations of the professional guardian.

Regulations 102.4 and 702.2 address the question of who is responsible for the actions of employees of a professional guardian agency and of the agency itself.

January 2012, the Board decided that a certified professional guardian agency must be owned by certified professional guardians only. It was previously decided that each agency must designate two CPGs who would be responsible for the actions of the agency. After consulting with an Assistant Attorney General the Regulations Committee believes GR 23 must be amended to include the requirement of one-hundred percent CPG ownership in order to safeguard against non CPGs having majority control over CPGs, essentially controlling how the agency was operated. Per GR 9, a process needs to be followed and submitted to the Supreme Court, wherein the court will decide if the general rule needs to be amended.

The proposed revision discussed above, and the question of whether a certified professional guardian agency should be one-hundred percent owned by CPGs should serve as the test case for the Communications plan.

## 6. Executive Session (Closed to Public)

## 7. Reconvene and Vote on Executive Session Discussion (Open to Public) Applications Committee

Mr. Jaback presented one application on behalf of the Applications Committee.

**Motion:** *A motion was made and seconded to conditionally approve Elizabeth Swain's application. The motion passed.*

### Grievances<sup>1</sup>

Staff presented Grievance #2012-044

**Motion:** *A motion was made and seconded to file a complaint for decertification in the matter of Grievance # 2012-044. The motion passed. Carol Sloan abstained.*

Staff presented Grievance #2011-018, 2013-052, and 2014-003

**Motion:** *A motion was made and seconded to file a complaint for decertification in the matter of Grievances #2011-018, 2013-052, 2014-033. The motion passed. Carol Sloan abstained.*

### 2010 – 2013 Grievance Report

**Motion:** *A motion was made and seconded to publish the grievance report. The motion passed.*

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<sup>1</sup> Members of the Standards of Practice Committee did not vote.

## 8. Responsibility for Viable Guardianship Businesses

### Bridge Builders' Correspondence

The Board discussed a letter submitted by Ms. Mindi Blanchard, President of Bridge Builders' Ltd., to Judge Lawler expressing her concern over the current cost and potential income associated with being a business owner and CPG in today's economy. During the discussion the following comments were made:

- The Board needs to be made aware of the challenges on the business side of being a guardian or guardian agency. In some instances, grievances against CPGs can be viewed as an individual making poor business decisions because their venture is struggling financially. Guardian agencies and small businesses are concerned that regulations will make it very difficult to remain soluble. A representative from the small business development council should be invited to the Board's meetings in order to listen to the concerns of CPGs and provide a business perspective on these matters. Because of the significant economic investment vs. low return, some CPGs are considering leaving the guardianship profession and taking a job in the private sector. More guardians are needed, not less.
- Guardians need to communicate with the Board when they think changes need to be made to regulations. The Board needs to be made aware of problems in order to review and possibly revise regulations. As a rule, however, regulations are created in response to problems. The Certified Professional Guardian Board would not be necessary if all CPGs followed the standards of practice.
- Mentors and support groups for guardians are extremely helpful to individual and agency success. Guardians with expertise in specific areas should be encouraged to act as consultants to other guardians or act as advisors to mental health facilities in discharge planning. Another idea to help reduce the cost of guardianship would be to use interns. Currently, interns are recruited by guardians in the state of Florida to assist with lesser duties in addition to gaining knowledge about the profession. Interns are able to get a flavor for the guardianship profession without having to make the initial monetary investment of the CPG.
- Due to the cost of doing business as a CPG, an increase in the monetary compensation for certified CPGs should be considered as there has not been an increase in several years.

### **Wrap Up and Adjourn**

Meeting adjourned at 2:40 p.m. Next meeting, a teleconference, is scheduled for May 12th, 2014, 8:00 a.m. to 9:00 a.m.

**Recap of Motions from April 14<sup>th</sup>, 2014 Meeting**

Motion Summary	Status
<p><b>Motion:</b> <i>A motion was made and seconded to conditionally approve Elizabeth Swain's application. The motion passed.</i></p>	<p>Passed</p>
<p><b>Motion:</b> <i>A motion was made and seconded to file a complaint requesting decertification in the matter of Grievance #2012-044. Carol Sloan abstained.</i></p>	<p>Passed</p>
<p><b>Motion:</b> <i>A motion was made and seconded to file a complaint requesting decertification in the matter of Grievance #2011-018, 2013-052, 2014-003. The motion passed. Carol Sloan abstained.</i></p>	<p>Passed</p>
<p><b>Motion:</b> <i>A motion was made and seconded to publish the grievance report. The motion passed.</i></p>	<p>Passed</p>
Action Items	Status
<p><i>Staff will draft a Communications Plan.</i></p>	<p>In Process</p>