



Certified Professional Guardianship Board

Monday, June 9, 2014 (9:00 a.m. – 2:00 p.m.)
SeaTac Office Center, 18000 International Blvd.
SeaTac, WA

Proposed Meeting Minutes

Members Present

Judge James Lawler, Chair
Commissioner Rachelle Anderson
Mr. Gary Beagle
Dr. Barbara Cochrane
Ms. Nancy Dapper
Mr. Andrew Heinz
Ms. Emily Rogers
Ms. Carol Sloan
Mr. Gerald Tarutis

Members Absent

Judge Robert Swisher, Vice-Chair
Ms. Rosslyn Bethmann
Mr. William Jaback
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 9:15 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 May 23, 2014 telephone conference proposed minutes. There were no changes or corrections.

Motion: *A motion was made and seconded to approve minutes from the May 23, 2014 meeting. The motion passed.*

Correspondence

WSBA Elder Law Section

Judge Lawler noted that the WSBA Elder Law Section Executive Committee submitted a request to be specifically named as a stakeholder in the Board's newly developed Communication Plan.

Judge Lawler also noted that both Mr. Beagle and Ms. Bondon attended the 3rd World Congress on Adult Guardianship in Washington, D.C., and asked Mr. Beagle to give a brief synopsis of the conference. Mr. Beagle reported that Article 12 of the United Nations Convention on the Rights of Persons with Disabilities was the focus of the conference. Article 12 – Equal recognition before the law states that persons with disabilities have the right to recognition everywhere as persons before the law and that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

Mr. Beagle reported that Article 12 incorporates additional safeguards in

guardianship and involves a focus on supported decision-making. Mr. Beagle also commented that throughout the world, guardianship is handled differently.

4. Public Comment Period (Please see attached)

5. Board and Committee Charters (BJA Request)

The Board of Judicial Administration (BJA) has appointed a workgroup to review judicial branch committees, boards and commissions, including the Certified Professional Guardianship Board. Staff explained that BJA is reviewing committees in an effort to understand resource needs and to understand where mission and tasks might overlap. Supreme Court Commissions, Boards and Committees have been asked to prepare and adopt a charter containing the following information:

Committee title; authorization (court rule, court order, bylaw, statute or other); charge or purpose; AOC staff support required; policy area; other branch committees addressing the same topic; other branch committees to partner with; committee type: standing, subcommittee, workgroup; committee membership; term limit; duration/review date; budget; reporting requirements (i.e., quarterly to the BJA, the authorizing organization and/or other entities addressing same topic); and expected deliverables or recommendations.

Further discussion followed regarding committee charters.

Motion: *A motion was made and seconded to adopt charters for the Certified Professional Guardianship Board and its committees (Education, Regulation, Certification and Nomination) as modified. The motion passed.*

6. Education Committee

The contract with the University of Washington Professional and Continuing Education (UWPCE) Office for the guardianship certificate program is up for renewal. The Education Committee met and discussed some concerns regarding the program. The Committee asked UWPCE for course evaluations for all previously held guardianship certificate courses. Education Committee members reviewed those to familiarize themselves with program successes and challenges. Malia Morrison, UWPCE, met with the Guardianship Certificate Program Advisory Committee and developed the following recommendations:

- Prospective guardians should take the online Lay Guardian training offered by the Administrative Office of the Courts, (before enrolling in the program) to give students insight into required duties.
- Develop better guidelines for guest speaker sessions, to include more description of what is expected of the speaker.

- Draft and administer a post-graduate survey to determine how graduates feel about the program, now that they are certified guardians performing the work.
- Obtain video of actual guardianship hearings in both rural and urban counties and make available to students.
- The Office of Guardianship and Elder Services should develop a template for guardianship accountings for use by Guardianship Certificate Program students. Students should be assigned a project requiring use of the template, which members of the Office of Guardianship and Elder Services will grade and provide feedback.

Also discussed was the possibility of holding the guardianship certificate program in eastern Washington. The Education Committee will ask UWPCE to consider options to offer the guardianship certificate program in eastern Washington and present a report on the topic to the Committee.

7. Regulations Committee

Mr. Heinz stated that due to numbers, the Department of Health (DOH) and the CPG Board were quite different, thus the method of operation reflects the practical reality. For example, DOH regulates approximately 400,000 individuals and 80 professions, which includes nurses and various other healthcare providers, whereas the CPG Board regulates approximately 300 guardians.

The differences between the Uniform Disciplinary Act (UDA) and the Board's Regulation 500, may be narrowed to three areas.

1. Prior to hearing, almost all decisions regarding grievances received by DOH are made by panels comprised of three members of a board or commission. Unlike the CPG Board, decisions made by a DOH panel are final and not reviewed by the full board.
2. DOH has approximately 64 staff of which the duties of investigator and attorney are separate, unlike the CPG Board, where prior to filing a complaint, investigator and attorney functions are combined into one position. The Board has two staff members performing these functions.
3. Hearings officers are attorneys employed by DOH. The Administrative Office of the Courts contracts with attorneys who serve as hearings officers.

Comparing DOH to the Board's grievance cases, DOH receives approximately 10,000 cases annually, investigate 5,000 and take disciplinary actions in 3,000. Approximately 27 percent of actions are resolved informally, 24 percent with agreed orders, 26 percent with default orders and six percent with final orders after hearing.

The Board receives approximately 50 grievances annually and takes disciplinary action in approximately six. Approximately 80 percent are resolved with agreed orders and two percent with final orders after hearing.

Ms. Rees gave the Board some insight into the Washington State Comprehensive Investigator Training sponsored by the Department of Enterprise Services. Both Board grievance investigators follow guidelines put in place by the training.

Ms. Rees directed the Board's attention to a summary she developed to give the Board an overview of grievances. Grievances that were opened, closed and pending, also the resolution of the grievances. In regards to the older grievances, the process had been to hold a case until the court takes action. The CPG Board no longer waits for a response from the court.

Ms. Bondon noted that before Commissioner Valente left the Board he wrote a letter to Superior Court Judges and Commissioners explaining how the Board grievance process works. Ms. Bondon stated that the Board should send a revised version of the letter to all Superior Court Judicial Officers explaining the grievance process.

Board members discussed concerns expressed by professional guardians and their attorneys that guardians were too exposed. It was believed that guardians were not able to protect themselves from liability associated with a guardianship appointment. A Board member reported that attorneys were advising professional guardians to petition the court for instructions as a means of protection.

Motion: *A motion was made and seconded to publish a Request for Comment addressing the issue of petitioning for instruction as a protection for professional guardians against liability for decisions made that could be a violation of the Standards of Practice, when the choices available do not have clear outcomes. After the following discussion, the motion and second were withdrawn.*

- Should the Board develop a policy that protects guardians from discipline based on a violation of the Standards of Practice when regulation is necessary to address violations of professional guardians who are not careful and competent?
- What question would the request for comment include?
- In an effort to obtain a meaningful dialogue and discussion, shouldn't the request include more detail and specificity about the issue?
- Wouldn't it be better to discuss the issue with guardians before publishing a request for comment?

The maker of the motion suggested that the Regulations Committee meet to discuss the issue and report back to the Board. The Regulations Committee's report could include a Request for Comment. Board members agreed with the suggestion.

8. Board Member Guidelines

Judge Lawler asked Ms. Bondon to review a Model Code of Ethics for Regulatory Boards for licensed professionals, which was included in the meeting materials.

The question has arisen that when a Board member is asked to speak at a class or seminar, who is that Board member speaking as, an individual or a Board member? According to the Model Code of Ethics presented, when a Board member speaks, that person represents the Board and should support the Board's decisions and policies whether or not that individual agrees with them. Disagreements regarding Board policies and procedures should be addressed in Board meetings.

The Model Code of Ethics also maintains that when a Board member is invited to speak at a function, the Board member should notify the Board chair or staff person of that invitation. Also noted, when serving on a regulatory Board, the member should not serve as an officer or in a position of leadership with the regulated profession.

Board members were reminded that any discussion in Executive Session and committee meetings are confidential. Also, if a Board member cannot attend a scheduled meeting, it is their responsibility to notify either staff or the Board's chair. A Board member should not have more than two unexcused absences in a calendar year.

Board members should refrain from engaging in ex-parte communication with members of the public regarding specific grievances and applications. These discussions are initiated to influence Board decisions and are inappropriate. When communication is initiated by others, Board members should explain that they are not able to discuss. If emails and letters are received, they should be forwarded to staff and should not be responded to.

9. Executive Session (Closed to Public)

10. Reconvene (Open to Public)

Board Member Guidelines, Continued

The Board continued its discussion regarding the Model Code of Ethics; Disciplinary actions must never be prejudged. There should be no preferential treatment afforded those involved because of personal values, friendship or standing in the community.

- a. Opinions received from Assistant Attorney Generals are not official. They are not published, nor should they be shared with the public. They are considered attorney-client privileged information.

- b. If a Board member must recuse themselves from voting, a clear recusal process should be followed. Staff will research and present a process to the Board.
- c. Disclosure of information. Correspondence, letters and emails sent to Board members should be sent to AOC Staff so that they may disseminate to other Board members.

11. Wrap Up and Adjourn

Online Guardianship Accounting Program (not on Agenda)

The project manager of the online accounting program used in Minnesota Courts for periodic reports will demonstrate the application in Washington State in July or August, 2014. AOC staff plans to apply for a grant to customize the program for Washington State.

Meeting was adjourned at 12:17 p.m. The next Board meeting will be held on August 11, 2014 at the SeaTac Office Building.

Recap of Motions from June 9, 2014 Meeting

Motion Summary	Status
Motion: <i>A motion was made and seconded to approve minutes from the May 23, 2014 meeting. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to approve charters as modified. The motion passed.</i>	Passed

Action Items	Status
<i>Staff will send a revised letter to Superior Court Judges and Commissioners regarding the Board's process for guardian grievances.</i>	Completed
<i>Staff will research and present a recusal procedure.</i>	In process
<i>The Regulations Committee will meet and discuss a proposed Request for Comment addressing petitioning the court for instructions as a means to protect professional guardians from discipline, when the choices available do not have clear outcomes.</i>	In process.