

January 12, 2015 Meeting Minutes

Meeting Minutes

Members Present

Judge James Lawler, Chair
Judge Robert Swisher
Commissioner Rachelle Anderson
Commissioner Diana Kiesel
Mr. Gary Beagle
Ms. Rosslyn Bethmann
Ms. Nancy Dapper
Mr. Andrew Heinz
Mr. William Jaback
Ms. Carol Sloan
Mr. Gerald Tarutis

Members Absent

Dr. Barbara Cochran

Staff

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

1. Call to Order

Judge Lawler called the meeting to order at 9:05 a.m.

2. Welcome and Introductions

Judge Lawler welcomed everyone to the meeting.

3. Board Business

Approval of Minutes

- Judge Lawler asked for changes or corrections to the proposed minutes from November 17, 2014.

Motion: *A motion was made and seconded to approve the November 17, 2014 minutes. The motion passed.*

Chair's Report

Correspondence

- **WINGS Grant.** In 2011, the Third National Guardianship Summit recommended that each state establish Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) to stimulate reform for guardianship. In 2011, Washington State submitted a grant to develop a WINGS, but was not a grant recipient. January 23, 2015, Washington will again submit an application to develop a WINGS.

The purpose of WINGS is to: (1) identify strengths and weaknesses in the state's current approach to adult guardianship and less restrictive decision-making options; (2) address key policy and practice issues; (3) engage in

outreach, education and training, including, for example, training in supported decision-making; and (4) serve as an ongoing problem-solving mechanism to enhance the quality of care and quality of life of adults affected or potentially affected by guardianship and other decision-making alternatives, and provide the support they need.

Prior to submitting the grant application, staff contacted 72 organizations to obtain letters of support and collaboration. Staff received 31 letters of collaboration. Ms. Bondon asked the Board to provide a letter of collaboration.

Currently, there is a drive to foster supported decision-making in guardianships. The concept involves surrounding persons needing decision-making assistance with individuals - family members, friends and professionals who can assist them in making decisions. The WINGS group will discuss this topic.

A board member asked if in addition to supported decision-making, would WINGS consider other recommendations? Staff stated that the six-member executive committee, comprised of the courts, Disability Rights Washington, Adult Protective Services, the Department of Social and Health Services (DSHS), the state unit on aging, and the Social Security Administration in collaboration with the participants of WINGS, will determine which issues the groups will address.

Motion: *A motion was made and seconded to approve the Board providing a letter of collaboration for the WINGS grant. The motion passed.*

- **Rhonda Hill** submitted a letter to the Board regarding the issue of professional guardians isolating incapacitated persons from friends and family. Ms. Hill was responding to a request from another professional guardian to provide comments to the Board regarding possible legislation addressing the issue. Senator Conway is leading a workgroup regarding this matter. He, not the Board, requested comments.

4. Public Comment Period

The following individuals made public comments:

- Claudia Donnelly – *Written comments are attached.*
- Patty Croteau, Certified Professional Guardian – *Written comments were not provided.*
- Elizabeth Lindley, Certified Professional Guardian – *Written comments are attached.*
- Tom Goldsmith – *Written comments were not provided.*
- Kenneth Curry, Certified Professional Guardian – *Written comments were not provided.*

5. Public Comments Received.

- **Communications Plan.** August 2014, the Board released the Communications Plan. All comments received since that time are before the Board today. The Board considered comments received prior to August 2014 before revising standards of practice and regulations. Three lay guardians submitted comments. A board member sought confirmation that the Communications Plan is a process to request input from individuals who may be interested in a standard of practice or regulation, before the Board begins drafting a revision to the standard of practice or regulation. Ms. Bondon agreed, stating that this was accurate; however, any changes initiated before the Communications Plan was approved would continue, and drafts would be submitted for comment.
- **Regulations 102.4 & 702.2.** Ms. Bondon read regulations 102.4 & 702.2 which have identical language:

“Designated CPG” means the certified professional guardians within 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).~~”

A Board member raised a concern regarding notice of the Board’s intent to take action on proposed revisions to Regulations 102.4, 702.2 and SOP 413. The member felt that the notice provided when proposed revisions were posted in August would not allow the Board to take action today. According to the Board member, a second notice should have been included in Board meeting materials, which included the language of the proposed regulations. After some discussion, the Board decided to send a second notice regarding Regulations 102.4 and 702.2 expressly stating that the Board would act on the regulations during its April 2015 meeting.

Motion: *A motion was made and seconded to send a second notice*

regarding Regulations 102.4 and 702.2 and to take action at the April 13, 2015 meeting. The motion passed.

Motion: A motion was made and seconded to adopt the Communications Plan. The motion passed.

- **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 notwithstanding 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.

A member of the Regulations Committee explained that SOP 413.2 was created to acknowledge that designated CPGs are the persons in an agency responsible for the actions of the agency. A designated CPG is not only answerable to himself but must take reasonable precautions to ensure that other guardians are following the SOPs as well. This can be accomplished through education and the creation of policy and procedures.

A member asked how the language of SOPs 413.2 and 413.1 would affect the various types of businesses. Ms. Bondon stated that she consulted an Assistant Attorney General (AAG) and obtained an opinion regarding the ownership issue. The AAG determined that the SOPs above do not address the ownership issue. According to the AAG, if the Board wants to address this matter it will need to revise General Rule (GR) 23.

Finally, a board member commented that the designated CPG is not being held responsible for the actions of the agency without limitation. As long as the designated CPG exercises reasonable oversight, he or she should not be responsible for the wrongdoings of another CPG. Reasonable oversight includes providing education and developing relevant policies and procedures.

Motion: A motion was made and seconded to act on SOP 413 during the April 13, 2015 board meeting. The motion passed.

- **Proposed Recusal Policy.** Ms. Mindi Blanchard submitted a letter in response to the Conflicts of Interest/Recusal Process stating that it seems, “extremely convoluted.” Judge Lawler agreed that the policy is both lengthy

and complicated; however, it is also effective in recognizing conflicts of interest. As this is not a regulation being considered for adoption, additional time for public comment is not necessary.

Motion: *A motion was made and seconded to adopt the Conflict of Interest/Recusal Policy. The motion passed.*

6. Staff Updates

- **Grievances.** Ms. Sally Rees presented the Grievance Status Report for November and December 2014. In 2014, 61 new grievances were opened, and 22 of those were closed. Five grievances have moved beyond investigation to resolution through an agreement regarding discipline, hearing, or other disposition, leaving 34 grievances pending.

At the beginning of 2014, 70 grievances were pending from prior years 2011-13. In 2014, 18 of those have been closed, and 17 have moved to resolution through an agreement regarding discipline, hearing, or other disposition. All 2011 grievances have been closed, and only five remain from 2012.

- **Health and Aging Policy Fellowship.** Ms. Shirley Bondon stated that she was selected as an American Political Science Association Congressional/Health and Aging Policy Fellow. Over the next year, she will receive training on policy development in all three branches of government – executive, legislative and judicial. Her fellowship placement is with the Administration for Community Living (ACL) which is part of the US Department of Health and Human Services (HHS). Ms. Bondon will be working on projects related to guardianship.

7. Annual Planning Meeting Agenda Topics.

AOC staff compiled a list of topics discussed over the past year which have not been resolved.

- **Background Checks – RAP Back.** Washington State Patrol (WSP) is implementing a new procedure enabling AOC, on behalf of the Board, to receive updated background information for all professional guardians throughout the year. In March, Kim Rood will attend training provided by WSP and should share additional information with the Board in April. As an alternative to WSP's program, a Board member explained a new verification program called Certiphi. The member stated that this service provides a thorough background investigation with a cost of anywhere from \$9.00 to \$100.00 dependent on the extent of the investigation requested. Staff agreed to obtain more information about the program.
- **Disciplinary Regulation.** Staff is currently reviewing the revisions approved by the Regulations Committee. Staff will submit the revised version of the regulations to the AAG for review and input, after which the regulations will be ready for Board review and public comment.

- **Report on Communications Plan.** Mr. Jaback suggested review and possible revision.
- **GR 31.1 Implementation.** Implementation will take place in 2015. Ms. Bondon stated that pursuant to GR 31.1 dismissed grievances will be available to the public and the Board needs to develop a process for public disclosure.
- **Guardianship Postmortem Review Report 2012.** A small committee reviewed actions taken in guardianship appointments held by a professional guardian who was decertified in 2012. The committee delayed submitting its report until the criminal proceedings against the professional guardian were resolved. The committee is reviewing a draft report, and the final report should be ready for Board consideration in April.
- **UW Guardianship Certificate Program.** The UW Guardianship Certificate Program manager is expected to provide a proposal addressing how the certificate program can be provided in eastern Washington.

8. Executive Session (Closed to the public)

9. Reconvene and Vote on Executive Session Discussion (Open to the public)

Applications Committee

On behalf of the Applications Committee, Mr. Jaback recommended approval of Jackie Blair's application for certification.

Motion: *A motion was made and seconded to approve Jackie Blair's application for guardian certification. The motion passed.*

Decertification for Noncompliance

Mr. Jaback recommended approval of decertification for noncompliance of:

- 1) Paul Hayes Guilfoil Jr.
- 2) Jeffrey Hurder
- 3) Michael Johnson
- 4) Gayle Villarreal
- 5) Carol Zwiebel

Motion: *A motion was made and seconded to decertify Paul Hayes Guilfoil Jr., Jeffrey Hurder, Michael Johnson, Gayle Villarreal and Carol Zwiebel for noncompliance. The motion passed.*

Appeals Panel

On behalf of the Appeals Panel, Mr. Heinz recommended approval of Jennifer Regeimbal's appeal of the denial of her application for guardian certification.

Motion: *A motion was made and seconded to deny Ms. Jennifer Regeimbal's appeal of the denial of her application for guardian certification. The motion passed. The Appeals Panel abstained.*

Final Decisions

Motion: *A motion was made and seconded to approve the findings of fact in the Lori Peterson matter. Commissioner Rachelle Anderson abstained. The motion passed.*

Motion: *A motion was made and seconded to approve the findings of fact in the Emerald City Guardianship Services matter. Carol Sloan and Gerald Tarutis abstained. The motion passed.*

Nominating Committee

Motion: *A motion was made to republish the request for letters of interest to serve on the Guardianship Board. The motion failed for lack of a second.*

Motion: *A motion was made and seconded to nominate Amanda Witthauer to fill the vacancy on the CPG Board. Gerald Tarutis abstained. The motion passed.*

10. Wrap Up and Adjourn

The meeting was adjourned at 1:50 p.m. The next Board meeting scheduled for Monday, March 9th, 2015 is a teleconference.

Recap of Motions from January 12, 2015 Meeting

Motion Summary	Status
<i>Motion: A motion was made and seconded to approve the November 17, 2014 board minutes. The motion passed.</i>	Passed
<i>Motion: A motion was made and seconded to approve the Board providing a letter of collaboration for the WINGS grant. The motion passed.</i>	Passed
<i>Motion: A motion was made and seconded to send a second notice regarding Regulations 102.4 and 702.2 and to take action at the April 13, 2015 meeting. The motion passed.</i>	Passed
<i>Motion: A motion was made and seconded to adopt the new Conflict of Interest/Recusal Policy. The motion passed.</i>	Passed

Motion Summary	Status
Motion: A motion was made and seconded to approve Jackie Blair's application guardian certification. The motion passed.	Passed
Motion: A motion was made and seconded to decertify Paul Hayes Guilfoil Jr., Jeffrey Hurder, Michael Johnson, Gayle Villarreal and Carol Zwiebel for noncompliance. The motion passed.	Passed
Motion: A motion was made and seconded to deny Jennifer Regeimbal's appeal of the denial of her application for guardian certification. The Appeals Panel abstained. The motion passed.	Passed
Motion: A motion was made and seconded to approve the findings of fact in the Lori Peterson matter. Comm. Rachelle Anderson abstained. The motion passed.	Passed
Motion: A motion was made and seconded to approve the findings of fact in the Emerald City Guardianship Services matter. Carol Sloan and Gerald Tarutis abstained. The motion passed.	Passed
Motion: A motion was made to republish the request for letters of interest to serve on the Guardianship Board. The motion failed for lack of a second.	Failed
Motion: A motion was made and seconded to nominate Amanda Witthauer to fill the vacancy on the CPG Board. Gerald Tarutis abstained. The motion passed.	Passed

Action Items	Status
Staff will research background check options discussed by Gary Beagle.	In Process