



Certified Professional Guardianship Board Meeting

Monday, October 20, 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
Dr. Barbara Cochran
Ms. Nancy Dapper
Ms. Emily Rogers
Ms. Carol Sloan
Mr. Gerald Tarutis

Commissioner Diana Kiesel

Members Absent

Judge Sally Olsen
Mr. Andrew Heinz
Mr. Bill Jaback

Staff

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

Guest

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. He introduced Commissioner Diana Kiesel of Pierce County who has been nominated to replace retiring Judge Olsen. Commissioner Kiesel attended the meeting as a guest as her appointment was pending. Emily Rogers has resigned from the Board, and a certified professional guardian (CPG) will be nominated for the resulting vacancy. Notice of the vacancy has been sent to the Washington Association of Professional Guardians (WAPG) and all CPGs in Washington State to recruit applicants.

3. Chair's Report

Approval of Minutes

Judge Lawler asked for changes or corrections to the September 8, 2014 telephone conference proposed minutes. There were no changes or corrections.

Motion: *A motion was made and seconded to approve minutes from the September 8, 2014 meeting. The motion passed.*

Complaint Procedure Discussion

Mr. Beagle noted that several judges had asked him about a letter they received from Judge Lawler concerning the processing of guardian complaints in superior court.

Judge Lawler explained that he sent out a letter to superior court judges to remind them of the process for dealing with complaints from the bench. The letter details various statutory mandates for the judicial process of complaints which includes compliance. In addition, it was reiterated that the Board should be notified of discovery. Courts were reminded that the complaint and conduct of the CPG might need to be dealt with separately by the court and the Board.

Mr. Beagle relayed questions from several judges. Would the Board take a judicial order into consideration when dealing with a disciplinary matter? Judge Lawler explained the Board would look into a number of factors such as; what had happened, what the conduct was, and what the question was that the court addressed. These factors would be considered when making a decision regarding sanctions. For example, the late filing of an annual report. Although a judge might approve the late filing, the Board could seek to discipline the CPG. There was a discussion regarding the Raven case and the weight given by the Board to the court's decision. In the Raven case, a great number of factors were considered by the court involving placement of the incapacitated person (IP) such as; suitability of the nursing home, interaction with family and hospital staff, and the medical condition of the IP. As a result, the Board gave the court's decision a great deal of weight. Judge Lawler stated he would like to see more CPGs ask for direction from the court when necessary.

Disciplinary Proceeding against Lori Petersen

Judge Lawler stated that the Supreme Court rendered a decision on July 3, 2014, that upheld the findings of fact and conclusion of law of the hearing officer. The Supreme Court remanded the case to the CPG Board to conduct a review of the proportionality of the sanction recommended for Ms. Petersen.

Ms. Petersen filed a Motion for Reconsideration that was denied because it was filed late. Ms. Petersen then filed a Motion to Extend Time to file her Motion for Reconsideration. The Supreme Court denied this motion also.

On September 25, 2014, the Supreme Court filed a Certificate of Finality of its Opinion. The Board will conduct the proportionality review in executive session.

Correspondence

GR 9 Request Submitted by Philip Talmadge on behalf of WAPG

Philip Talmadge submitted a GR 9 Request to the Supreme Court Rules Committee to increase the number of CPGs serving on the Board; increase the size of the Board; require Board members to review grievances prior to staff involvement; and prohibit public disclosure of dismissed grievances. The Board has not been informed of any action by the Supreme Court Rules Committee regarding the request.

Message to Shirley Bondon from Commissioner Velatequi

Commissioner Carlos Velategui emailed Shirley Bondon on September 10, 2014, with concerns regarding the dismissal of guardianship petitions because courts are unable to locate either a CPG or lay guardian willing to take on guardianship cases. Commissioner Velategui has been gathering data from judges to determine the number of dismissals occurring. In his communication, he requested assistance from Shirley Bondon to collect the data. Ms. Bondon encouraged Commissioner Velatequi to explain his concerns to the Chair of the Superior Court Judges Association and request a broader discussion of the issue.

Other Board members indicated that they believed that guardianships had also been dismissed in Clark and Pierce Counties due to an inability to identify a qualified individual willing to serve as guardian. A Board member asked the Board to take the lead in brainstorming with other interested groups/parties in order to create non-monetary incentives that would encourage CPGs and lay guardians to accept challenging guardianships.

4. Public Comment Period (Please see attached)

5. Staff Report

Demonstration

On October 27th and 28th, the Conservator Account Auditing Program (CAAP) software used to submit guardianship accountings in Minnesota will be demonstrated at the Administrative Office of the Courts (AOC) Office in Olympia. This accounting program is currently used by all guardians in Minnesota.

Grievance Update

All grievances are tracked for all years, 2011-to current date. Total pending cases number 84. Out of these pending cases, 66 cases are currently under investigation. The remaining 28 are actively in the hearing or appeal process. Several cases are actively negotiating agreements regarding discipline.

There has been an increase in grievances. In the past, the office has received approximately 50 grievances a year. Staff is estimating that the office will receive about 65 grievances in 2014. The number of grievances submitted is increasing annually, although a large number of complaints are closed based on lack of jurisdiction or no actionable conduct.

The Office of Guardianship and Elder Services was without a grievance investigator for a year during which many grievances accumulated. Grievance investigators have focused on closing older cases. All 2011 grievances have been closed. There are approximately eight open grievances from 2012 that the investigators are actively addressing. After resolving these cases, emphasis will be placed on 2013 and 2014 grievances.

In light of this increase, the office is considering ways of dismissing grievances more quickly. Many grievances are based on a lack of communication and/or misunderstanding, arising perhaps from a generational position of complete authority often taken by guardians certified prior to the UW Certificate Program. Education and improved listening skills for CPGs could greatly reduce the number of these types of complaints.

6. Draft Board Recusal Procedure

On June 9, 2014, the Board directed staff to draft a recusal process for Board review. A draft of the proposed policy has been created. Much of the proposal was extracted from an advisory opinion by the Attorney General (AG). The Summary communicates the foundation of the recusal process.

- a. Board members should fully disclose relationships with any and all individuals and organizations when matters involving those entities come before the board.

As an example, Dr. Cochrane is an employee of the University of Washington (UW). She feels she has a conflict of interest with regard to the contract AOC has with the UW and their CPG training program. Dr. Cochrane's relationship with the UW has been fully disclosed. She openly shares her knowledge regarding the CPG training program, however, reserves her opinions regarding the UW. This is an excellent example of a conflict of interest with a Board member that has been handled correctly.

- b. Board members should avoid participating in quasi-legislative matters involving their own specific, substantial, and readily identifiable financial interests, except where the financial interest is shared equally by other Board members.

CPGs serving on the Board have an inherent conflict of interest because they advocate for the interest of professional guardians. A board member who has a financial benefit in a Board matter must voice this conflict of interest and remove themselves from the issue.

- c. Board members should not participate in rulemaking when the organization in which they have a personal interest is the petitioner for the rule in question.

A member of the leadership of a professional organization where the Board regulates the professionals should not be invited to become a Board member. As an organizational leader, an individual will have a conflict of interest in most Board actions. In making decisions, Board members must understand that they do not have constituents. They serve on the Board to provide a specific perspective, however they do not represent any specific interest group. All members serve the public.

- d. Board members should not participate in grievances and complaints or other quasi-judicial proceedings involving individuals and organizations with which they are personally interested or where their impartiality might reasonably be questioned as a result of their association with those entities.

Conflicts of interest or the appearance of a conflict of interest should be disclosed to the Board to determine whether or not that Board member needs to withdraw from the discussion.

Motion: *A motion was made and seconded to request comments on the recusal policy. The motion passed.*

7. Executive Session (Closed to Public)

8. Reconvene and Vote on Executive Session Discussion (Open to Public)

Emerald City Update

Motion: *A motion was made and seconded to adopt the Hearing Officer's findings and conclusion with the exception that costs be increased to \$20,000. The motion passed.*

Petersen Proportionality Analysis

Motion: *A motion was made and seconded to approve the proportionality analysis of the Board; to impose a one year suspension; and to reduce the attorney fees and costs to \$7,500 in consideration of Ms. Petersen's expense of a monitor as provided herein. The motion passed.*

The Board clarified that "suspension" means that Ms. Petersen may not act in the capacity of a certified professional guardian; shall accept no new cases; and shall relinquish all existing cases to another CPG. An independent monitor shall monitor Ms. Petersen for a 24-month period when she returns to work as CPG. The Standards of Practice Committee (SOPC) shall approve the monitor. Ms. Petersen shall bear the expense of the monitor.

Applications Committee

Commissioner Anderson presented all applications on behalf of the Applications Committee.

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

Motion: A motion was made and seconded to conditionally approve Theresa Doyle's application. The motion passed.

Motion: A motion was made and seconded to deny Brenda Johnson's application. The motion passed.

Motion: A motion was made and seconded to conditionally approve Christine Mathes' application. The motion passed.

Motion: A motion was made and seconded to conditionally approve Anna Miller's application. The motion passed.

Motion: A motion was made and seconded to conditionally approve Maydee Murdock's application. The motion passed.

Motion: A motion was made and seconded to deny Robert Poindexter's application. The motion passed.

Motion: A motion was made and seconded to deny Jennifer Regeimbal's application. The motion passed.

Motion: A motion was made and seconded to conditionally approve Annemieke Van Der Werf Price's application. The motion passed.

Motion: A motion was made and seconded to deny Beth Willey's application. The motion passed.

9. Wrap Up and Adjourn

Meeting adjourned at 1:40 p.m. Next meeting is November 17, 2014, teleconference, 8:00 a.m. to 9:00 a.m.

Recap of Motions from October 20th, 2014 Meeting

Motion Summary	Status
Motion: A motion was made and seconded to request comments on the recusal policy. The motion passed.	Passed
Motion: A motion was made and seconded to adopt the Hearing Officer's findings and conclusions with the exception that costs be increased to \$20,000. The motion passed.	Passed

Motion Summary	Status
Motion: <i>A motion was made and seconded to approve the proportionality analysis for the Board; to impose a one-year suspension; to reduce the attorney fees and costs to \$7,500; to require a monitor for a 24-month period at CPG's expense after she returns to work as a CPG; and to have the monitor approved by SOPC. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Joy Brown's application. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Theresa Doyle's application. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to deny Brenda Johnson's application. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Christine Mathes' application. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Anna Miller's application. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Maydee Murdock's application. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to deny Robert Poindexter's application. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to deny Jennifer Regeimbal's application. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Annemieke Van Der Werf Price's application. The motion passed.</i>	Passed
Motion Summary	Status
Motion: <i>A motion was made and seconded to deny Beth Willey's application. The motion passed.</i>	Passed

Action Items	Status
Request comments on the proposed Recusal Policy	In Process