

Meeting Minutes

Certified Professional Guardianship Board

Monday, October 16, 2017 (9:00 am – 2:00 pm)
SeaTac Office Center, 18000 International Blvd., Suite 1106,
SeaTac, WA

Members Present

Judge James Lawler, Chair
Commissioner Rachelle Anderson
Ms. Rosslyn Bethmann
Dr. Barbara Cochran (telephonically)
Ms. Annette Cook
Judge Gayle Harthcock
Ms. Victoria Kesala
Commissioner Diana Kiesel
Dr. K. Penney Sanders
Ms. Amanda Witthauer

Members Absent

Mr. Jerald Fireman
Mr. Bill Jaback
Ms. Barbara West

Staff

Ms. Shirley Bondon
Ms. Kathy Bowman
Ms. Carla Montejo
Ms. Kim Rood
Ms. Eileen Schock

Guests: see list on the last page

1. Meeting Called to Order, Welcome and Introductions

Judge Lawler welcomed everyone to the meeting. He determined that a quorum was present and called the Certified Professional Guardianship (CPG) Board meeting to order at 9:23 a.m.

2. Chair's Report

New member Annette Cook introduced herself and board members welcomed her. Annette has been a practicing attorney for 16 years and has been with Adult Protective Services for approximately one year. Ms. Cook replaces Carol Sloan who resigned from the Board effective September 30, 2017.

Judge Lawler entertained a motion to approve the September 11, 2017, CPG Board meeting minutes. A motion was made and seconded to approve the minutes with no additions or corrections. The motion passed.

Motion: *A motion was made and seconded to approve the September 11, 2017 minutes. The motion passed.*

The Board acknowledged receipt of additional correspondence from CPG Mindi Blanchard in response to the Board's review of Disciplinary Regulation 500.

Staff presented the 2018 CPG Board Meeting Schedule. The Judicial Spring Conference is slated for April 8-11, 2018, presenting a conflict with the Board's April

meeting. Board members agreed to reschedule the April 9 Board meeting to April 23, 2018.

Each year, annual renewal of Confidentiality Agreements is due in October at the beginning of the Board's fiscal year. Forms were provided to all present Board members for signature and collected by staff.

Judge Lawler presented Ms. Bondon, Guardianship Program Manager, with flowers and a plaque to recognize her leadership and service to the CPG Board. Board members thanked her for her dedication and hard work. This was Ms. Bondon's final in-person meeting. She is moving to another state.

3. Public Comment Period

Judge Lawler opened the floor for members of the public to make public comments. Public Comments were made by:

- CPG Malinda Frey, speaking for CPG Gary Beagle, President of the Washington Association of Professional Guardians (WAPG)
- CPG Christopher Neil
- Claudia Donnelly

In response to comments about the grievance process, Judge Lawler explained that despite insufficient resources, the Board had taken steps to address the increasing number of grievances received. The Board approved a diversion process to address grievances involving allegations regarding a failure to communicate, noncompliance with court reporting requirements and concerns about a failure to address financial issues. Mediation is being offered to address allegations involving a failure to communicate. To-date nine CPGs have declined to mediate to resolve allegations. Thus investigations will be conducted. One CPG has agreed to mediation. Financial audits are performed to address allegations involving financial issues, and court reporting is audited to address alleged noncompliance with court reporting requirements.

4. Reports:

Staff reported that ten new grievances were opened in September. Four grievances were dismissed for no jurisdiction, bringing the total number of grievances requiring investigation to 135. Grievance investigators have focused on investigating the oldest grievances and because multiple grievances involving the same guardian is considered a red flag, investigating these is also a priority.

RCW 11.88.120, revised in 2015, requires each superior court to forward a grievance involving a professional guardian to the Board. The number of grievances requiring investigation by the Board has doubled as a result of this revision to RCW 11.88.120. However, the number of investigators has not increased. Currently, staff meets weekly to triage open grievances. Cases involving abuse, neglect or exploitation are sent directly to the appropriate superior court or APS.

A member of the Board asked if the UW Guardianship Certificate Program includes mediation in the curriculum. Because mediation is new, it has not been included in the program. Staff will attend the final day of the 2018 Guardianship Certificate Program and will share any changes to the grievance process including mediation with applicants.

A CPG attending the board meeting commented that she believed CPGs did not agree to mediation because the initial letter was requesting too much information. Staff reported that some CPGs didn't seem to understand what mediation involved, so some education about the process was needed. Staff agreed to resubmit the initial mediation letter to board members for review.

5. Agreement Regarding Discipline (ARD): CPGB 2013-042

Ian McDonald, Assistant Attorney General (AAG), summarized the relevant allegations and proposed agreement. The CPG agreed to accept an ARD with no disciplinary sanction but with the following remedy and corrective action:

(1) If the guardian wishes to serve as a guardian and provide legal representation to the guardianship in the same case, prior to his doing so, he will advise the court and any person of which he is aware who has a right to receive notice, such as a party and other person(s) who submitted a special request to receive notice, in writing that he intends to serve as both guardian and attorney for the guardianship; and

(2) If a grievance is filed with the Board against the guardian, the guardian will not seek fees from the incapacitated person for defending against that grievance, since fees must be incurred only for the incapacitated person's welfare. Fees charged by a guardian to defend against a grievance would not be fees that are incurred for the incapacitated person's welfare, since a grievance filed against a guardian only pertains to a guardian's alleged misconduct, and thus neither the incapacitated person nor their estate should be charged fees by the guardian for the guardian's defense against a grievance.

The Board discussed the agreement regarding discipline in executive session.

6. Executive Session (Closed to Public)

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

On behalf of the Standards of Practice Committee, Commissioner Anderson made a motion to approve an ARD for complaint CPGB 2013-042. Ms. Witthauer seconded. Commissioner Kiesel recused, members of the Standards of Practice Committee and Ms. Cook abstained. The motion passed.

Motion: *A motion was made and seconded to approve the ARD without sanction for complaint CPGB 2013-042. Commissioner Kiesel recused, members of the Standards of Practice Committee and Ms. Cook abstained. The motion passed.*

On behalf of the Applications Committee, Eileen Shock presented the following applications for Board approval. Members of the Applications Committee abstained.

Motion: *A motion was made and seconded to conditionally approve Christopher Ayers' application for certification upon completion of the UW Guardianship Certificate Program. The motion passed.*

Motion: *A motion was made and seconded to conditionally approve Sandra Bordea's application for certification upon completion of the UW Guardianship Certificate Program. The motion passed.*

8. Education Committee

Ms. Kesala reported the Education Committee reviewed the status report submitted by the UW regarding the Guardianship Certificate Program. The Committee was pleased to receive the report and requested the following additional information:

1. A copy of the syllabus;
2. A list of presentation topics and guest speakers; and
3. Quarterly advisory committee meetings.

Several meetings ago, the Board asked staff to develop evaluation questions to help the Board evaluate the Guardianship Certificate Program independent of the evaluations obtained from UW. Evaluation questions were included in the meeting packet. Board members were asked to review and e-mail revisions to staff. Judge Lawler suggested adding a report on the UW Guardianship Certificate Program as a standard agenda item

9. Discuss Disciplinary Regulation 500

Staff led the discussion by comparing Current Regulation 500 with proposed changes and comments received from the public. The following revisions indicated in "red" with new language underlined and the language being removed struck through were approved.

501.3 GROUNDS FOR DISCIPLINARY ACTION

These rules govern the procedure by which a certified professional guardian may be subjected to disciplinary sanctions or actions for violation of the Certified Professional Guardian Standards of Practice or other regulations adopted by the Board.

A professional guardian may be subject to disciplinary action for any of the following:

1. Violation of or noncompliance with the oath, applicable violations of statutes, fiduciary duties, standards of practice, rules, regulations, and any requirement governing the conduct of professional guardians ~~and any other authority applicable to professional guardians.~~
2. Commission of any act that constitutes a felony, a misdemeanor or gross misdemeanor involving moral turpitude, whether or not a conviction results.
3. Failure to perform any duty one is obligated to perform as a professional guardian.
- ~~4. Violation of the oath, duties, or standards of practice of a professional guardian.~~
5. Permitting the name of a guardian certified by the Certified Professional Guardianship Board ~~a professional guardian's name~~ to be used by an uncertified person or agency.
6. Misrepresentation or concealment of a material fact made in the application for certification.
7. Suspension, decertification, or other disciplinary sanction taken by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or interaction with an incapacitated or vulnerable person.
8. Hiring, maintaining an office with, having on a Certified Agency's Board of Directors, or working for or together with any person who has been certification has been revoked or suspended as a disciplinary sanction, if the professional guardian has knowledge of such revocation or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.
9. Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.
10. Making a false statement under oath.
11. Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.
12. Working as a professional guardian while on inactive status.
13. Failing to cooperate during the course of an investigation as required by the Board's regulations.
14. Incompetence in the performance of the duties of a guardian.

15. Failure to appear for a scheduled court proceeding without good cause.
16. Failure to comply with the terms of a signed Agreement Regarding Discipline.

501.4 DEFINITIONS

“**Contempt of Court a Board Proceeding**” means:

Disorderly, contemptuous, or insolent behavior toward a Hearing Officer while conducting a hearing or other proceeding, tending to impair its authority, or to interrupt the due course of a trial hearing or other judicial board proceedings;

Disobedience of any lawful judgment, decree, order, or process of the ~~court or tribunal~~ Certified Professional Guardianship Board;

Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or refusal, without lawful authority, to produce a record, document, or other object.

“**Standard of Practice**” means a model of established practice as promulgated by the Certified Professional Guardianship Board. ~~that is commonly accepted as correct.~~

502.2 DISCIPLINARY COMMITTEE

Function. The Disciplinary Committee performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include, but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions.

Members ~~should~~ shall respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system.

Members ~~should~~ shall not allow family, social, business or other relationships to influence their conduct or judgment.

Membership. The Chair appoints a Disciplinary Committee of three to four members from among the Board members. At least one of the members must have substantial experience in guardianships. The Chair may change the appointment of members to the Disciplinary Committee as necessary for equitable distribution of work or ~~for~~ other reasons. The Chair does not serve on the Disciplinary Committee.

Terms of Office. A Board member may serve as a Disciplinary Committee member as long as the member is on the Board or for other shorter terms as determined to be appropriate by the Chair of the Board.

Disciplinary Committee Chair. The Chair of the Board designates one member of the Disciplinary Committee to act as its Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.

Meetings. The Disciplinary Committee meets at times and places determined by the Disciplinary Committee Chair. At the Disciplinary Committee Chair's discretion, the Committee may meet and act through electronic, telephonic, written, or other means of communication.

Disqualification of Disciplinary Committee Members. A Disciplinary Committee member should disqualify him or herself from a particular matter in which the member's impartiality might reasonably be questioned, including but not limited to instances in which:

The appearance of impropriety is or could reasonably be great or have the appearance of a conflict;

The member has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the matter;

The member previously served as a lawyer, CPG, or was a material witness in the matter in controversy;

A lawyer or CPG with whom the member works, serves or has previously served as a lawyer or CPG concerning the matter, or such lawyer or CPG is or has been a material witness concerning the matter;

The member has a pending grievance;

The member or relative person residing in the member's household has an economic interest in the subject matter in controversy or is a party to the matter, or has any other interest that could be substantially affected by the outcome of the matter.

502.3 CONFLICTS REVIEW COMMITTEE

Function. The Conflicts Review Committee (CRC) performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions involving a Board member. Members ~~should~~ shall respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members ~~should~~ shall not allow family, social, business, or other relationships to influence their conduct or judgment.

Membership. The Board Chair shall appoint three members who shall not be current members of the Board. CRC members shall be familiar with guardianship practice in the state of Washington.

Chair. The Board Chair shall designate one member of the CRC to serve as Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.
Confidentiality Agreement. All proposed members of a CRC are required to sign a confidentiality agreement prior to serving.

CRC Duties. The AOC shall transmit any grievance against a Board member to the CRC. The CRC shall perform the duties that would otherwise be performed by the Disciplinary Committee under these regulations, and AOC shall support the CRC in any such grievance.

The CRC may recommend to the Board Chair that the Board member under investigation be placed on a leave of absence from the Board during its investigation.

The CRC will consider the nature of the allegations against the Board member, the available evidence regarding those allegations and the importance of maintaining public trust and confidence in the Board in making its recommendation to the Board Chair. The CRC may make such a recommendation at any time during its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Board Chair shall have the sole discretion to decide whether the Board member should take a leave of absence from the Board and when the Board member may return to the Board.

Reimbursement. Consistent with the AOC policy, CRC members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Access to Disciplinary Information. CRC Members have access to any otherwise confidential disciplinary information necessary to perform the duties required by these rules. CRC Members shall return original files to the AOC promptly upon completion of the duties required by these rules and shall not retain copies.

Independence. CRC Members act independently of disciplinary counsel and the Board.
Board Member Responsibility. If the Board files a complaint against a Board member, the Board member shall take a leave of absence from the Board until the conclusion of the disciplinary proceeding.

505.2 INVESTIGATION OF GRIEVANCE

Review and Investigation. The AOC must review any alleged or apparent misconduct by a CPG. AOC shall conduct an initial investigation to ensure that any grievances received are complete, meet jurisdictional requirements as defined in DR 501.3, and provide sufficient factual information to warrant further consideration. When appropriate the initial investigation should include the following:

Provide a copy of the grievance to the respondent certified professional guardian and request a response pursuant to DR 506.3.

Provide a copy of the respondent certified professional guardian's response to the grievant and request a response.

Interview persons believed to possess relevant information or documents.

Request and review relevant documents.

Initial Dismissal. AOC may dismiss a grievance that fails to provide sufficient factual information, fails to meet jurisdictional requirements, or fails to identify an action which would result in sanctions. AOC is not required to seek the approval of the Disciplinary Committee or the Board for such dismissals.

Dismissal of Grievance Not Required. None of the following alone requires dismissal of a grievance:

The unwillingness of a grievant to continue the grievance;

The withdrawal of the grievance, a compromise between the grievant and the respondent; or

Restitution by the respondent.

Deferral.

An investigation into alleged acts of misconduct by a CPG may be deferred by the Chair of the Disciplinary Committee or AOC staff with the approval of the Disciplinary Chair if it appears that the deferral will not endanger the public, and;

The allegations are related to pending civil or criminal litigation; The respondent CPG is physically or mentally unable to respond to the investigation; or
For other good cause shown.

The AOC must inform the grievant and respondent of a decision to defer or a denial of a request to defer and of the procedure for requesting review. A grievant or respondent may request review of a decision on deferral. If review is requested, the AOC refers the matter to the Disciplinary Committee for reconsideration of the decision on deferral. To request review, the grievant or respondent must deliver or deposit in the mail a request

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for review to the Board no later than thirty (30) days after the AOC mails the notice regarding deferral.

Duty To Furnish Prompt Response. The respondent CPG must promptly respond to any inquiry or request made under these rules for information relevant to grievances or matters under investigation. Upon inquiry or request, the respondent CPG must: Furnish in writing, or orally if requested, a full and complete response to inquiries and questions;

Permit inspection and copying of the CPG's business records, files, and accounts that are relevant to the grievance or the proceeding;

Furnish copies of requested records, files, and accounts that are relevant to the grievance or the proceeding; and

Furnish written releases or authorizations if needed to obtain documents or information from third parties.

Failure To Cooperate.

Interim Suspension. If a CPG has not complied with any request made under DR 505.2.5 for more than thirty (30) days, the AOC may notify the CPG that failure to comply within ten (10) days may subject the CPG to interim suspension under rule 509.5.

Grounds for Discipline. A CPG's failure to cooperate fully and promptly with an investigation as required by DR 505.2.5 is also grounds for discipline.

507.2 SETTLEMENT AGREEMENTS

Requirements. Any disciplinary matter or proceeding may be resolved by a Settlement Agreement (Agreement Regarding Discipline) at any time. The Settlement Agreement must be signed by the respondent CPG and AOC and approved by the Disciplinary Committee and the Board. A Settlement Agreement is a finding of misconduct, is a sanction and is subject to public disclosure.

Form. A Settlement Agreement:

Must provide sufficient detail regarding the particular acts or omissions of the respondent to permit the Disciplinary Committee to form an opinion as to the propriety of the proposed resolution, including aggravating and mitigating factors considered, so as to make the Settlement Agreement useful in any subsequent disciplinary proceeding against the respondent CPG; Must set forth the respondent's prior disciplinary record; Must state that the Settlement Agreement is not binding on the Disciplinary Committee as a final statement of facts about the respondent's conduct until approved by the Certified Professional Guardianship Board, and that additional facts may be proved in a subsequent disciplinary proceeding;

Must fix the amount of costs and expenses, if any, to be paid by the respondent;

May impose terms and conditions and any other appropriate provisions.

Conditional Approval. The Disciplinary Committee's approval is conditional, as all Settlement Agreements must be submitted to the Board for their final approval. The Board's decision on whether to approve a Settlement Agreement shall be reflected in board minutes.

Response. Upon receipt of a proposed Settlement Agreement, the respondent CPG must respond in writing within thirty (30) days to the proposed Settlement Agreement. The CPG may:

Agree to and sign the Settlement Agreement; Propose changes to the Settlement Agreement;

Reject the Settlement Agreement and request a hearing;

Voluntarily resign in lieu of further disciplinary proceedings.

508.8 DISCOVERY AND PREHEARING PROCEDURES

General. The parties should cooperate in mutual informal exchange of relevant non-privileged information to facilitate expeditious, economical, and fair resolution of the case.

Requests for Admission. After a Complaint is filed, the parties may request admissions under Civil Rule 36.

Other Discovery. After a Complaint is filed, the parties may obtain other discovery under the Superior Court Civil Rules only on motion and under terms and limitations the Hearing Officer deems just or on the parties' Settlement Agreement.

Exchange of Materials: The parties shall exchange witness lists and exhibits prior to the hearing, as directed by the Hearing Officer. Failure to comply with the case scheduling requirements as directed by the Hearing Officer may result in the exclusion of witnesses and evidence not timely identified.

508.9 PARTICIPATION AT DISCIPLINARY HEARING

Respondent CPG Must Attend. A respondent CPG given notice of a hearing must attend the hearing. If, after proper notice, the respondent fails to attend the hearing, the

Hearing Officer:

May draw an adverse inference from the respondent's failure to attend as to any questions that might have been asked the respondent at the hearing; and

Must admit testimony by deposition regardless of the deponent's availability. An affidavit or declaration is also admissible, if:

The facts stated are within the witness's personal knowledge;

The facts are set forth with particularity; and

It shows affirmatively that the witness could testify competently to the stated facts.

Witnesses. Witnesses must testify under oath administered by the Hearing Officer. Testimony may also be submitted by deposition as permitted by Civil Rule 32. Testimony must be recorded by a court reporter or, if allowed by the Disciplinary Committee, by digital or tape recording. The parties have the right to cross-examine witnesses who testify and to submit rebuttal evidence.

Subpoenas. Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearing or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party's attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.

510.2 TRANSCRIPT OF HEARING

Ordering Transcript. AOC must order the entire transcript for an evidentiary hearing held before a Hearing Officer when testimony is heard and suspension or decertification is recommended by the Hearing Officer, unless the parties agree that no transcript or only a partial transcript is necessary for review.

Filing and Service. The original of the transcript is filed with the AOC and AOC must serve it on the respondent except if the respondent ordered the transcript.

Public comments will be accepted until November 2. Revisions approved today will be posted for final comment. Final comments can be considered and adopted at the November Board meeting.

Motion: *A motion was made and seconded to adopt the proposed revisions listed above to Disciplinary Regulation 500, which will be posted for final public comment and taken up for final vote at the November CPGB Meeting. The motion passed.*

10. Wrap-up/Adjourn

Judge Lawler noted the next CPG Board meeting is by teleconference on November 13, 2017 at 8:00 a.m. The meeting was adjourned at 1:46 pm.

Recap of Motions from October 16, 2017 Meeting

Motion Summary	Status
<p>Motion: A motion was made and seconded to approve an ARD without sanction for complaint CPGB 2013-042. Commissioner Kiesel recused, members of the Standard of Practice Committee and Ms. Cook abstained. Motion passed.</p>	Passed
<p>Motion: A motion was made and seconded to adopt the proposed changes to Disciplinary Regulation 500 listed above, which will be posted for final public comment and taken up for final vote at the November CPGB Meeting. Motion passed.</p>	Passed
<p>Motion: A motion was made and seconded to conditionally approve Christopher Ayers' application for certification upon completion of UW Guardianship Certificate Program. Motion passed.</p>	Passed
<p>Motion: A motion was made and seconded to conditionally approve Sandra Bordea's application for certification upon completion of UW Guardianship Certificate Program. Motion passed.</p>	Passed

Guests:

- Ian McDonald, Assistant Attorney General
 Malinda Frey
 Claudia Donnelly
 Christopher Neil
 Morgan DePall

GOOD Morning:

WINGS is a way state leaders and stakeholders are supposed to work together to fix guardian problems in our state. Personally, I don't see how this is to work as some people don't seem to think there are ~~no~~ problems with professional guardians abusing their wards in WA State. I've also heard that WA State is one of the worst states for seniors in the country.

From my experience, stakeholders like myself aren't considered reliable with what is happening in today's world. I was told that a relative hadn't been drugged but saw first hand what the facility did. Then her guardian and the case manager said: "she was never given Ativan, but Aricept". Yet, the case manager wrote that this relative had been given Ativan. When I charged that the guardian lied about my being in two places at once, I was told "guardians don't lie".

I joined WINGS in hopes of changing the culture ⁱⁿ ~~of~~ this state – boy was I naive. The first committee I was on, was ok – the Family and Friends Committee.

The Legislative Committee was something else – that's when the "communication broke down". Instead of encouraging discussion, *some* AOC staff decided "we know best". I had heard from a number of state residents about guardians isolating seniors from family/friends, etc. I was fortunate to talk to Kerri Kasem about what happened to her dad. Kerri found 2 legislators to co-sponsor her two bills. When I asked if I could bring this up to the rest of the committee, I was told: "Because we didn't write these bills, we're not going to talk about it". To me that was censorship. I also thought weren't we all ~~supposed to be~~ *supposed to be* working together to protect our elderly?

I thought about getting out of WINGS, but wanted to give it one more chance. I was put on the Alternatives to Guardianship Committee. We were supposed to develop a brochure that talked about alternatives to guardianship. Over the last several years, I've gone to court to support others in this situation – so I've seen what judges allow. We were talking about poas, and I suggested that we put a caveat on the brochure saying judges could do whatever they wanted about poas. I also suggested that a note be put on the brochure saying guardians could not isolated seniors. If you look at the draft brochure, you won't find either suggestion. Again, it seems like the AOC knows best.

I have some documents I'd like to leave for your review. The first is called: "FBI Red Flags for Identifying Professional Guardianship Fraud". One of the items says: "The victim's trust, will, and durable power of attorney are negated by the court".

A few months ago, S.178 passed Congress and is awaiting President Trump's signature. There are 2 parts that deal with guardians. The last article is titled: "Judges, lawyers use guardianships to prey on elderly". Is the AOC going to let you have a copy of what was sent to them? Probably not. I've been told that everyone cares about protecting the elderly from abuse, I say show me. I've heard too many stories to believe otherwise.

Thank you.

FBI RED FLAGS FOR IDENTIFYING PROFESSIONAL GUARDIANSHIP FRAUD

1. The victim's family members have visitation restrictions.
2. The victim is not given adequate exercise.
3. The victim is not fed well.
4. Court Appointed Guardian does not give accounting of funds taken from victim.
5. Large sums of victim's funds are missing.
6. Victim's home is sold below market value for quick sale.
7. Court prohibits family members from telling press or media what is happening.
8. Victim appears to be on psychotropic drugs.

In cases where there is a dispute whether or not a person should become a "ward" and a Guardian Ad Litem (GAL) is appointed, no parties are paid unless the "ward" is placed under court-appointed guardianship.

The GAL will often leave the "ward" with only the right to vote. This vote may be used by the guardian.

The victim's money is used to sue his/her own family members by the court-appointed guardian.

The victim's trust, will and durable power of attorney are negated by the court.

Family/friends of victims are harassed, threatened and intimidated by authorities.

Family/friends of victims are charged with 'CUSTODIAL INTERFERENCE' if they try to help their loved one, and they are jailed as a diversional tactic to distract from the true crime, which is the one taking place in the courtroom against the victim.

FOR FURTHER INFORMATION SEE THESE WEBSITES AND ARTICLES ON THE INTERNET:

GUARDIANSHIP FRAUD by M Larsen
www.GuardianAbuseCases.com

National Association to Stop Guardianship Abuse
<https://stopguardianabuse.org/>

Americans Against Abusive Probate Guardianship
www.aaapg.net

How a Fraudulent Guardianship Commences and Continues...
<https://ppjg.me/2011/01/24/how-a-fraudulent-guardianship-commences-and-continues/>

1 | Contacts: Detective M. Greene or Sergeant K. Robinson, Tucson Police Department 520-837-7834

Summary: S.178 — 115th Congress (2017-2018)

Shown Here:

Passed Senate amended (08/01/2017)

Elder Abuse Prevention and Prosecution Act

TITLE I--SUPPORTING FEDERAL CASES INVOLVING ELDER JUSTICE

(Sec. 101) This bill establishes requirements for the Department of Justice (DOJ) with respect to investigating and prosecuting elder abuse crimes and enforcing elder abuse laws. Specifically, DOJ must:

- designate Elder Justice Coordinators in federal judicial districts and at DOJ,
- implement comprehensive training for Federal Bureau of Investigation agents, and
- establish a working group to provide policy advice.

The Executive Office for United States Attorneys must operate a resource group to assist prosecutors in pursuing elder abuse cases.

The Federal Trade Commission must designate an Elder Justice Coordinator within its Bureau of Consumer Protection.

TITLE II--IMPROVED DATA COLLECTION AND FEDERAL COORDINATION

(Sec. 201) DOJ must establish best practices for data collection on elder abuse.

(Sec. 202) DOJ must collect and publish data on elder abuse cases and investigations. The Department of Health and Human Services (HHS) must provide for publication data on elder abuse cases referred to adult protective services.

TITLE III--ENHANCED VICTIM ASSISTANCE TO ELDER ABUSE SURVIVORS

(Sec. 301) This section expresses the sense of the Senate that: (1) elder abuse involves exploitation of potentially vulnerable individuals; (2) combatting elder abuse requires support for victims and prevention; and (3) the Senate supports a multipronged approach to prevent elder abuse, protect victims, and prosecute perpetrators of elder abuse crimes.

(Sec. 302) DOJ's Office for Victims of Crime must report to Congress on the nature, extent, and amount of funding under the Victims of Crime Act of 1984 for victims of crime who are elders.

TITLE IV--ROBERT MATAVA ELDER ABUSE PROSECUTION ACT OF 2017

Robert Matava Elder Abuse Prosecution Act of 2017

This bill amends the federal criminal code to expand prohibited telemarketing fraud to include "telemarketing or email marketing" fraud. It expands the definition of telemarketing or email marketing to include measures to induce investment for financial profit, participation in a business opportunity, or commitment to a loan.


A defendant convicted of telemarketing or email marketing fraud that targets or victimizes a person over age 55 is subject to an enhanced criminal penalty and mandatory forfeiture.

The bill adds health care fraud to the list of fraud offenses subject to enhanced penalties.

(Sec. 403) DOJ, in coordination with the Elder Justice Coordinating Council, must provide information, training, and technical assistance to help states and local governments investigate, prosecute, prevent, and mitigate the impact of elder abuse, exploitation, and neglect.

(Sec. 404) It grants congressional consent to states to enter into cooperative agreements or compacts to promote and to enforce elder abuse laws. The State Justice Institute must submit legislative proposals to Congress to facilitate such agreements and compacts.


TITLE V--MISCELLANEOUS

(Sec. 501) This section amends title XX (Block Grants to States for Social Services and Elder Justice) of the Social Security Act to specify that HHS may award adult protective services demonstration grants to the highest courts of states to assess adult guardianship and conservatorship proceedings and to implement necessary changes. The highest court of a state that receives a demonstration grant must collaborate with the state's unit on aging and adult protective services agency. 

(Sec. 502) The Government Accountability Office (GAO) must review and report on elder justice programs and initiatives in the federal criminal justice system. The GAO must also report on: (1) federal government efforts to monitor the exploitation of older adults in global drug trafficking schemes and criminal enterprises, the incarceration of exploited older adults who are U.S. citizens in foreign court systems, and the total number of elder abuse cases pending in the United States; and (2) the results of federal government intervention with foreign officials on behalf of U.S. citizens who are elder abuse victims in international criminal enterprises.

(Sec. 503) DOJ must report to Congress on its outreach to state and local law enforcement agencies on the process for collaborating with the federal government to investigate and prosecute interstate and international elder financial exploitation cases.

(Sec. 504) DOJ must publish model power of attorney legislation for the purpose of preventing elder abuse.

(Sec. 505) DOJ must publish best practices for improving guardianship proceedings and model legislation related to guardianship proceedings for the purpose of preventing elder abuse. 

Feds investigating guardianships right step

By Diane Dimond / Crime and Justice | Diane@DianeDimond.com
Saturday, October 7th, 2017 at 12:02am

Finally, Washington is taking steps to protect older Americans who have fallen into an exploitation trap set for them by state courts. Federal officials will soon be empowered to go into states to investigate - and prosecute - unscrupulous court-appointed guardians and conservators who prey on their elderly wards.

This is a really big deal in my book, and a long overdue first step in curbing the obvious abuses of this mostly secret system. According to experts there are at least 1.3 million Americans currently living under guardianship control representing between \$50 billion and \$300 billion in assets that are at risk for exploitation.

Both houses of Congress have now passed Senate Bill 178, the Elder Abuse Prevention and Prosecution Act, which strengthens the laws on elder abuse, neglect and exploitation on several fronts, including targeting telemarketers, e-mail scammers and the like.

But Congress has also now finally recognized the well-documented nationwide scandal wherein judges sidestep family members and appoint outside, for-profit guardians to handle the financial and personal affairs of aging Americans. In the end, hard-earned estates are frequently plundered, and families are left grieving. Inheritances wind up paying the fees of total strangers.

Many appointed guardians are Good Samaritans who truly help the elderly who either have no family or family that is not available to help them in their final years. These kind souls step in to handle all aspects of the senior's life, from medical matters and housing to finances and funeral arrangements.

However, after more than two years of investigation I've discovered a veritable racket of uncaring and dishonest guardians, their staffs and elder-law lawyers who concentrate more on billable hours - paid for out of the ward's estate - than what is truly in the elder's best interests. These scoundrels have the power to isolate loving family members who ask too many questions about their loved one's situation or where their money is going. Many relatives told me they hadn't been allowed to see their aged parent in months, or even years, before they died.

Once the president signs this newly passed bill into law, the Department of Justice will assign at least one assistant U.S. Attorney to each federal judicial district to investigate reports of wrongdoing by guardians. They will be empowered to bring in specially trained FBI agents to help investigate the complaints. And, the bill requires the DOJ to set up an elder abuse resource group to facilitate information sharing among all federal prosecutors. When a dodgy guardian tactic is uncovered in one

state, prosecutors will share their findings so counterparts can be on the lookout in other states.

And, within 60 days of the president's signing the bill, U.S. Attorney General Jeff Sessions will designate a DOJ Elder Justice czar to oversee this new investigative process.

"It's not the best bill ever, but it's a start," Rick Black, executive director of Americans Against Abusive Probate Guardianship, told me by phone.

The AAAPG and other family-centered watchdog groups are happy that Washington has now acknowledged there is a major problem with state guardianship systems that see judges routinely declare absent citizens as "incapacitated," take as truth the claims of one family member over all others and continue to appoint questionable characters as guardians in lucrative cases without much supervision.

And it's not just Congress that has taken notice, according to Black. His non-profit organization keeps track of guardian horror stories from all across the country. By AAAPG's count, federal investigators are already actively looking into questionable guardian practices in at least six states. Black ticked off the list.

"We know from families who have contacted us (the feds) are investigating cases in New York, Pennsylvania, Rhode Island, Florida, Washington and New Mexico," where a 28-count indictment on charges of conspiracy, fraud and theft was recently unsealed against Ayudando, a private guardianship company. More indictments are expected against others.

In Florida, a federal case brought by the son of a millionaire Texas oilman against two guardianship lawyers ended with a whopping \$16.4 million award. No action was taken against the judge who was supposed to be supervising the lawyer's activities.

"That's one thing this new bill doesn't do," Black said. "It doesn't address the problem with the judicial system ... judges who appoint these guardians in case after case with hardly any follow-up." And, as Black notes, the system in states is so entrenched and unaccountable only action from the federal level can fix it.

The bill also doesn't establish a way to keep accurate track of how many Americans are held in guardianship, nor does it call for a central registry where complaints against unsavory court appointees can be lodged. Without a means to keep track of unsuitable guardians, they can be appointed over and over.

But like the man said, at least it's a start. Sign this bill, President Trump. ASAP.

www.DianeDimond.com; email to Diane@DianeDimond.com.

Judges, lawyers use guardianships to prey on elderly

BARBARA HOLLINGSWORTH • | NOVEMBER 01, 2011 AT 7:05 PM

Think your well-tended nest egg will protect you from the depredations of old age? Don't count on it.

Little has changed since the D.C. Court of Appeals ruled almost a decade ago that Probate Judge Kaye Christian abused her power by ordering retired economist Mollie Orshansky, creator of the federal poverty line, removed from her sister's care in New York and placed in a District guardianship against her will.

Even multimillionaires cannot prevent a judge from appointing a total stranger to take complete control of their affairs -- and banish family members who object.

That's what happened to five-term D.C. Council member Hilda Mason and her husband, Charles, a Harvard graduate who traced his lineage back to the Plymouth landing. Despite Charles' \$22.5 million fortune, this power couple ended their lives in squalor.

Blind, wheelchair-bound and suffering from diabetes and skin cancer, Charles spent his last days in dirty clothing and worn-out shoes, with fingernails so long they curled around his fingers.

"He looked like a hobo," one witness told *The Washington Examiner*. His frail wife suffered a broken collarbone when one of her "caregivers" ran her over with a four-wheel-drive vehicle.

At the time of Hilda Mason's death in 2007, debris and broken furniture littered every room of the couple's once-stately Shepherd Park home. The roof leaked and the house was infested with rodents and insects.

As attorneys helped themselves to the couple's assets, Episcopal Senior Ministries reported that "there appears to be no individual or group that is currently responsible for the cleaning/condition of the house."

According to a Jan. 9, 2001, court transcript, a clearly competent Charles Mason testified before the same Judge Christian that he no longer wanted the Virginia attorney he had previously hired to represent him.

Less than three months later, Charles was declared incompetent after an adverse reaction to a

psychotropic cocktail landed him in Suburban Hospital's psychiatric ward.

The judge refused to dismiss the lawyer, but OK'd a settlement agreement allegedly signed by Charles Mason after he had been declared incompetent that prohibited his own wife from "interfering" with his care.

Guardianship abuse is not limited to people with money, as Laura Francois-Eugene, a supervisor at the Department of Homeland Security, learned the hard way.

Her mother's only financial resources are her modest D.C. home and a small monthly Social Security check. But after a fall left the elderly woman temporarily paralyzed, Probate Judge Franklin Burgess appointed a conservator to handle her affairs despite the fact that her daughter had previously been named her legal guardian.

Francois-Eugene told *The Washington Examiner* she is forced to pay for her mother's food, dentures, medicine and clothing out of her own salary because the court-appointed conservator has been hoarding her mother's Social Security benefits.

The same thing is happening to another 91-year-old woman, a former D.C. Public Schools employee forced into a guardianship after Maryland lawyers characterized her daily walk as "wandering."

"Some lawyers took all my money," she told us, adding that she can't access her own pension or Social Security benefits, even to buy herself an ice cream cone.

The National Association to Stop Guardianship Abuse has documented hundreds of cases in which family members are denied any say in their loved ones' care, even as court-appointed fiduciaries are given total control. After the estate is sucked dry, the wards are often dumped onto Medicaid rolls -- if they're still alive.

Advocates call the pattern "Isolate, Medicate, Steal the Estate." They're meeting with Sen. Amy Klobuchar, D-Minn., on Capitol Hill today seeking an end to well-intentioned guardianship laws gone horribly awry.

Next week: For some, the only way out of the guardianship Gulag is feet-first.

Barbara F. Hollingsworth is The Examiner's local opinion editor.

Web URL: <http://washingtonexaminer.com/article/41333>

Grievance Status Reports

CERTIFIED PROFESSIONAL GUARDIAN GRIEVANCES
October 31, 2017

Investigations	2017	2016	2015	2014	2013	Total
Grievances Needing Investigation: 9/30/2017	53	50	18	11	3	135
Resolved w/o ARD or Hearing	[4]					[4]
Resolved w/ARD						
Resolved w/Hearing						
New Grievances (Opened Since Last Report)	9					9
Re-Opened Grievances						
Grievances Needing Investigation: 10/31/2017	58	50	18	11	3	140

Resolutions	2017	2016	2015	2014	2013	Total
Dismissal – No Jurisdiction	4					4
Dismissal – No Actionable Conduct						
Dismissal – Insufficient Grievance						
Dismissal – Administrative						
Voluntary Surrender						
Admonishment						
Reprimand						
Suspension						
Administrative Decertification						
Decertification						
Closed Since Last Report	4					4

CPG ID	Year Certified	Grievances	Year(s) Grievances Received	Status
A	2015	7	2016 (3), 2017 (4)	
B	2011	5	2014 (1), 2016 (3), 2017 (1)	Assigned to Investigator
C	2002	4	2014 (1), 2016 (1), 2017 (2)	
D	2010	3	2016 (1), 2017 (2)	
E	2005	5	2014 (2), 2015 (1), 2016 (1), 2017 (1)	
F	2004	2	2015 (1), 2017 (1)	
G	2014	4	2015 (1), 2016 (1) 2017 (2)	
H	2012	5	2016 (2), 2017 (3)	
I	2010	6	2016 (3), 2017 (3)	Investigation Complete
J	2001	3	2014 (1), 2015 (1), 2016 (1)	
K	2011	2	2015 (1), 2016 (1)	
L	2003	2	2015 (2)	
M	2003	3	2015 (1), 2016 (2)	
N	2007	5	2015 (1), 2016 (2), 2017 (2)	
O	2010	3	2014 (1), 2015 (1), 2017 (1)	
P	2003	2	2016 (2)	
Q	2001	4	2013 (1), 2016 (2), 2017 (1)	Assigned to Investigator
R	2001	9	2015 (1) 2016 (7), 2017 (1)	Assigned to Investigator
S	2011	6	2015 (1), 2016 (2), 2017 (3)	Assigned to Investigator
T	2001	4	2014 (1), 2016 (1), 2017 (2)	Voluntary Surrender Pending
U	2007	2	2016 (2)	
V	2014	2	2016 (1), 2017 (1)	
W	2001	2	2016 (2)	
X	2011	2	2016 (1), 2017 (1)	
Y	2015	2	2016 (1), 2017 (1)	
Z	2010	3	2015 (1), 2016 (1), 2017 (1)	
Total		97		

** 97 of 140 currently open grievances are complaints against 26 CPGs with multiple grievances

	Year Certified	# of Guardians
Before UW Certificate Program 122	2001	5
	2002	1
	2003	3
	2004	1
	2005	1
	2006	
	2007	2
	2008	
	Total	13
UW Certificate Program 147	2009	
	2010	4
	2011	4
	2012	1
	2013	1
	2014	2
	2015	2
	2016	
	Total	14

Year	Grievance by Year
2013	1
2014	7
2015	13
2016	43
2017	33

Mediation Letter

RCW 5.60.070

Mediation.

(1) **If there is a court order to mediate, a written agreement between the parties to mediate, or if mediation is mandated under RCW [7.70.100](#), then any communication made or materials submitted in, or in connection with, the mediation proceeding, whether made or submitted to or by the mediator, a mediation organization, a party, or any person present, are privileged and confidential and are not subject to disclosure in any judicial or administrative proceeding except:**

(a) When all parties to the mediation agree, in writing, to disclosure;

(b) When the written materials or tangible evidence are otherwise subject to discovery, and were not prepared specifically for use in and actually used in the mediation proceeding;

(c) When a written agreement to mediate permits disclosure;

(d) When disclosure is mandated by statute;

(e) When the written materials consist of a written settlement agreement or other agreement signed by the parties resulting from a mediation proceeding;

(f) When those communications or written materials pertain solely to administrative matters incidental to the mediation proceeding, including the agreement to mediate; or

(g) In a subsequent action between the mediator and a party to the mediation arising out of the mediation.

(2) When there is a court order, a written agreement to mediate, or when mediation is mandated under RCW [7.70.100](#), as described in subsection (1) of this section, the mediator or a representative of a mediation organization shall not testify in any judicial or administrative proceeding unless:

(a) All parties to the mediation and the mediator agree in writing; or

(b) In an action described in subsection (1)(g) of this section.

(3) Beginning on January 1, 2006, this section governs only mediations pursuant to a referral or an agreement made before January 1, 2006. Mediations pursuant to a referral or an agreement made on or after January 1, 2006, are governed by chapter [7.07](#) RCW

Certified Professional Guardianship Board

Date

Party Name

Address

Address

Re: CPG Grievance # _____

Dear **Party Name**,

This letter is to inform you of a new grievance resolution program implemented by the Certified Professional Guardianship Board (CPGB) to resolve allegations within selected grievances involving a Certified Professional Guardian. The CPGB has determined that CPB Grievance # **(Enter grievance number)** qualifies for this program.

This program applies to grievances raising the following areas of concern: (1) communication; (2) financial; and (3) court reporting. If a grievance raises concerns in one or more of these areas, the CPGB may choose to resolve allegations in the grievance, with the agreement of the parties, through mediation, a financial audit of the guardianship, or an audit of the court record. The CPGB has sole discretion in deciding whether a grievance is appropriate for resolution through the program. Cases involving a guardian with an excessive number of grievances against them and cases where allegations are substantial or pose a potential threat to the well-being of the incapacitated person will not be diverted.

After an initial review of your case, the CPGB determined that mediation may be an effective alternative to resolve some of the concerns raised in this grievance. Completed mediation resulting in a signed agreement between the guardian and grievant will serve to fully resolve allegations regarding communications issues, unless the CPGB determines that further investigation is warranted upon receipt of a report from a mediator concerning suspected neglect, abuse or exploitation; or unless the Board in its sole discretion determines to further investigate. The mediation agreement will not be posted on the website, but pursuant to GR 31.1 and RCW 5.60.070 (1) (e) it will be disclosed upon request. Please review the enclosed Agreement for more information about mediator confidentiality. We ask that you agree to resolve these allegations through mediation. This case will only enter into the program if both the guardian and the grievant agree to mediate.

Please call **(Inset name)** to schedule an appointment to discuss the next steps we would like you to take. Enclosed is a copy of the Agreement that we will ask you to sign. Please review the Agreement and be prepared to discuss any questions or concerns you may have.

Thank you for your cooperation in resolving this matter.

Agreement to Mediate

This is an agreement between **(CPG Name)**, Certified Professional Guardian (CPG), and **(Grievant Name)**, Grievant, to enter into mediation with the intent of resolving issues related to Grievance **(Grievance #)** filed with the Administrative Office of the Courts (AOC) on **(Date grievance filed)**. The Grievant and CPG will be referred to collectively as “Parties” and individually as “Party” throughout the remainder of this agreement.

The Parties and mediator understand and agree as follows:

1. Purpose of Mediation

Mediation is an agreement-reaching process where the mediator assists the Parties in reaching an agreement in a collaborative, consensual, and informed manner. Parties agree to engage in mediation in good faith and to attempt to reach a solution that respects and considers the views, interests, and perspectives of all individuals engaged in the mediation. Parties further agree to engage in mediation honestly and with respect for all other individuals engaged in the mediation.

2. Scope of Mediation

Parties understand that the scope of the mediation will be limited to concerns and issues relating to the guardianship referenced in the grievance. However, the mediation need not focus solely on the allegations stated in the grievance itself. The mediator has discretion to expand and limit the scope of the mediation in order to assist the Parties in achieving a mutually beneficial outcome.

3. Time and Place of Mediation

Resolution Washington will determine the date, time and place of mediation. Parties agree that if they are unable to attend the mediation at the agreed upon date, time and place that they will notify the other Party, the mediator, and any other individuals that were scheduled to attend the mediation of their inability to attend at least 24 hours prior to the scheduled start time. If a Party fails to provide notification of absence within 24 hours of the scheduled start time, the Party may be responsible for costs attributed as a result of the absence. The AOC has sole discretion in determining if costs should be imposed for failure to give adequate notice.

4. Mediator

Parties agree to the services of a mediator appointed to them by the AOC. Parties will be notified of the identity of their mediator within **(Number of days)** days of their scheduled mediation date. This notice will include the name, contact information, training, and experience of the mediator.

Within 5 days of receiving notice of the mediator's identity, either Party may request the AOC to appoint a different mediator. The requesting Party must provide compelling evidence as to why the mediator is not qualified to serve as mediator, or that the mediator has a conflict of interest that will prevent the mediator from being impartial. The AOC reserves full discretion in choosing to replace mediators. Each Party may only ask for a new mediator once.

The mediator shall have no power to decide issues disputed by the Parties and will have no power to bind the Parties to any decision. The mediator shall work on the behalf of each Party equally and will work with and assist both Parties in reaching an outcome that is in line with the purposes of the mediation.

Parties understand that any agreement that is reached during Mediation will be memorialized by the mediator in a Mediation Memorandum of Agreement. Copies of this Agreement will be sent to the Parties and to the AOC.

5. Mediation is Voluntary

Parties understand and agree that they are voluntarily entering into this Agreement to Mediate. Parties also understand that they may withdraw from, or suspend, the mediation at any time and for any reason.

Parties further understand that the mediation may be suspended or terminated if the mediator believes that the mediation will lead to an unjust or unreasonable result, if the mediator feels that an impasse has been reached, or if the mediator determines that she can no longer effectively perform the role of a facilitator.

6. Confidentiality

Parties understand that the mediation will be strictly confidential. Mediation discussions as well as written and oral communications shall not be admissible in any court proceeding. Only a mediated agreement, signed by the Parties may be admissible in court. The mediation agreement will not be posted on the website, but pursuant to GR 31.1 and RCW 5.60.070 (1) (e) it will be disclosed upon request.

Parties agree not to call the mediator to testify concerning the mediation or any of the mediation materials. Parties further understand that the mediator has an ethical responsibility to break confidentiality if she suspects another person may be in danger of neglect, abuse or harm.

7. Mediation Attendance

The mediation shall be attended by the Parties, the mediator, and by legal counsel for the Parties, if they choose to be represented. Other individuals may only be present at the mediation if the Parties and the mediator consent. The mediator may, in her discretion, request that anyone, other than the Parties and counsel, leave the mediation session if the mediator believes the presence or conduct of the individual is severely hindering the progress of the mediation.

8. Right to Counsel

Parties acknowledge that they have the right to legal representation, and to have legal counsel be present at the mediation, at their own expense.

9. Washington Law Governs

This agreement shall be governed by the laws of the State of Washington, and any question arising from the agreement shall be construed or determined according to Washington state law.

10. Costs of Mediation

Mediator's fees will be paid for by the AOC. Parties will be responsible for all other costs and expenses associated with the mediation including, but not limited to; individual legal representation, travel, accommodations, and preparation for the mediation.

11. Resolution of Complaint

Parties understand and agree that completion of Mediation will serve to fully resolve allegations regarding communications issues, unless the CPGB determines that the guardian has committed an act warranting further investigation or otherwise determines, in its sole discretion, to further investigate. We ask that you agree to resolve these allegations through the diversion program. This case will only enter into the program if both the guardian and the grievant agree to diversion. In the event of an impasse, or the suspension or termination of the mediation by the Parties or the mediator; the AOC may, in its sole discretion, choose to investigate and further pursue the grievance.

(Print Name, CPG#)

(Print Name, Grievant)

Date

Date

UW Guardianship Certificate Program

Evaluation Questions for Presenters:

Clarity of Expectations and Directions

1. Which instructor did you work with most?
2. Please indicate the amount of time you were given to prepare.
 - a. Less than 1 week
 - b. 1 week
 - c. 2 week
 - d. 3 weeks
 - e. 4 weeks
 - f. 5 weeks
 - g. 6 weeks
 - h. 7 weeks
 - i. 8 weeks or more
3. Provide the date of your presentation (date format mm/dd/yyyy)
4. Please indicate the information you received prior to your presentation.
 - a. Lesson Description
 - b. Intended Learning Outcomes
 - c. How student work and learning be assessed. (Individual and Group)
 - d. Timetable (Duration of lesson)
 - e. Schedule for the day of the presentation.
 - f. Textbooks, resources, case studies that will be used.
 - g. Student assignments connected to your presentation (Approximate time to complete)
 - h. Rationale for assignments (Individual and Group)
 - i. How the lesson will be integrated with other lessons.
 - j. How the lesson will be evaluated.
 - k. Directions to the location.
 - l. Numbers of students expected to participate.
 - m. Participation ground rules.

5. What additional information would you have liked to receive?

Participation/Discussion

1. Did your presentation start on time?
 - a. If no, why?
2. The time allotted for your presentation was sufficient, inadequate, too much Why?
3. Were students actively participating in the discussion? Did they ask good questions? Did they share insights and concerns?
 - a. If not, what were they doing or how did they interact with you?
4. What was the involvement of instructors during discussions?
5. To what extent did students follow participation ground rules?
6. What strategies did you or someone else use to reinforce participation ground rules?
7. Do you think your presentation was sequenced appropriately within the curriculum?
8. How do you think the course could be improved?

Follow-Up

1. Did an instructor provide you with feedback on your presentation?
 - a. If so, who provided the feedback and what kind of feedback did you receive?
 - b. To what extent was the feedback helpful or not helpful and why?
 - c. What additional feedback would be helpful?

Student Evaluation after a Weekend Meeting

The following questions should be answered with the following ratings:

- Excellent (5)
- Very Good (4)
- Good (3)
- Fair (2)
- Poor (1)
- Very Poor (0)

Instructor Evaluation

1. The instructor(s) presented content in an organized fashion
2. The instructor(s) explained concepts clearly
3. The instructor(s) were helpful when I had difficulties or questions
4. The instructor(s) provided clear constructive feedback
5. The instructor(s) encouraged student questions and participation
6. How would you rate the overall effectiveness of this Instructor?

Guest Presenter Evaluation

1. The September weekend session as a whole was
2. The September weekend session content was
3. The guest speaker's contribution to the course was
4. The guest speaker's effectiveness in teaching the subject matter was
5. Course organization was
6. Clarity of the guest speaker's voice was
7. Explanations by the guest speaker were
8. Guest speaker's ability to present alternative explanations when needed was
9. Guest speaker's use of examples and illustrations was
10. Quality of questions or problems raised by the guest speaker was
11. Student confidence in guest speaker's knowledge was
12. Guest speaker's enthusiasm was
13. Encouragement given students to express themselves by the guest speaker was

14. Guest speaker's answers to student questions were
15. Guest speaker's use of class time was
16. Guest speaker's interest in whether student's learn was
17. Amount you learned in the weekend session was
18. Relevance and usefulness of weekend session content were

The Weekend Session

The following questions should be answered Yes or No.

1. Were the participation ground rules displayed, discussed, enforced and helpful?
 - a. If no, why?

The following questions are open ended.

2. What were the strengths of the September weekend session?
3. What areas could be improved?

The following questions should be answered with the following ratings:

- **Excellent (5)**
 - **Very Good (4)**
 - **Good (3)**
 - **Fair (2)**
 - **Poor (1)**
 - **Very Poor (0)**
4. The weekend session helped me to develop my abilities and skills for the topics covered.
 5. The weekend session helped me to develop my ability to think critically about the topics covered.

Student Evaluations at the End of Course

The following questions are open ended.

1. What do you consider to be the strengths of the course?
2. What areas could be improved?
3. What advice would you give to another student who is considering taking this course?

The following questions should be answered with the following ratings:

- **Excellent (5)**
- **Very Good (4)**
- **Good (3)**
- **Fair (2)**
- **Poor (1)**
- **Very Poor (0)**

4. The course was effectively organized.
5. The course helped me to develop my abilities and skills to be a professional guardian.
6. The course helped me to think critically about Guardianship Practice.
7. How would you rate the overall effectiveness of the course?

Evaluation Questions for Students who decide not to complete the course.

1. What were your reasons for enrolling in the UW Guardianship Certificate Program?
2. Why did you decide not to complete the UW Guardianship Certificate Program?
3. Do you plan to complete UW Guardianship Certificate Program at a later date? If not, why not?
4. What advice would you give to another student who is considering the UW Guardianship Certificate Program?
5. What else do you think decision-makers (students, UW, Certified Professional Guardianship Board) should know about the UW Guardianship Certificate Program?

Disciplinary Regulation

500

Comments Received



October 9, 2017

Honorable Judge Lawler
CPG Board Chair

Dear Judge Lawler and CPG Board Members,

I would like to thank you for the opportunity for the Washington Association of Professional Guardians (WAPG) 120 members to provide written comment on Proposed Regulation 500 and analysis conducted by the AOC staff at the in-person meeting. WAPG's position is that Regulation 500 changes should not be implemented until the overall grievance process is reviewed and steps are taken to resolve major concerns which are outlined below.

As WAPG President and Past CPG Board Member I realize the challenges facing both the CPG and Board. WAPG understands that the CPG Board sets priorities with the AOC staff. The revision of Regulation 500 may be warranted but WAPG members would request that the priority of the CPG Board and AOC staff be to ensure the backlog of 135 grievances be investigated and resolved in a timely manner. This was a concern of mine when I served on the CPG Board and continues to be with the CPG community. I have attached a copy of the CPG Board Minutes from June 8, 2015 where I specifically raised this issue.

In reviewing the Certified Professional Guardian Grievances report as of September 30, 2017, it appears that CPG Board and AOC staff are not realizing the importance of investigating and/or resolving grievances in a timely manner which is having a negative impact on the CPG's, the citizens of Washington who have Professional Guardians and the public at large. To have grievances, alleging violation to incapacitated citizens of Washington, unresolved over nearly a 5-year time span should be as unacceptable to the CPG Board and AOC staff, as it is to WAPG.

This begs the question why is Regulation 500 being revised when the current process for resolving CPG grievances is solely lacking. As you can see from the 2015, minutes, this is not a new problem. All other regulated professions have specific timelines that must be met to ensure the grievance is resolved in timely manner. Any revisions to Regulation 500 that does not address the CPG Board and AOC timeline of investigation is unacceptable. Regulation 508.3 revision states that the CPG must answer the Disciplinary Acton within 30 days exclusive of the day of service. For the CPG Board to impose timelines upon the CPG without imposing similar timelines on themselves and the AOC staff

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will only continue the unacceptable delay. As a regulatory body, it is the duty of the CPG Board to ensure confidence in the process not only to the CPGs but the public; and the vulnerable citizens of Washington. The untimely resolution of the 135 grievances has eroded that confidence.

For example, the proposed change to Regulation 502.5 shift the sole cost for responding to a grievance upon the CPG. This shift places an undue burden on the CPG. By contrast, the current version of Regulation 500 makes clear, there are specific instances where it might be appropriate to seek court approval of attorney and CPG fees (see current Regulation 509.1.2). Most grievances are not filed by the incapacitated person or client but rather by a disgruntled interested party that has sought relief through the court system and did not accept the outcome or findings of facts in the court order. WAPG and CPG's know grievances are not "a mechanistic to appeal a court decision regarding the appointment or conduct of a guardian" (GR23(a)). Yet, eliminating the court's ability to address fees creates an additional burden on the CPG when they must respond to a grievance within a specific timeline that may not be investigated and resolved for up to 5-years by the CPG Board and AOC staff. It would be WAPG's recommendation to strike the revision and not change 509.1.2 should the CPG Board proceed to approve the revisions without addressing the overall grievance process.

The ultimate guardian is the Superior Court where direction is provided to the CPG regarding a wide range of issues including payment of fees as outlined in Regulation 509.1.2. Regulation 500 needs to be clear that if a Superior Court Judge has issued an order and the CPG abides by that order the CPG Board and AOC staff will honor the order and not impose their own interpretation. This has been an issue which has placed the CPG in the position of having to justify the Superior Court Judges order to the AOC staff.

WAPG would request that in reviewing the entire grievance process, changes should be made in how the CPG Board Chair appoints members to the grievance committee and how the CPG Board delegates grievance decision making to individual AOC staff. CPG Board Members can serve up to 9 years on the committee and CPG Board which does not allow for other points of view when deciding on grievances. Other guardian and/or fiduciary governing bodies have a rotating system that allows for experts within the profession or associated profession be utilized. This has been successful with the Center for Guardianship Certification and the California Professional Fiduciary Bureau which are able to investigate and resolve grievances within a year or less.

As CPG's we are bound by Standards of Practice and a Code of Ethics. WAPG would ask that the CPG Board and AOC staff be held to these same standards. Conflict of Interest are specifically outlined for CPG's which states that if there is an appearance of a conflict that the CPG must recuse themselves. As a CPG Board member, I raised this concern and received a response from the AOC staff that there was not a conflict if the individual CPG Board member did not view that their vote and/or participation resulted in a conflict. According to the AOC staff the bases for this narrow definition was part of a decision made by the Washington State Supreme Court. WAPG would request that the specific language validating this definition be provided. It is the opinion of several attorneys and Judges within the legal community that this may not be valid and the appearance of a conflict of interest would result in a CPG Board Member or AOC staff member having to recuse themselves.

Washington Association of Professional Guardians
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The CPG Board should address the issue of not having a statute of limitations on filing of grievances. CPG's should deserve the same consideration as other professions on which there are regulations that bar a complaint from being filed after a set time. Statute of limitations are utilized in all other areas of probate administration except in certain defined areas. WAPG would request that these same timelines be applied to a grievance as well.

In closing, the CPG grievance process is affecting the appointment of qualified professional guardians within the State of Washington. Many CPG's are electing not to serve on cases that may result in a CPG Board grievance due to: the nearly 5-year time-lag it may take to investigate and resolve the complaint; the cost to the CPG of those investigations; and the perception that the CPG Board and AOC staff are not recognizing CPG's as a profession. Instead CPG's are electing to take clients which require services other than guardianship. The chilling effect of the current CPG Board grievance process has created a disincentive to experienced CPGs serving as guardians.

Thank you for providing the opportunity for WAPG to provide written testimony to the CPG Board. WAPG would recommend that a forum be held where a resolution can be explored which may result in meaningful and productive regulation revisions and to restore confidence within the CPG community, public, CPG Board and AOC staff. A review of the CPG Board functions and authority may assist in accessing areas that require additional or revised processes in which a forum may be beneficial. WAPG would be open to underwriting the forum to provide productive and meaningful dialogue.

I apologize for not being able to attend the in-person CPG Board Meeting due to my being out of state. If the CPG Board has additional questions or comments please feel free to reach out to WAPG or myself.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gary Beagle", with a long horizontal flourish extending to the right.

Gary Beagle, NMG, CPG, OCPF
Washington Association of Professional Guardians
President



Certified Professional Guardianship Board
Monday, June 8, 2015 (9:00 a.m. – 1:00 p.m.)
SeaTac Office Center, 18000 International Blvd., Ste 1106, SeaTac, WA

Meeting Minutes

Members Present

Judge James Lawler, Chair
Commissioner Rachelle Anderson
Mr. Gary Beagle
Ms. Rosslyn Bethmann
Dr. Barbara Cochrane
Ms. Nancy Dapper
Judge Gayle Harthcock
Commissioner Diana Kiesel
Mr. Gerald Tarutis
Ms. Amanda Witthauer

Members Absent

Mr. Andrew Heinz
Ms. Carol Sloan

Staff

Ms. Shirley Bondon
Ms. Kathy Bowman
Ms. Carla Montejo
Ms. Kim Rood

1. Call to Order and Welcome

Judge Lawler called the meeting to order at 9:06 a.m. and welcomed everyone to the meeting.

2. Approval of Minutes

Judge Lawler asked for changes or corrections to the proposed minutes from the May 11, 2015 meeting. Mr. Jaback was listed as present, but was not. Motions attributed to Mr. Jaback at that meeting were made by Mr. Tarutis.

Motion: *A motion was made and seconded to approve the May 11, 2015 minutes with correction. The motion passed.*


3. Chair's Report

Update: Lori Petersen Suspension

Commissioner Anderson noted that it had been necessary to appoint a Guardian ad litem for each of Ms. Petersen's 124 cases. Many cases had no viable standby guardian assigned.

Discussion ensued regarding the certified professional guardian (CPG):

- There were allegations that incapacitated persons (IP) had not been visited regularly, some for more than a year and that guardianship billing had been inaccurate.
- One of the designated CPGs for Hallmark Care Services resigned April 21, 2015. The second designated CPG reported that he planned to resign June 30, 2015.

- 
- While it was felt that all IPs in Spokane County were safe with new guardians, it was noted that Ms. Petersen may have guardianship appointments in other counties that were unknown, as she had failed to provide the Board with a complete list of appointments. Staff contacted all courts where Hallmark Care Services was believed to have appointments. Each court was encouraged to take action to protect incapacitated persons.
 - Ms. Petersen has been suspended but not decertified. She has the option to request activation of her certification when her suspension ends.

This matter raised concerns about guardianship caseloads and required disclosures. The discussion came to a close with the reminder that while there are regulations in place, there is a tremendous amount of trust placed in a CPG.

4. A number of people spoke during the **Public Comment Period**

Mr. Kenneth Curry (Written comments were not provided).
Ms. Sylvia Curry (Written comments were not provided).
Mr. Tom Goldsmith (Written comments provided, please see attached).
Ms. Claudia Donnelly (Written comments were not provided).

5. **SB 5607 – Guardian Grievance Procedure for the Courts**

Judge Lawler noted that the Pattern Forms Committee met and stakeholders have been asked for their comments on the proposed plain language complaint forms by July 27, 2015

Mr. Tarutis suggested including a statement regarding attorney fees and costs on the complaint form.

Each county will designate a contact person to receive complaints (forms).

6. **Grievance Report**

Staff presented the current status of open and resolved grievances through May 31, 2015. Twenty new grievances have been opened this year. Five cases were resolved in May (4 closed for no jurisdiction, 1 closed for no actionable conduct). Thirty-three grievances remain open from 2014; 20 grievances remain open from 2013; and 2 grievances remain open from 2012. Staff stated that the 2012 grievances involve the same guardian and will be resolved together.

Mr. Beagle wondered if there is a better way to hurry the process along, and suggested there should be no more than a 60 day maximum time frame from complaint to hearing.

Staff explained that it typically takes about 30 days to investigate a grievance and because there have been times when there was only one grievance investigator, or no investigator the result has been a backlog of cases.

Staff clarified that if a grievance constitutes an emergency situation, it is forwarded directly to the court for remedy.

7. Executive Session (closed to public)

8. Vote on Executive Session Discussion (open to public)

Motion: *A motion was made and seconded to conditionally approve Andrea Green's application for certification upon completion of UW Certification Program. Motion Passed.*

Motion: *A motion was made and seconded to deny David Keene's application for certification. Motion Passed.*

Motion: *A motion was made and seconded to take no further action against those CPGs who were late in submitting their affidavits, but have completed the required credits and paid their fees. Motion Passed.*

Motion: *A motion was made and seconded to deny late fee waivers for CPGs who as of 12/31/14 had not fulfilled the required CEUs, but subsequently have completed those requirements. One exception would be for David Trainer. Motion Passed.*

Motion: *A motion was made and seconded to extend the deadline to June 30 for all CPGs to complete credits for the 2013-2014 reporting period. Motion Passed.*

Motion: *A motion was made and seconded to file a complaint against Laura Sealey. The motion failed. No action will be taken.*

9. Wrap Up and Adjourn

The meeting was adjourned at 12:30 pm. The next Board meeting is scheduled for August 10, 2015 at 8:00 a.m. The meeting will be a teleconference.

CERTIFIED PROFESSIONAL GUARDIAN GRIEVANCES
September 30, 2017

Investigations	2017	2016	2015	2014	2013	Total
Grievances Needing Investigation: 8/30/2017	47	50	18	11	3	129
Resolved w/o ARD or Hearing	[4]					[4]
Resolved w/ARD						
Resolved w/Hearing						
New Grievances (Opened Since Last Report)	10					10
Re-Opened Grievances						
Grievances Needing Investigation: 8/30/2017	53	50	18	11	3	135

Resolutions	2017	2016	2015	2014	2013	Total
Dismissal – No Jurisdiction	4					4
Dismissal – No Actionable Conduct						
Dismissal – Insufficient Grievance						
Dismissal – Administrative						
Voluntary Surrender						
Admonishment						
Reprimand						
Suspension						
Administrative Decertification						
Decertification						
Closed Since Last Report	4					4

October 9, 2017

To: Certified Professional Guardianship Board

From: Tina Baldwin,
christina.ann.baldwin@gmail.com

Re: Comments on Disciplinary Regulation 500

I sincerely appreciate the invitation to submit comments to the proposed revision of Disciplinary Regulation 500. I also appreciate all the thought and work that went into the effort to improve the regulation and into the effort to educate readers. Specifically, I think the comparison of the proposed and current regulation is excellent. Thank you.

505.2 INVESTIGATION OF GRIEVANCE

Deferral. (pg. 345)

'.....; The respondent CPG is physically or mentally unable to respond to the investigation.'

I believe the proposed regulation should include wording that requires the respondent CPG to submit documentation from a physician or psychologist supporting respondent CPG's alleged inability to respond to the investigation. This letter from the medical or mental health professional should also include a date that they feel the CPG will be ready to respond.

Duty to Furnish Prompt Response. (pg. 345)

I believe wording should be included to define 'Prompt', e.g. "The respondent must respond within seven (7)¹ working days to any inquiry or request...." Being specific removes misunderstanding or misinterpretation.

506.1 REVIEW OF GRIEVANCE (pg. 347)

I think that if the CPG Board finds merit in the complaint and if the respondent CPG is responsible for other persons under guardianship, then I recommend that the Disciplinary Committee have some procedure or mechanism to determine if the CPB's actions are part of a pattern of conduct with their other clients.

506.2 DISMISSAL OF GRIEVANCE BY DISCIPLINARY COMMITTEE. (pg. 347)

I believe wording should be included that states the grievant should receive a letter describing the basis for the dismissal of the complaint.

¹ Seven (7) was arbitrarily chosen for illustration only.

Summary of Contents

Comments received by October 4 are included in the following table along with responses from AOC staff. When specific language is referenced, the language is underlined. When more than one comment is made about a regulation, the comments are numbered, as is the specific language that is referenced. Comments received after October 4th display in **orange**. Based on the comments received, the Certified Professional Guardianship Board approved some revisions. Approved revisions are referenced in **green** and specific language is provided in **red** in the attachment **entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.”**

Reg No	Current Regulation	Proposed Regulation
Reg 501.1 PURPOSE OF DISCIPLINARY REGULATIONS	<p>The Standards of Practice are designed to assist professional guardians in performing their duties and to protect the public interest. The standards constitute a system for determining sanctions, permitting flexibility and creativity in assigning sanctions in particular cases of professional guardian misconduct. The standards are designed to promote:</p> <p>Consideration of all factors relevant to imposing the appropriate level of sanction in an individual case;</p> <p>Consideration of the appropriate weight of such factors in light of the stated goals of guardian discipline; and</p> <p>Consistency in the imposition of disciplinary sanctions for the same or similar offenses.</p> <p>The weight given any violation of a standard of practice is set out in the disciplinary regulations.</p>	<p>To assure that Certified Professional Guardians (CPG) meet and maintain minimum professional standards of practice, which are adopted as regulations under General Rule 23 – Rule for Certifying Professional Guardians.</p> <p>To establish a process for the Certified Professional Guardianship Board (Board) to review grievances of alleged violations of statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The disciplinary procedures for failure to comply with certification requirements are included in the Certification Maintenance and Continuing Education Regulations.</p> <p><u>To set out the due process protections and other procedures that allow the professional guardian and the public to be protected.</u></p> <p>To ensure meaningful access to justice services and promote public trust and confidence in the courts.</p>
COMMENTS by Mindi Blanchard and Brenda Carpenter	<p>“To set out the due process protections and other procedures that allow the professional guardian and the public to be protected.”</p> <p>Comment - I looked up the legal definition of “due process” and this is what I’ve found</p> <p>We don’t know where the writer(s) of the proposed regulation got their definition of “due process” but we see a glaring lack of “due process” in the proposed regulation.</p>	

AOC STAFF RESPONSE TO COMMENTS	<ul style="list-style-type: none"> • Due process protections include procedural and substantive due process. Generally speaking, procedural due process refers to a right to notice and an opportunity be heard. These protections are provided throughout Regulation 500 – See 504.1, 504.2, 504.3, 504.4, 504.5, 505.2 etc. and so much more. • Substantive due process prohibits the government from infringing on fundamental constitutional liberties, such as freedom of religion, speech, press, and assembly; guarantee of a speedy jury trial in criminal cases; and protection against excessive bail and cruel and unusual punishment, the right to bear arms etc. Most of these are not applicable.
COMMENT From WAPG	Comment - This regulation is concise and outlines the purpose in a clear and effective manner.
AOC STAFF RESPONSE TO COMMENTS	No response

Reg No	Current Regulation	Proposed Regulation
Reg 501.2	No Equivalent Regulation	501.2 JURISDICTION <u>Any certified professional guardian (CPG) permitted to engage in the provision of guardianship services in this state is subject to these Disciplinary Regulations. Jurisdiction exists regardless of the CPG’s residency.</u>
COMMENT From WAPG	<p>“Any certified professional guardian (CPG) permitted to engage in the provision of guardianship services in this state is subject to these Disciplinary Regulations. Jurisdiction exists regardless of the CPG’s residency”</p> <p>Comment - The regulation applies to all CPGs who are certified by the CPG Board and can be revised to make the regulation more concise and clear. An alternative may be: Any certified professional guardian (CPG) certified by the Washington State CPG Board and appointed by a Superior Court is subject to these Disciplinary Regulations.</p>	
AOC STAFF RESPONSE TO COMMENT	No response.	

Reg No	Current Regulation	Proposed Regulation
<p>Reg 501.3 GROUNDS FOR DISCIPLINARY ACTION</p>	<p>A professional guardian may be subject to disciplinary action for any of the following:</p> <p>(1) <u>Violation of or noncompliance with applicable statutes, court orders, court rules, or other authority.</u></p> <p>Commission of a felony or of a misdemeanor or gross misdemeanor involving moral turpitude, (2) <u>whether or not a conviction results.</u></p> <p>(3)<u>Failure to perform any duty one is obligated to perform as a professional guardian.</u></p> <p>(4)<u>Violation of the oath, duties, or standards of practice of a professional guardian.</u></p> <p>(5) <u>Permitting a professional guardian's name to be used by an uncertified person or agency.</u></p> <p>503.6 Misrepresentation or concealment of a material fact made in the application for certification.</p> <p>(6)<u>503.7 Suspension, decertification, or other disciplinary sanction by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional</u></p>	<p>These rules govern the procedure by which a certified professional guardian may be subjected to disciplinary sanctions or actions for violation of the Certified Professional Guardian Standards of Practice or other regulations adopted by the Board.</p> <p>A professional guardian may be subject to disciplinary action for any of the following:</p> <p>Violation of or noncompliance with applicable violations of statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and (1) <u>any other authority applicable to professional guardians.</u></p> <p>Commission of any act that constitutes a felony, a misdemeanor or gross misdemeanor involving moral turpitude, (2) <u>whether or not a conviction results.</u></p> <p>(3) <u>Failure to perform any duty one is obligated to perform as a professional guardian.</u></p> <p>(4)<u>Violation of the oath, duties, or standards of practice of a professional guardian.</u></p> <p>(5) <u>Permitting a professional guardian's name to be used by an uncertified person or agency.</u></p> <p>Misrepresentation or concealment of a material fact made in the application for certification.</p>

	<p><u>guardianship or interaction with an incapacitated or vulnerable person.</u></p> <p><u>(7)503.8 Hiring, maintaining an office with, having on a Certified Agency’s Board of Directors, or working for or together with any person who has been decertified or suspended and who is not eligible for re- certification, if the professional guardian has knowledge of such decertification or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.</u></p> <p><u>(8)503.9 Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.</u></p> <p><u>503.10 Making a false statement under oath.</u></p> <p><u>503.11 Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.</u></p> <p><u>(9) 503.12 Working as a professional guardian while on inactive status.</u></p> <p><u>503.13 Failing to cooperate during the course of an investigation as required by the Board’s regulations.</u></p>	<p><u>(6) Suspension, decertification, or other disciplinary sanction taken by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or interaction with an incapacitated or vulnerable person.</u></p> <p><u>(7) Hiring, maintaining an office with, having on a Certified Agency’s Board of Directors, or working for or together with any person whose certification has been revoked or suspended as a disciplinary sanction, if the professional guardian has knowledge of such revocation or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.</u></p> <p><u>(8) Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.</u></p> <p><u>Making a false statement under oath.</u></p> <p><u>Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.</u></p> <p><u>(9)Working as a professional guardian while on inactive status.</u></p> <p><u>Failing to cooperate during the course of an investigation as required by the Board’s regulations.</u></p> <p><u>Incompetence in the performance of the duties of a guardian.</u></p> <p><u>(10)Failure to appear for a scheduled court proceeding without good cause.</u></p> <p><u>Failure to comply with the terms of a signed Agreement Regarding Discipline.</u></p>
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COMMENT (1) From Mindi Blanchard and Brenda Carpenter	<p>“any other authority applicable to professional guardians”</p> <p>Comment – This phrase makes this change too vague and runs the risk of allowing the AOC and the Disciplinary Committee to overstep its authority and appears that the change is to allow for anything else that could be thought of. This is not a fair process.</p>
STAFF RESPONSE TO COMMENT	The current regulation attempts to provide a list of possible violations; however, the list is not comprehensive and thus can lead someone to believe that if a violation occurs that isn’t listed, investigation and discipline cannot occur. The proposed regulation attempts to make it clear that the Board has broad authority to regulate the conduct of a professional guardian.
COMMENT (2) From Mindi Blanchard and Brenda Carpenter	<p>“whether or not a conviction results”</p> <p>Comment - This violates a professional guardian’s right to be considered innocent until proven guilty. Punishing a professional guardian for an act of which they have not been legally convicted, is beyond the authority of the AOC or the CPG Board and violated due process.</p>
AOC STAFF RESPONSE TO COMMENT	The words referenced are part of both the current and proposed regulations. In some cases guardians may not be charged for theft etc. even if it can be proven (difficult to get prosecutor’s to charge). Also if a crime is committed prosecutors may defer a matter, move a case to drug court, veteran’s court, agree to a plea of a lesser matter etc. Although, the guardian may not have been charged, the Board retains the authority to discipline a professional guardian for violating a standard of practice.
COMMENT(3) From WAPG	<p>“Failure to perform any duty one is obligated to perform as a professional guardian.”</p> <p>Comment - The above statement does not define what duties are to be followed. Would this apply to the Standards of Practice, Model Code of Ethics or Court Orders? The sentence does not add any additional authority to the regulation and is redundant.</p>
AOC STAFF RESPONSE TO COMMENT	This sentence is not new. The sentence is in the current regulation. The Board has broad authority to regulate any duty.
COMMENT (4) From WAPG	<p>“Violation of the oath, duties, or standards of practice of a professional guardian.”</p> <p>Comment - The sentence does not add any additional authority to the regulations and is redundant.</p>

AOC STAFF RESPONSE TO COMMENT	This sentence is not new. The sentence is in the current regulation. The sentence provides examples.
COMMENT (5) From WAPG	<p>“Permitting a professional guardian's name to be used by an uncertified person or agency. “</p> <p>Comment - This sentence requires further definition to be more clear and concise. The regulation should not impede on a CPG’s ability to utilize their designation in marketing and other collaborative efforts. An alternative may be: Permitting a Certified Professional Guardian’s name or certification to be utilized by any person or agency that is not CPG Board Certified.</p>
AOC STAFF RESPONSE TO COMMENT	This sentence is not new. The sentence is in the current regulation. This statement could be made clearer. The proposed statement works as does - Permitting a professional guardian's name to be used by an uncertified <u>individual guardian person</u> or <u>guardianship</u> agency. “
COMMENT (6) From WAPG	<p>“Misrepresentation or concealment of a material fact made in the application for certification.</p> <p>Suspension, decertification, or other disciplinary sanction taken by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or interaction with an incapacitated or vulnerable person.”</p> <p>Comment - The above section is not clear and concise. The following will require a definition if rule is adopted with the current language</p> <ol style="list-style-type: none"> 1. Sanction 2. Competent Authority 3. Foreign Jurisdiction <p>Assuming that this section is for a CPG or CPG Agency that has been suspended and/or decertified in any federal, state or other certifying body will be subject to these regulations. If this is the correct goal this section leaves room for interpretation.</p>
AOC STAFF RESPONSE TO COMMENT	These sentences are not new. These sentences are in the current regulation.
COMMENT (7) From WAPG	“Hiring, maintaining an office with, having on a Certified Agency’s Board of Directors, or working for or together with any person whose certification has been revoked or suspended as a disciplinary sanction, if the professional guardian has

	<p>knowledge of such revocation or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.”</p> <p>Comment - This section is not clear and concise. The goal of this section should be further discussed to ensure the CPG and/or CPG Agency can determine what course of action should be elected to ensure compliance.</p>
AOC STAFF RESPONSE TO COMMENT	A professional guardian who wishes to hire, maintain and office with, have on a Certified Agency’s Board of Directors, work for or together with any person whose certification has been revoked or suspended as a disciplinary sanction, should apply for a waiver.
COMMENT (8) From WAPG	<p>“Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.</p> <p>Making a false statement under oath.</p> <p>Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions”</p> <p>Comment - The sentence does not add any additional authority to the regulations and is redundant. The section is already covered in 501.1</p>
AOC STAFF RESPONSE TO COMMENT	These sentences are not new. These sentences are in the current regulation. These sentences provide examples.
COMMENT (9) From WAPG	<p>“Working as a professional guardian while on inactive status.</p> <p>Failing to cooperate during the course of an investigation as required by the Board’s regulations.</p> <p>Incompetence in the performance of the duties of a guardian.”</p> <p>Comment - A definition of incompetence is suggested. The CPG Board may want to consider how to deal with a CPG who has cognitive deficits and/or substance abuse issues.</p>
AOC STAFF RESPONSE TO COMMENT	<p>Incompetent is defined in Section 501.4 as follow:</p> <p>“Incompetent” means an individual is incapable, inefficient and without the qualities needed to discharge their obligations and duties.”</p>

	Anticipate using Sections 502.5 (3) and 509.6 when a CPG may have cognitive deficits or substance abuse issues.
COMMENT (10) From WAPG	<p>“Failure to appear for a scheduled court proceeding without good cause. Failure to comply with the terms of a signed Agreement Regarding Discipline.”</p> <p>Comment - An alternative may be: Failure to appear for a scheduled court proceeding without good cause or complying with the terms of an executed and accepted CPG Board Agreement Regarding Discipline.</p>
AOC STAFF RESPONSE TO COMMENT	A signed Agreement Regarding Discipline has been executed and accepted.
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See Page 1

Reg No	Current Regulation	Proposed Regulation
Reg 501.4 DEFINITIONS		<p>Unless the context clearly indicates otherwise, terms used in these rules have the following meanings:</p> <p>“Advisory Letter” is a non-disciplinary letter to notify a professional that:</p> <p>While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against a respondent certified professional guardian; or</p> <p>The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action; or</p>

		<p>While a certified professional guardian has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Disciplinary Committee believes that repetition of the activities that led to the investigation may result in further Disciplinary Committee action against a CPG.</p> <p>“Agreement Regarding Discipline” (Settlement Agreement) is a written settlement agreement approved by the professional guardian and the Board of a disciplinary matter against a professional guardian. The final agreement, approved by the parties, is a finding of misconduct, is a sanction and is subject to public disclosure.</p> <p>“AOC” means staff of the Administrative Office of the Courts.</p> <p>“Board” means the Certified Professional Guardianship Board.</p> <p>“Chair” when used alone means the Chair of the Certified Professional Guardianship Board.</p> <p><u>(2)"Contempt of Court" means:</u></p> <p><u>Disorderly, contemptuous, or insolent behavior toward a Hearing Officer while conducting a hearing or other proceeding, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;</u></p> <p><u>Disobedience of any lawful judgment, decree, order, or process of the court or tribunal;</u></p> <p><u>Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or</u></p> <p><u>Refusal, without lawful authority, to produce a record, document, or other object.</u></p> <p>“Complaint” means the formal document, as described in DR 508.2, filed by the Board with the AOC to initiate a contested hearing before a Hearing Officer for a factual hearing on the issue</p>
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		<p>of whether the professional guardian’s conduct provides grounds for the imposition of disciplinary sanctions by the Board. In a complaint, the Board describes how the professional guardian allegedly violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other authority. The Board must approve the filing of a complaint.</p> <p><u>(3) “Court” unless otherwise specified, means the Supreme Court of Washington.</u></p> <p>“CPG or CPGA” when used alone means a Certified Professional Guardian or Certified Professional Guardian Agency.</p> <p>“Decertification” of a professional guardian or agency occurs when the Board or the Supreme Court revokes the certification of a professional guardian or agency for any reason.</p> <p>“Deliberative Records” are records that contain preliminary or draft opinions or recommendations as part of a deliberative process.</p> <p>“Designated CPG” means the certified professional guardian working for an agency who has 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.</p> <p>“Disciplinary Records” are the records maintained by the Washington State Administrative Office of the Courts (AOC) of any disciplinary review, sanction, or other action imposed by the Board on the professional guardian, which shall include the reason for the Board’s action. The AOC shall maintain such records as defined by records retention schedules of the judicial branch and the AOC.</p> <p>“Disciplinary Action” encompasses the process described by these disciplinary regulations.</p>
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		<p>“Disciplinary Counsel” the Office of the Attorney General serves as disciplinary counsel for complaints, or when otherwise requested by AOC or the Board.</p> <p>Grievance” is a written document filed by any person with the Board, or filed by the Board itself, for the purpose of commencing a review of the professional guardian’s conduct under the statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The grievance must include a description of the conduct of the professional guardian that the grievant alleges violates a statute, fiduciary duty, standard of practice, rule, regulation, or other authority applicable to professional guardians, including the approximate date(s) of the conduct. (1) <u>If the grievant is unable to submit a grievance in written form due to a disability or inability to communicate in written language, it may be communicated orally to AOC staff.</u></p> <p>“Grievant” means the person or entity who files a grievance against a CPG.</p> <p>“Hearing Officer” means the person appointed by the Board to conduct a disciplinary hearing and render a decision.</p> <p>“Incompetent” means an individual is incapable, inefficient and without the qualities needed to discharge their obligations and duties.</p> <p>“Investigative Records” are records related to an investigation pursuant to GR 23 and these disciplinary regulations, into the conduct of the professional guardian, prior to the imposition of any disciplinary sanction or dismissal.</p>
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		<p>“Motion” means a written request to the Disciplinary Committee, Board, Hearing Officer or Supreme Court to issue a ruling or order.</p> <p>“No Contest” means the accused will not contest the facts on which the charge is based. It is not an admission of guilt. It is comparable to a guilty plea in authorizing a court to punish the accused.</p> <p>“Party” means respondent CPG and the Board.</p> <p>"Punitive Sanction" means a sanction imposed to punish.</p> <p>"Remedial Sanction" means a sanction imposed for the purpose of assurance performance when a failure to perform consists of the omission or refusal to perform an act that is in the person's power to perform.</p> <p>“Resignation” is the act or instance of resigning something, surrendering; the formal notification of resigning.</p> <p>“Respondent” means a CPG or CPG agency and a designated CPG against whom a grievance is filed.</p> <p>“Revoked” or “Revocation” means a professional guardian’s certification is cancelled by the Board or the Washington State Supreme Court pursuant to the procedures set forth in these disciplinary regulations or any other regulations of the Board, as a result of the professional guardian’s failure to comply with any statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The Board must specify whether the CPG is eligible to apply for certification with the AOC guardian program at a future date.</p> <p><u>(4) “Standard of Practice” means a model of established practice that is commonly accepted as correct.</u></p> <p>“Summary Judgment” is a judgment rendered by the court or Hearing Officer prior to a verdict because no material issue of fact exists and one party or the other is entitled to a judgment</p>
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		<p>ascertained through the use of statutes, rules, court decisions, and interpretation of legal principles.</p> <p>“Suspension” of a professional guardian occurs when the Board or the Supreme Court orders that the certification of a professional guardian or agency be temporarily cancelled for a specified period of time. A suspended professional guardian or agency may not act as a certified professional guardian for any person during the period of suspension.</p> <p>“To File” means submitting a written document, exhibit, or other information to the AOC regarding a grievance which will be included in the disciplinary record.</p> <p>Words of Authority</p> <p>“May” means “has discretion to,” “has a right to,” or “is permitted to”.</p> <p>“</p> <p>Must” and “shall” mean “is required to”. “Should” means recommended but not required.</p> <p>“</p> <p>Voluntary Resign (Surrender)” means a process where a certified professional guardian voluntarily decides to discontinue practice in the profession and surrenders his or her certification pursuant to regulations adopted by the Board.</p> <p>“Voluntary Resign (Surrender) in Lieu of Discipline” means a process where a certified professional guardian surrenders certification with a statement of charges for dismissal.</p>
<p>COMMENT(1) From Mindi Blanchard and Brenda Carpenter</p>		<p>“If the grievant is unable to submit a grievance in written form due to a disability or inability to communicate in written language, it may be communicated orally to AOC staff.”</p>

	<p>Comment - We object to the AOC staff being nominated as accepting a verbal grievance. The complaint should be communicated to a neutral third party and that third party would put it into writing for the grievant.</p>
AOC STAFF RESPONSE TO COMMENT	<p>A “neutral third-party” is defined as one who has no financial, or personal interest in a dispute. To our knowledge, no member of the AOC staff has a financial or personal interest in guardianship grievances. AOC staff members are committed to protecting the public from unethical or dangerous practices that can occur in guardianship practice. Any evidence that a member of AOC staff has a financial or personal interest in a guardianship grievance should be shared with the Board. It should be noted that involving an outside party to put grievances in writing would potentially compromise the privacy of both the grievant and the guardian.</p>
COMMENT (2) From WAPG	<p>"Contempt of Court" means:</p> <p>Disorderly, contemptuous, or insolent behavior toward a Hearing Officer while conducting a hearing or other proceeding, tending to impair its authority, or to interrupt the due course of a trial or other judicial proceedings;</p> <p>Disobedience of any lawful judgment, decree, order, or process of the court or tribunal;</p> <p>Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or</p> <p>Refusal, without lawful authority, to produce a record, document, or other object.”</p> <p>Comment - Contempt of Court should be determined by the court and not the CPG Board. The CPG Board should not be substituting its judgment for the court when it comes to a finding of contempt of court. This is a very complicated area involving civil rights and other rights where the court would have jurisdiction.</p>
AOC STAFF RESPONSE TO COMMENT	<p>The Board is not substituting its judgment for the court. This refers to contempt of a proceeding held by the CPG Board. Perhaps, it should read:</p> <p>"Contempt of a <u>Board Proceeding Court</u>" means:</p> <p>Disorderly, contemptuous, or insolent behavior toward a Hearing Officer while conducting a hearing or other proceeding, tending to impair its authority, or to interrupt the due course of a trial or other judicial board proceedings;</p> <p>Disobedience of any lawful judgment, decree, order, or process of the <u>Certified Professional Guardianship Board</u> court or tribunal;</p> <p>Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or</p>

	Refusal, without lawful authority, to produce a record, document, or other object.”
COMMENT (3) From WAPG	<p>“Court” unless otherwise specified, means the Supreme Court of Washington.”</p> <p>Comment - The current CPG Board regulations does not allow for an appeal process outside of the administrative court process with only an appeal to the WA State Supreme Court. This limits the CPG's options for a resolution. All other state certification governing agencies allow for lower courts to rule on disciplinary and/or sanctions prior to being heard by the State Supreme Court. By not allowing for this process places an undue financial burden on the CPG to dispute any decision made by the CPG Board.</p>
AOC STAFF RESPONSE TO COMMENT	The Board’s regulatory process is modeled after the regulatory process for the Washington State Bar Association and Licensed Practice Officers. Both only allow appeals to the Supreme Court. The Washington Supreme Court has exclusive authority to administer discipline for attorneys, LPOs and professional guardians. The Supreme Court has appointed the CPG Board to regulate professional guardians.
COMMENT (4) From WAPG	<p>"Standard of Practice" means a model of established practice that is commonly accepted as correct.</p> <p>Comment - Standard of Practice should mean SOP's as promulgated by the board. The vague definition leaves this term open to interpretation.</p>
AOC STAFF RESPONSE TO COMMENT	No response.
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See Page 3

Reg No	Current Regulation	Proposed Regulation
Reg 501.5 STATUTE OF LIMITATIONS		<u>No statute of limitation or other time limitation restricts filing a grievance or bringing a proceeding under these rules, but the passage of time since an act of misconduct occurred may be considered in determining what if any action or sanction is warranted.</u>
COMMENT From Mindi Blanchard and Brenda Carpenter	“No statute of limitation or other time limitation restricts filing a grievance or bringing a proceeding under these rules, but the passage of time since an act of misconduct occurred may be considered in determining what if any action or sanction is warranted.”	

	Comment - Even criminal acts, except for murder, have limitations and time statutes. No professional guardian should have to worry about a complaint being resurrected ten, twenty, thirty or forty years later.
AOC STAFF RESPONSE TO COMMENT	See Attachment A
COMMENT From Lin D. O'Dell	See Letter from Lin D. O'Dell
AOC STAFF RESPONSE TO COMMENT	See Attachment A

Reg No	Current Regulation	Proposed Regulation
Reg 502.1 RESTRICTION ON REPRESENTING RESPONDENTS	509.1.3 A former member of the Board who is also a licensed attorney in Washington shall not represent a professional guardian in proceedings under the Board's regulations until after two (2) years have elapsed following expiration of the Board member's term of office	<p>502.1 CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD (CPGB)</p> <p>The Washington State Certified Professional Guardianship Board has responsibility in the state to administer CPG discipline and has inherent power to maintain appropriate standards of practice and to conduct and to dispose of individual cases of CPG discipline. Persons carrying out the functions set forth in these rules act under the Certified Professional Guardianship Board's authority.</p> <p>Function. The Board:</p> <p>Supervises the general functioning of the Disciplinary Committee. Makes appointments, removes those appointed, and fills vacancies as provided in these rules.</p> <p>Performs other functions and takes other actions provided in these rules, delegated by the Supreme Court in General Rule 23, or as necessary and proper to carry out its duties.</p> <p>Is responsible for hearing appeals of Disciplinary Committee decisions that are made appealable pursuant to these rules.</p> <p><u>Restriction on Representing Respondents. A former member of the Board shall not represent a certified professional guardian in proceedings under the Board's regulations for at least three (3) years</u></p>

		<u>following expiration of the Board member's term of office. Former AOC staff shall not represent a certified professional guardian in proceeding under the Board's regulations for at least three (3) years after separation from AOC. Former members of the Board are also subject to the restrictions on representing respondents in rule 502.2(6).</u>
COMMENT From Mindi Blanchard and Brenda Carpenter	<p>“A former member of the Board shall not represent a certified professional guardian in proceedings under the Board's regulations for at least three (3) years following expiration of the Board member's term of office. Former AOC staff shall not represent a certified professional guardian in proceeding under the Board's regulations for at least three (3) years after separation from AOC. Former members of the Board are also subject to the restrictions on representing respondents in rule 502.2(6).”</p> <p>Comment - The change from two years to three years. There is no reason given for the addition of a 3rd year of separation. It is an arbitrary and unnecessary change to the current.</p>	
STAFF RESPONSE TO COMMENT	<p>Members of the Board and AOC staff have access to confidential information during their tenure with the Board. They should not be involved in representing guardians in a process they were originally involved in investigating. Thus a restriction on representation is essential. Some revisions to Reg 500 model the disciplinary rules for Licensed Practice Officers (LPOs). ELPOC 2.11 includes a 3 year restriction on representation http://wsba.org/~media/Files/Licensing_Lawyer%20Conduct/LPO/Rules%20Regs/Rules%20for%20Enforcement%20of%20LPO%20Conduct%20-%20appr%20Jan%206%202016%20eff%20Mar%201%202016.ashx</p> <p>In the only complaint that was appealed, the grievance was received in 2009, A hearing was held in 2012. An appeal was resolved in 2014 and the guardian sought reinstatement in 2016. One can argue that this was an active matter for a minimum of 5 years (2009 -2014) and a maximum of 7 years (2009 to 2016). Staff suggests that the restriction on representation should be more than three years. Five years is recommended.</p>	

Reg No	Current Regulation	Proposed Regulation
Reg 502.2 DISCIPLINARY COMMITTEE	505 Standards of Practice Committee (SOPC) The SOPC shall have three members appointed by the Board Chair. (1)At least one member must be a certified professional guardian and at least one member must be an attorney or judicial officer. The Board Chair shall designate one member as the chair of the committee. (2)All committee members will serve a term of one year. The Board Chair shall also appoint at least three	502.2 DISCIPLINARY COMMITTEE <u>(3) Function. The Disciplinary Committee performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include, but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions. Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity</u>

	<p>alternate members of the SOPC to assist the SOPC in the performance of its duties as requested by the Chair of the SOPC. At least one alternate member shall be a certified professional guardian and one alternate member shall be a judicial officer or attorney.</p> <p>Members of the SOPC shall perform tasks related to the disciplinary process as set forth in these regulations or as assigned by the Board.</p>	<p><u>and impartiality of the disciplinary system. Members should not allow family, social, business or other relationships to influence their conduct or judgment.</u></p> <p><u>(4) Membership. The Chair appoints a Disciplinary Committee of three to four members from among the Board members. (1)At least one of the members must have substantial experience in guardianships. The Chair may change the appointment of members to the Disciplinary Committee as necessary for equitable distribution of work or for other reasons. The Chair does not serve on the Disciplinary Committee.</u></p> <p><u>(2) Terms of Office. A board member may serve as a Disciplinary Committee member as long as the member is on the Board or for other shorter terms as determined to be appropriate by the Chair of the Board.</u></p> <p><u>(5) Disciplinary Committee Chair. The Chair of the Board designates one member of the Disciplinary Committee to act as its Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.</u></p> <p>Meetings. The Disciplinary Committee meets at times and places determined by the Disciplinary Committee Chair. At the Disciplinary Committee Chair’s discretion, the Committee may meet and act through electronic, telephonic, written, or other means of communication.</p>
COMMENT (1) From Mindi Blanchard and Brenda Carpenter	<p>Comment - The current rule states “At least one member must be a certified professional guardian and at least one member must be an attorney or judicial officer.” No one who has never practiced as a professional guardian understands the challenges and nuances of guardianship. The new rule is not appropriate representation for professional guardian.</p>	
RESPONSE TO COMMENT	<p>Guardianship practice requires knowledge in many different areas. Board members are selected for their experience and subject matter expertise in one or more of these areas. Each member brings a perspective that informs the discussion.</p>	
COMMENT (2)	<p>“Terms of Office. A board member may serve as a Disciplinary Committee member as long as the member is on the Board or for other shorter terms as determined to be appropriate by the Chair of the Board.”</p>	

From Mindi Blanchard and Brenda Carpenter	Comment - That could be as long as nine years. This is far too long. The current rule is that each board member serves one year. We see no reason to change.
AOC STAFF RESPONSE TO COMMENT	The current rule does not limit the number of terms a member may serve thus members can currently serve 9, one year terms. Disciplinary members have a learning curve. The longer they serve, the more experience they obtain. Also their ability to serve should only be limited by their ability to serve as a board member.
COMMENT (3) From WAPG	<p>“Function. The Disciplinary Committee performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include, but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions.</p> <p>Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members should not allow family, social, business or other relationships to influence their conduct or judgment.”</p> <p>Comment - It is recommended that should be changed to shall. The CPO Board members should be held to the same standards at the CPG's that they regulate. This would elevate any conflict of interest issues and/or appearance of a conflict of CPG Board Members.</p>
AOC STAFF RESPONSE TO COMMENT	Agree that it is appropriate to replace “should” with “shall”.
COMMENT (4) From WAPG	<p>“Membership. The Chair appoints a Disciplinary Committee of three to four members from among the Board members. At least one of the members must have substantial experience in guardianships. The Chair may change the appointment of members to the Disciplinary Committee as necessary for equitable distribution of work or for other reasons. The Chair does not serve on the Disciplinary Committee.”</p> <p>Comment - It is recommended that all CPG Board Members appointed to the CPG Disciplinary Committee have substantial experience in guardianships. In all other national and state certification programs, a certified or licensed fiduciary complaint are reviewed by either other professional fiduciaries and/or individuals well versed in the regulation and process.</p>
AOC STAFF RESPONSE TO COMMENT	<p>Many licensing programs include members of the public and other professionals on their disciplinary committees. For example, see the excerpts below from the LPO Disciplinary Committee, and the Bar Disciplinary Review Committee.</p> <p>ELPOC 2.4 DISCIPLINE COMMITTEE</p>

	<p>(a) Function. The discipline committee performs the functions provided under these rules, delegated by the Board or the Chair, or necessary and proper to carry out its duties.</p> <p>(b) Membership. The Chair appoints a discipline committee of three members from among the Board members. <u>At least one of the members must have substantial experience in the industry.</u> The Chair may change the appointment of members to the discipline committee as necessary for equitable distribution of work or for other reasons. The Chair does not serve on the discipline committee.</p> <p>ELC 2.4</p> <p style="text-align: center;">REVIEW COMMITTEES</p> <p>(a) Function. A review committee performs the functions provided under these rules, delegated by the Board or the Chair, or necessary and proper to carry out its duties.</p> <p>(b) Membership. The Chair appoints three or more review committees of three members each from among the Board members. Each review committee consists of two lawyers and <u>one nonlawyer.</u> The Chair may reassign members among the several committees on an interim or permanent basis. The Chair does not serve on a review committee.</p>
COMMENT (5) From WAPG	<p>“Disciplinary Committee Chair. The Chair of the Board designates one member of the Disciplinary Committee to act as its Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.</p> <p>Comment - This section anticipates that the disciplinary committee is a judicial proceeding which in most licensing or certification processes this is not presumed. Further discussion should be held that would identify the purpose of this section, criteria for determining chair and if this section is required.</p>
AOC STAFF RESPONSE TO COMMENT	Neither the WSBA of LPO Board’s require the chair of the Disciplinary Committee to have experience serving in a judicial or quasi-judicial capacity. We did not research other disciplinary committees. This is a requirement that was established by the original drafters of the Reg. 500. It is not new.
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See Page 6

Reg No	Current Regulation	Proposed Regulation
Reg 502.3 CONFLICTS REVIEW COMMITTEE	507 Conflicts Review Committee The Conflicts Review Committee (CRC) shall have three members appointed by the Board Chair, who shall also designate the committee chair. CRC members may not be current members	502.3 CONFLICTS REVIEW COMMITTEE <u>Function. The Conflicts Review Committee (CRC) performs the functions provided under these rules, delegated by the Board or the</u>

	<p>of the Board. CRC members shall be familiar with guardianship practice in the state of Washington.</p> <p>The AOC shall transmit any grievance against a Board member to the CRC. The CRC shall perform the duties that would otherwise be performed by the SOPC under these regulations and AOC shall report to the CRC on any such grievance.</p> <p>507.3 The CRC may also recommend to the Board Chair that the Board member under investigation be placed on a leave of absence from the Board during its investigation. The CRC will consider the nature of the allegations against the Board member, the available evidence regarding those allegations and the importance of maintaining public trust and confidence in the Board in making its recommendation to the Board Chair. The CRC may make such a recommendation at any time during Its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Board Chair shall have the sole discretion to decide whether the Board member should take a leave of absence from the Board and when the Board member may return to the Board.</p> <p>507.4 If the Board files a complaint against a Board member, the Board member shall take a leave of absence from the Board until the conclusion of the disciplinary proceeding.</p> <p>507.5 Consistent with the Office of Financial Management rules, CRC members shall be reimbursed for their actual and necessary expenses</p>	<p><u>Chair, or as necessary and proper to carry out its duties. These functions include but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions involving a Board member. Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members should not allow family, social, business, or other relationships to influence their conduct or judgment.</u></p> <p>Membership. The Board Chair shall appoint three members who shall not be current members of the Board. CRC members shall be familiar with guardianship practice in the state of Washington.</p> <p>Chair. The Board Chair shall designate one member of the CRC to serve as Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.</p> <p>Confidentiality Agreement. All proposed members of a CRC are required to sign a confidentiality agreement prior to serving.</p> <p>CRC Duties. The AOC shall transmit any grievance against a Board member to the CRC. The CRC shall perform the duties that would otherwise be performed by the Disciplinary Committee under these regulations and AOC shall support the CRC in any such grievance.</p> <p>The CRC may recommend to the Board Chair that the Board member under investigation be placed on a leave of absence from the Board during its investigation. The CRC will consider the nature of the allegations against the Board member, the available evidence regarding those allegations and the importance of maintaining public trust and confidence in the Board in making its recommendation to the Board Chair. The CRC may make such a recommendation at any time during its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Board Chair shall have the sole discretion to decide whether the</p>
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	<p>incurred in the performance of their duties.</p>	<p>Board member should take a leave of absence from the Board and when the Board member may return to the Board.</p> <p>Reimbursement. Consistent with the AOC policy, CRC members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.</p> <p>Access to Disciplinary Information. CRC Members have access to any otherwise confidential disciplinary information necessary to perform the duties required by these rules. CRC Members shall return original files to the AOC promptly upon completion of the duties required by these rules and shall not retain copies.</p> <p>Independence. CRC Members act independently of disciplinary counsel and the Board.</p> <p>Board Member Responsibility. If the Board files a complaint against a Board member, the Board member shall take a leave of absence from the Board until the conclusion of the disciplinary proceeding.</p>
<p>COMMENT From WAPG</p>	<p>“Function. The Conflicts Review Committee (CRC) performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions involving a Board member. Members should respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. <u>Members should not allow</u> family, social, business, or other relationships to influence their conduct or judgment.”</p> <p>Comment --It is recommended that should be changed to shall. The CPG Board members should be held to the same standards at the CPG's that they regulate. This would elevate any conflict of interest issues and/or appearance of a conflict of CPG Board Members.</p>	

AOC STAFF RESPONSE TO COMMENT	Agree that it is appropriate to replace “should” with “shall”.
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See Page 7

Reg No	Current Regulation	Proposed Regulation
Reg 502.5 RESPONDENT CERTIFIED PROFESSIONAL GUARDIAN	<p>509.1.1 A professional guardian may be represented by counsel at the professional guardian’s expense at any stage of any investigation or proceeding under the Board’s regulations.</p> <p>509.1.2 Should the professional guardian seek reimbursement or imposition of fees and costs from a guardianship estate during the pendency of any Board or AOC investigation, the matter must be addressed by the superior court with jurisdiction over the case.</p> <p>(1) <u>509.1.3 A former member of the Board who is also a licensed attorney in Washington shall not represent a professional guardian in proceedings under the Board’s regulations until after two (2) years have elapsed following expiration of the Board member’s term of office.</u></p>	<p>502.5 RESPONDENT CERTIFIED PROFESSIONAL GUARDIAN Right to Representation. A CPG may be represented by counsel at the CPG’s own expense during any stage of an investigation or proceeding under these rules.</p> <p>(1) <u>Restrictions on Representation of Respondent. A former Board member cannot represent a respondent CPG in any proceeding under these rules until three (3) years after leaving the Board. A former CRC member cannot represent a respondent CPG in any proceeding under these rules until one (1) year after the CRC has completed its work. A former AOC staff person shall not represent a respondent CPG in any proceeding under these rules for at least three (3) years after the date of separation from AOC.</u></p> <p>(2) <u>Restriction on Charging Fee to Respond to Grievance. A respondent CPG may not seek to charge a grievant or an incapacitated person’s estate a fee or recover costs from a grievant or incapacitated person’s estate for responding to the CPG Board regarding a grievance.</u></p> <p>(3) <u>Medical and Psychological Records. A respondent CPG must furnish written releases or authorizations to permit access to medical, psychiatric, or psychological records of the certified professional guardian and the incapacitated person as may be relevant to the investigation or proceeding.</u></p>
COMMENT (1) From Mindi Blanchard and Brenda Carpenter	<p>“Restrictions on Representation of Respondent. A former Board member cannot represent a respondent CPG in any proceeding under these rules until three (3) years after leaving the Board. A former CRC member cannot represent a respondent CPG in any proceeding under these rules until one (1) year after the CRC has completed its work. A former AOC staff person shall not represent a respondent CPG in any proceeding under these rules for at least three (3) years after the date of separation from AOC.”</p> <p>Comment - We feel that the current rule should be kept.</p>	
AOC STAFF RESPONSE TO COMMENT	<p>(Repeating the same response as above). Members of the Board and AOC staff have access to confidential information during their tenure with the Board. They should not be involved in representing guardians in a process they were originally involved in investigating. Thus a restriction on representation is essential. In the only complaint that was appealed, the grievance was received in 2009, A hearing was held in 2012. An appeal was resolved in 2014 and the</p>	

	guardian sought reinstatement in 2016. One can argue that this was an active matter for a minimum of 5 years (2009 - 2014) and a maximum of 7 years (2009 to 2016). Staff suggests that the restriction on representation should be more than three years. Five years is recommended.
COMMENT (2) From Mindi Blanchard and Brenda Carpenter	<p>“Restriction on Charging Fee to Respond to Grievance. A respondent CPG may not seek to charge a grievant or an incapacitated person’s estate a fee or recover costs from a grievant or incapacitated person’s estate for responding to the CPG Board regarding a grievance. “</p> <p>Comment - We feel that a formal hearing should be required to determine if fees can be charged on a grievance. The proposal would allow frivolous grievances to continue unchecked while the professional guardian bears the financial burden of defending him or herself.</p>
AOC STAFF RESPONSE TO COMMENT	The Board discussed this issue at length during its June meeting. In summary, the Board is confident that its process will identify frivolous grievances. No additional process is needed. SOP 410.2 states that all guardian compensation must be incurred for the incapacitated person’s welfare. Case law also states that guardian fees must be for the benefit of the IP (<i>In re Guardianship of Lamb</i> , 153 Wn. App. 1036 (2009).
COMMENT (3) From Mindi Blanchard and Brenda Carpenter	<p>“Medical and Psychological Records. A respondent CPG must furnish written releases or authorizations to permit access to medical, psychiatric, or psychological records of the certified professional guardian and the incapacitated person as may be relevant to the investigation or proceeding.”</p> <p>Comment - We feel that this is a violation of our right to privacy without due process. A hearing needs to be required to determine if this is necessary on a case-by-case basis. The CPG Board and/or AOC should not be allowed to arbitrarily determine that this information is needed</p>
AOC STAFF RESPONSE TO COMMENT	<p>In performing its mission, the Board must weigh the need to protect the public from unethical and dangerous practice against the privacy interest of professional guardians. The right to privacy is outweighed by the greater benefit of decreasing the risk to which the public is subject. Just as CPGs must have access to the private and confidential records of the people they serve, the CPG Board must have access to the private and confidential records of CPGs. Private information is handled in a safe and secure manner and is only shared on a need to know basis.</p> <p>This is not an uncommon rule with regulatory bodies. Click below and see ELC 8.2 (c) (3) for attorneys http://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=ELC&ruleid=gaelc0808.02 http://wsba.org/~media/Files/Licensing_Lawyer%20Conduct/LPO/Rules%20Regs/Rules%20for%20Enforcement%20of%20LPO%20Conduct%20-%20appr%20Jan%206%202016%20eff%20Mar%201%202016.ashx ELPIC 8.2 (c) (3)</p>
COMMENT (4) From WAPG	“Right to Representation. A CPG may be represented by counsel at the CPG’s own expense during any stage of an investigation or proceeding under these rules.

“Restrictions on Representation of Respondent. A former Board member cannot represent a respondent CPG in any proceeding under these rules until three (3) years after leaving the Board. A former CRC member cannot represent a respondent CPG in any proceeding under these rules until one (1) year after the CRC has completed its work. A former AOC staff person shall not represent a respondent CPG in any proceeding under these rules for at least three (3) years after the date of separation from AOC.

Restriction on Charging Fee to Respond to Grievance. A respondent CPG may not seek to charge a grievant or an incapacitated person’s estate a fee or recover costs from a grievant or incapacitated person’s estate for responding to the CPG Board regarding a grievance.”

Medical and Psychological Records. A respondent CPG must furnish written releases or authorizations to permit access to medical, psychiatric, or psychological records of the certified professional guardian and the incapacitated person as may be relevant to the investigation or proceeding.”

Comment -It is recommended that there be some standard for filing a grievance, and failing to meet that standard should subject the person filing the grievance to some penalty. While one does not want to produce a chilling effect on individuals who file a legitimate grievance, but a CPG should not be continually defending themselves against frivolous claims and/or grievances. The CPG is appointed for a reason and continually interacts with difficult family members, interested parties and other national guardianship groups. The CPG Board might consider the California Licensing Bureaus protocol in which not all grievances filed are fully vented through the process. In many grievances, the individual filing the grievance has had the issue fully reviewed and a ruling made by the court. The individual filing the grievance is unwilling to accept the court's decision and wants to continue the dispute through the grievance process at no cost to the individual filling the grievance. These grievances and/or issues should be dismissed if a court or other form of judication has resulted in a ruling by the court.

The assumption that only the CPG Board can rule on grievances involving Standards of Practice is no longer valid due to the recent Spokane Superior Court ruling and the Appellate ruling in which findings of fact were made based on the Standards of Practice.

The CPG Board has taken the position that a grievance allows for the review of all clients and procedures of the CPG or CPG Agency instead of reviewing the grievance and deciding based on that sole grievance. This tact as well as not reviewing the merit of the case at the onset of the filing of the grievance is reflected in the CPG Board's backlog of grievances. CPG's grievances have not been investigated or ruled upon for over a two or three-year span from time the grievance was filled and when a decision was made. This lag time between filing of the grievance and a decision being made creates mistrust from the CPG community as well as the public who have filed the grievance. All other regulated

	<p>professions have specific timelines that must be met to ensure the grievance is heard in timely manner. If the CPG Board cannot guarantee grievances are not resolved in a timely manner other options should be pursued and implemented.</p> <p>It is recommended that this provision should allow for the CPG be to obtain consent form the client prior to blanketly giving the CPG Board the authority to access a client's records without limitation. If the client does not agree to the consent a CPG would be requested to obtain direction from the assigned court to proceed with the authorization and/or give limited authority to the CPG Board. This request is an invasion of a client's privacy and may be not warranted if the grievance is not dependent on the information. The CPG's Standard of Practice places this request in directly conflict with blanketly execute the release.</p>
AOC STAFF RESPONSE TO COMMENT	<p>In performing its mission, the Board must weigh the need to protect the public from unethical and dangerous practice against the privacy interest of clients. The right to privacy is outweighed by the greater benefit of decreasing the risk to which the public is subject. Private information is handled in a safe and secure manner and is only shared on a need to know basis. Also see GR 22 Comment to (d) (3)</p> <p>https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr22</p>
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See Page 8

Reg No	Current Regulation	Proposed Regulation
REG 505.1 FILING A GRIEVANCE	<p>504.1 Any person or entity may file a grievance with the Administrative Office of the Courts (AOC) regarding a professional guardian. The Board may file a grievance in its name if alleged or apparent misconduct comes to the Board’s attention without a grievance being filed by a third person.</p>	<p>505.1 GRIEVANTS Filing of Grievance. Any person or entity may file a grievance, as defined in section 501.4.16 against a certified professional guardian.</p> <p>The Disciplinary Committee Chair may open a grievance based on any information obtained by the AOC or the Board.</p> <p>Consent to Disclosure. By filing a grievance, the grievant consents to disclosure of his or her identity, the nature of the allegations of the grievance to the respondent CPG or to any other person contacted during the investigation.</p> <p><u>The identity of the person bringing the grievance is disclosed unless the person submits a written request for confidentiality that explains his or her reasons for not wanting his or her identity disclosed, and which the Disciplinary Committee</u></p>

		<p><u>approves. At the discretion of the Disciplinary Committee Chair, the grievant's identity may be revealed for good cause.</u></p> <p>If the matter goes to a hearing and the grievant's testimony is required, the grievant's identity as a witness is not confidential, the fact that he/she brought the grievance may remain confidential.</p> <p>Grievant Rights. A grievant has the following rights:</p> <ul style="list-style-type: none"> To be advised promptly of the receipt of the grievance, and of the name, address, and office phone number of the person assigned to its investigation if such an assignment is made; To have a reasonable opportunity to speak with the person assigned to the grievance, by telephone or in person, about the substance of the grievance or its status; To submit additional supplemental written information or documentation at any time; To attend any hearing conducted into the grievance; To provide testimony at any hearing conducted into the grievance, if such testimony is determined by AOC to be appropriate and relevant to the proceeding; To be advised of the disposition of the grievance; To be advised when his or her identity will no longer be confidential; and after supplying additional information in reference to the grievance, to request reconsideration of a dismissal of the grievance as provided in DR 506.2. <p>Grievant Duties. A grievant has the duty to do the following:</p>
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<p>COMMENT From Mindi Blanchard and Brenda Carpenter</p>	<p>“The identity of the person bringing the grievance is disclosed unless the person submits a written request for confidentiality that explains his or her reasons for not wanting his or her identity disclosed, and which the Disciplinary Committee approves. At the discretion of the Disciplinary Committee Chair, the grievant’s identity may be revealed for good cause. “</p> <p>Comment - Where is the due process in this? Under no circumstances should a grievant have their identity protected. A CPG should have all relevant knowledge regarding a grievance so that they can prepare and respond to a grievance with all available resources. Not knowing who the grievant is would undermine the CPGs’ ability to put the complaint into context and would hamper the CPG’s ability to defend him/herself.</p>	
<p>STAFF RESPONSE TO COMMENT</p>	<p>Virtually all parties working closely with the elderly, persons with developmental disabilities and mental illness have noted that the overwhelming majority of abuse incidents remain unreported, because individuals often fear retaliation. Entities working to protect persons with disabilities, must weigh the value of receiving an anonymous report that could ultimately protect the welfare and safety of an IP against the potential harm to the reputation of the person complained about. Having the name of the complainant, doesn’t change the complaint. The right to face one’s accuser is a criminal law matter that generally refers to face-to-face confrontation with witnesses offering testimonial evidence against the accused in the form of cross-examination during a trial. Please note that the proposed rule would permit the CPG to make a motion to the Disciplinary Committee Chair to reveal the identity of the grievant for good cause.</p>	

Reg No	Current Regulation	Proposed Regulation
<p>REG 505.2 INVESTIGATION OF GRIEVANCES</p>	<p>504.3 The AOC will review each complaint and may follow up in writing or through other means to obtain all necessary information for the grievance to proceed. This follow-up may include the AOC returning incomplete or unclear grievances to the submitting person or body with an explanation of why the grievance is incomplete and what additional information is necessary.</p> <p>504.4 Unless the Standards of Practice Committee (SOPC) has dismissed the grievance, the AOC shall send a grievance regarding an active guardianship case to the appropriate superior court with a request that the court review the grievance, take any action the court deems necessary, and report back to the AOC.</p> <p>504.5 Unless the SOPC has dismissed the grievance, AOC will send a copy of the grievance to the professional guardian, provide information to the professional guardian about the website location of the Board’s disciplinary regulations and request that the professional guardian respond to the grievance in writing.</p> <p>504.6 AOC may perform other necessary investigation of the grievance, which may include any of the following: interviewing the grievant, interviewing the professional guardian and obtaining relevant records or documentation from any person or entity.</p> <p>504.7 AOC will report the results of its investigation to the SOPC unless the grievance is</p>	<p>505.2 INVESTIGATION OF GRIEVANCE Review and Investigation. The AOC must review any alleged or apparent misconduct by a CPG. AOC shall conduct an initial investigation to ensure that any grievances received are complete, meet jurisdictional requirements as defined in DR 501.3, and provide sufficient factual information to warrant further consideration. When appropriate the initial investigation should include the following:</p> <p>Provide a copy of the grievance to the respondent certified professional guardian and request a response pursuant to DR 506.3.</p> <p>Provide a copy of the respondent certified professional guardian’s response to the grievant and request a response.</p> <p>Interview persons believed to possess relevant information or documents. Request and review relevant documents.</p> <p>Initial Dismissal. AOC may dismiss a grievance that fails to provide sufficient factual information, fails to meet jurisdictional requirements, or fails to identify an action which would result in sanctions. AOC is not required to seek the approval of the Disciplinary Committee or the Board for such dismissals.</p> <p>(1) <u>Dismissal of Grievance Not Required. None of the following alone requires dismissal of a grievance:</u></p> <p><u>The unwillingness of a grievant to continue the grievance;</u></p> <p><u>The withdrawal of the grievance, a compromise between the grievant and the respondent; or</u></p> <p><u>Restitution by the respondent.</u></p>

	<p>against a Board member, in which case the AOC will report the results of its investigation to the Conflicts Review Committee (CRC) which shall act on the grievance in accord with these regulations.</p>	<p>Deferral.</p> <p>(2) <u>An investigation into alleged acts of misconduct by a CPG may be deferred by the Chair of the Disciplinary Committee or AOC staff with the approval of the Disciplinary Chair, if it appears that the deferral will not endanger the public, and; The allegations are related to pending civil or criminal litigation;</u></p> <p>(6) <u>The respondent CPG is physically or mentally unable to respond to the investigation; or For other good cause shown.</u></p> <p>The AOC must inform the grievant and respondent of a decision to defer or a denial of a request to defer and of the procedure for requesting review. A grievant or respondent may request review of a decision on deferral. If review is requested, the AOC refers the matter to the Disciplinary Committee for reconsideration of the decision on deferral. To request review, the grievant or respondent must deliver or deposit in the mail a request for review to the Board no later than thirty (30) days after the AOC mails the notice regarding deferral.</p> <p>(3) <u>(7) Duty to Furnish Prompt Response. The respondent CPG must promptly respond to any inquiry or request made under these rules for information relevant to grievances or matters under investigation.</u> Upon inquiry or request, the respondent CPG must:</p> <p>(4) <u>Furnish in writing, or orally if requested, a full and complete response to inquiries and questions;</u></p> <p>(5) <u>Permit inspection and copying of the CPG’s business records, files, and accounts;</u></p>
<p>COMMENT (1) From Mindi Blanchard and Brenda Carpenter</p>	<p>“Dismissal of Grievance Not Required. None of the following alone requires dismissal of a grievance:</p> <p>The unwillingness of a grievant to continue the grievance;</p>	

	<p>The withdrawal of the grievance, a compromise between the grievant and the respondent; or</p> <p>Restitution by the respondent.”</p> <p>Comment - Where is the due process in this? This is treating CPGs as though they are guilty even when the issue is resolved. The CPG Board and the AOC should not have this power.</p>
STAFF RESPONSE TO COMMENT	<p>At the core of all rules and regulations is the protection of persons subject to guardianship. The Board must consider the ability of someone to exercise undue influence and coerce another to withdraw a grievance. The Board must also consider that the fear of retaliation may cause one to withdraw a grievance. The inability to withdraw a complaint once filed is recognized in any area where the person served is extremely vulnerable, including domestic violence, child and elder abuse. The fact that the grievance proceeds and an investigation occurs does not indicate any predisposition on the merits. It simply ensures Board review of any grievance.</p>
COMMENT (2) From Mindi Blanchard and Brenda Carpenter	<p>“An investigation into alleged acts of misconduct by a CPG may be deferred by the Chair of the Disciplinary Committee or AOC staff with the approval of the Disciplinary Chair, if it appears that the deferral will not endanger the public, and; The allegations are related to pending civil or criminal litigation; The respondent CPG is physically or mentally unable to respond to the investigation; or For other good cause shown.”</p> <p>Comment - When is the CPG Board in this section? Are they deferring their responsibilities to the Disciplinary Committee and AOC Staff? Nothing should be decided without CPG approval.</p>
STAFF RESPONSE TO COMMENT	<p>The Board has determined when it must review and approve the decisions of others. The disciplinary process includes many checks and balances. Requiring the full volunteer Board, which meets no more than once a month, to review and approve every action/decision would significantly limit the Board’s ability to function as a regulatory body, thus, reducing its ability to accomplish its mission.</p>
COMMENT (3) From Mindi Blanchard and Brenda Carpenter	<p>“Duty to Furnish Prompt Response. The respondent CPG must promptly respond to any inquiry or request made under these rules for information relevant to grievances or matters under investigation.”</p> <p>Comment - This needs to be defined It is too vague. How long is “promptly”?</p>
COMMENT From Tina Balwin	<p>“Duty to Furnish Prompt Response.</p> <p>Comment - I believe wording should be included to define ‘Prompt’, e.g. ‘The respondent must respond within seven (7)1 working days to any inquiry or request....’ Being specific removes misunderstanding or misinterpretation.</p>
STAFF RESPONSE TO COMMENT	<p>Webster defines “promptly” as “with little or no delay; immediately”. If in doubt, conventional wisdom would suggest contacting AOC and explaining when a response will be provided. Staff will set a response deadline for each request. If response is received by the deadline the response will be considered prompt.</p>

COMMENT (4) From Mindi Blanchard and Brenda Carpenter	“Furnish in writing, or orally if requested, a full and complete response to inquiries and questions; Comment - Everything needs to be in writing. Orally is not acceptable
STAFF RESPONSE TO COMMENT	No response.
COMMENT (5) From Mindi Blanchard and Brenda Carpenter	“Permit inspection and copying of the CPG’s business records, files, and accounts;” Comment - Again, this is a privacy violation and should require a hearing to determine the necessity of this information being provided.
STAFF RESPONSE TO COMMENT	In performing its mission, the Board must weigh the need to protect the public from unethical and dangerous practice against the privacy interest of professional guardians. The right to privacy is outweighed by the greater benefit of decreasing the risk to which the public is subject. Just as CPGs must have access to the records of the people they serve, the CPG Board must have access to the records of CPGs. Private information is handled in a safe and secure manner and is only shared on a need to know basis.
COMMENT (6) From Tina Balwin	“ <u>The respondent CPG is physically or mentally unable to respond to the investigation; or For other good cause shown.</u> ” Comment - I believe the proposed regulation should include wording that requires the respondent CPG to submit documentation from a physician or psychologist supporting respondent CPG’s alleged inability to respond to the investigation. This letter from the medical or mental health professional should also include a date that they feel the CPG will be ready to respond.
STAFF RESPONSE TO COMMENT	No comment
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See page 8.

Reg No	Current Regulation	Proposed Regulation
REG 505.3 PRIVILEGES	It shall be the duty and the obligation of a professional guardian or agency subject to a disciplinary investigation to cooperate with the SOPC, Board, or the AOC staff as requested, subject only to the proper exercise of the	Privilege Against Self-Incrimination. A CPG’s duty to cooperate is subject to the CPG’s privilege against self-incrimination, where applicable. <u>Confidential Information. A CPG may not assert confidentiality under the Standards of Professional Conduct or other prohibitions on revealing client confidences or secrets as a basis</u>

	professional guardian's privilege against self-incrimination.	<u>for refusing to provide information during the course of an investigation, but information obtained during an investigation involving client confidences or secrets must be kept confidential to the extent possible under these rules unless the client otherwise consents.</u>
COMMENT From Mindi Blanchard and Brenda Carpenter	<p>“Confidential Information. A CPG may not assert confidentiality under the Standards of Professional Conduct or other prohibitions on revealing client confidences or secrets as a basis for refusing to provide information during the course of an investigation, but information obtained during an investigation involving client confidences or secrets must be kept confidential to the extent possible under these rules unless the client otherwise consents.”</p> <p>Comment - We interpret this as stripping CPGs and possibly their clients of important rights and should not be allowed</p>	
RESPONSE TO COMMENT	<p>In performing its mission, the Board must weigh the need to protect the public from unethical and dangerous practice against the privacy interest of clients. The right to privacy is outweighed by the greater benefit of decreasing the risk to which the public is subject. Private information is handled in a safe and secure manner and is only shared on a need to know basis. Also see GR 22 Comment to (d) (3)</p> <p>https://www.courts.wa.gov/court_rules/?fa=court_rules.display&group=ga&set=GR&ruleid=gagr22</p>	

Reg No	Current Regulation	Proposed Regulation
REG 506.1	506.1 The SOPC shall review reports prepared by AOC, if any, and take one of the following actions on each grievance: request further information from AOC, dismiss, request that the Board file a formal complaint, request that the Board enter into an Agreement Regarding Discipline, or direct that AOC contact the professional guardian to discuss an issue of minor significance and of a nature not potentially harmful to clients of the professional guardian or other persons. The SOPC may also refer the grievance to other regulatory agencies or to law enforcement. If the SOPC requests Board action, the request shall be accompanied by a written report setting forth the reasons for the request.	<p>506.1 REVIEW OF GRIEVANCE</p> <p>Within one hundred twenty (120) days of the AOC receiving the written grievance, the Disciplinary Committee shall attempt to review all initial investigations not dismissed pursuant to DR</p> <p>505.2.2. If the Disciplinary Committee feels that there is insufficient information, it may request the AOC to conduct further investigation. The AOC shall attempt to complete its investigation and to present the investigation's results to the committee for its review within two hundred ten (210) days after receiving the written grievance. Once the Disciplinary Committee has determined that it has sufficient information regarding the allegation, it must either dismiss the grievance pursuant to DR</p> <p>506.2 or proceed under DR 507 or DR 508.</p>

		<p>Due to existing resources, the deadlines set out in Regulation 506.1 are aspirational, rather than mandatory. Although the deadlines in Regulation</p> <p>506.1 are aspirational, the Disciplinary Committee and AOC will attempt to comply with those deadlines to the extent that existing resources allow for compliance.</p>
COMMENT From Tina Baldwin	I think that if the CPG Board finds merit in the complaint and if the respondent CPG is responsible for other persons under guardianship, then I recommend that the Disciplinary Committee have some procedure or mechanism to determine if the CPB's actions are part of a pattern of conduct with their other clients.	
COMMENT FROM STAFF	A process is followed.	

Reg No	Current Regulation	Proposed Regulation
REG 506.2 DISMISSAL OF GRIEVANCE BY DISCIPLINARY COMMITTEE	506.2 The SOPC will dismiss the grievance if it determines that the Board has no jurisdiction over the grievance or if the allegations and other information available to the SOPC, do not provide grounds for disciplinary action by the Board. The AOC will notify the grievant in writing that the grievance has been dismissed and the reason for the dismissal.	<p>506.2 DISMISSAL OF GRIEVANCE BY DISCIPLINARY COMMITTEE Dismissal. The Chair of the Disciplinary Committee or AOC (pursuant to DR 505.2) may dismiss grievances. On dismissal by either the Chair of the Disciplinary Committee or AOC, AOC must notify:</p> <p>The respondent of the allegations and dismissal of the grievance; and</p> <p>The grievant of the outcome and the procedure for review in this rule.</p> <p>(1) <u>Review of Dismissal. A grievant may request review of dismissal of the grievance, if additional evidence has been obtained since the filing of the grievance.</u> The request for review and the additional evidence to the AOC must be received by AOC no later than thirty (30) days after the date of the dismissal of the grievance. If review is requested, the Chair of the Disciplinary Committee may either reopen the matter on</p>

		<p>his/her authority for investigation or refer it to the Disciplinary Committee for a decision regarding re-opening.</p> <p>Authority on Review. In reviewing a request to re-open a grievance under this rule, the Disciplinary Committee may:</p> <p>Affirm the dismissal;</p> <p>Order further investigation as appropriate.</p>
<p>COMMENT From Mindi Blanchard and Brenda Carpenter</p>	<p>“Review of Dismissal. A grievant may request review of dismissal of the grievance, if additional evidence has been obtained since the filing of the grievance.”</p> <p>Comment - If a grievance has been dismissed, it should not be allowed to be re-opened at the request of the grievant or anyone else. If a grievant provides enough additional information for a new grievance, then a new grievance should be opened. A grievance should not be re-opened and certainly not by the Chair of the Disciplinary Committee. It should be the CPG Board’s responsibility to review the evidence.</p>	
<p>COMMENT From Tina Baldwin</p>	<p>I believe wording should be included that states the grievant should receive a letter describing the basis for the dismissal of the complaint.</p>	
<p>STAFF RESPONSE TO COMMENT</p>	<p>If a grievant submits additional evidence that supports a conclusion that the guardian may have violated a Standard of Practice or other rule governing the work as a Certified Professional Guardian, the CPGB’s rules direct an investigation of the grievance. It seems most appropriate to reopen the grievance given that the grievance was not pursued previously for insufficient information, which has been rectified. It is unclear what basis there would be for requiring that a new grievance be opened. There would then be multiple grievances opened for the same matter, skewing Board statistics.</p>	

Reg No	Current Regulation	Proposed Regulation
<p>REG 506.3 RESPONSE TO GRIEVANCES</p>	<p>510.6 Time to Respond: The professional guardian shall be allowed thirty (30) days from the date of service, exclusive of the date of service, to respond to the complaint.</p>	<p>506.3 RESPONSE TO GRIEVANCE The certified professional guardian shall have thirty (30) days to respond to the allegations and provide any mitigating information. This response and information shall be sent to the AOC. Should the CPG require more time to adequately respond, the CPG shall make a request in writing to AOC stating the reasons for such an extension of time. <u>The Disciplinary Committee Chair or AOC shall make a determination regarding whether to grant the request for extension within five (5) days of receiving the request.</u></p>
<p>COMMENT</p>	<p>“The Disciplinary Committee Chair or AOC shall make a determination regarding whether to grant the request for extension within five (5) days of receiving the request.”</p>	

From Mindi Blanchard and Brenda Carpenter	Comment - This should be the CPG Board's responsibility.
STAFF RESPONSE TO COMMENT	The Board has determined when it must review and approve the decisions of others. The disciplinary process includes many checks and balances. Requiring the full volunteer Board, which meets no more than once a month, to review and approve every action/decision would significantly limit the Board's ability to function as a regulatory body, thus, reducing its ability to accomplish its mission. Some decisions must be made in the normal course of business, those decisions are delegated to staff.

Reg No	Current Regulation	Proposed Regulation
REG 507 RESOLUTION WITHOUT COMPLAINT	The SOPC may conditionally settle and dispose of grievances without a hearing, provided a complete report of the conditional disposition of each grievance shall go to the Board for approval. Upon review of the SOPC report, the Board shall take action and make a record of the Board's decision which shall appear in the meeting minutes.	<u>Grievances not dismissed can be resolved without the filing of a complaint, through the following non-exhaustive methods: An advisory letter (DR 507.1), a Settlement Agreement (DR 507.2), or voluntary resignation (surrender) in lieu of discipline (DR 507.3).</u>
COMMENT From Mindi Blanchard and Brenda Carpenter	<p>“Grievances not dismissed can be resolved without the filing of a complaint, through the following non-exhaustive methods: An advisory letter (DR 507.1), a Settlement Agreement (DR 507.2), or voluntary resignation (surrender) in lieu of discipline (DR 507.3).”</p> <p>Comment - The CPG Board should provide approval as it currently stands in 506.5.</p>	
STAFF RESPONSE TO COMMENT	Similar to the current regulation, the new regulation requires Board approval of Settlement Agreements.	

Reg No	Current Regulation	Proposed Regulation
REG 507.2 SETTLEMENT AGREEMENTS	<p>514 Agreements Regarding Discipline Requirements: Any disciplinary matter may be resolved by an Agreement Regarding Discipline entered into at any time by the professional guardian and by the Board.</p> <p>An Agreement Regarding Discipline shall: State the material facts relating to the particular acts or omissions of the professional guardian. Set forth the guardian's prior record of discipline or any absence of such record.</p>	<p>507.2 SETTLEMENT AGREEMENTS Requirements. Any disciplinary matter or proceeding may be resolved by a Settlement Agreement (Agreement Regarding Discipline) at any time. The Settlement Agreement must be signed by the respondent CPG and AOC, and approved by the Disciplinary Committee and the Board. A Settlement Agreement is a finding of misconduct, is a sanction and is subject to public disclosure.</p> <p>Form. A Settlement Agreement: Must provide sufficient detail regarding the particular acts or omissions of the respondent to permit the Disciplinary Committee to form an opinion as to the propriety of the proposed resolution,</p>

	<p><u>514.2.3 State that the Agreement Regarding Discipline is binding as a statement of all known facts relating to the conduct of the professional guardian, but that any additional existing acts may be proven in any subsequent disciplinary proceedings.</u></p> <p>514.2.4 Fix any costs, restitution, and expenses to be paid by any party.</p> <p>514.3 Notice</p> <p>514.3.1 The Agreement Regarding Discipline shall be retained by the AOC in the professional guardian's disciplinary file.</p> <p>514.3.2 The Agreement Regarding Discipline shall be open to public access and disclosure. Notice of the discipline imposed in such Agreements shall be sent to all superior courts.</p> <p>514.4 Failure to Comply: Failure of a professional guardian to comply with the terms of an Agreement Regarding Discipline may constitute additional grounds for discipline</p>	<p>including aggravating and mitigating factors considered, so as to make the Settlement Agreement useful in any subsequent disciplinary proceeding against the respondent CPG; Must set forth the respondent's prior disciplinary record;</p> <p><u>Must state that the Settlement Agreement is not binding on the Disciplinary Committee as a final statement of facts about the respondent's conduct, and that additional facts may be proved in a subsequent disciplinary proceeding:</u></p> <p>Must fix the amount of costs and expenses, if any, to be paid by the respondent;</p> <p>May impose terms and conditions and any other appropriate provisions.</p> <p>Conditional Approval. The Disciplinary Committee's approval is conditional, as all Settlement Agreements must be submitted to the Board for their final approval. The Board's decision on whether to approve a Settlement Agreement shall be reflected in board minutes.</p> <p>Response. Upon receipt of a proposed Settlement Agreement, the respondent CPG must respond in writing within thirty (30) days to the proposed Settlement Agreement.</p> <p>The CPG may: Agree to and sign the Settlement Agreement; Propose changes to the Settlement Agreement; Reject the Settlement Agreement and request a hearing; Voluntarily resign in lieu of further disciplinary proceedings.</p>
<p>COMMENT From Mindi Blanchard and Brenda Carpenter</p>	<p>“Must state that the Settlement Agreement is not binding on the Disciplinary Committee as a final statement of facts about the respondent's conduct, and that additional facts may be proved in a subsequent disciplinary proceeding;”</p> <p>Comment - Any agreement should be binding on both parties.</p>	

STAFF RESPONSE TO COMMENT	The language in the current and the new regulation attempts to explain that if new facts are discovered the agreement can be revised.
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See Page 11

Reg No	Current Regulation	Proposed Regulation
507.3 VOLUNTARY RESIGNATION (SURRENDER), IN LIEU of FURTHER DISCIPLINARY PROCEEDINGS	No equivalent regulation	<p>Grounds. A respondent CPG who desires not to contest or defend against allegations of misconduct may, at any time, voluntarily resign his or her certification as a CPG in lieu of further disciplinary proceedings.</p> <p>Process. The respondent first notifies the AOC that the respondent intends to submit a voluntary resignation request and asks AOC, to prepare a statement of alleged misconduct and a declaration of costs. After receiving the statement and the declaration of costs, if any, the respondent may resign by submitting to AOC a signed voluntary resignation, sworn to or affirmed under oath and notarized. The signed voluntary resignation must include the following to be accepted for filing:</p> <p>AOC’s statement of the alleged misconduct, and either: 1) an admission of that misconduct; or 2) a statement that while not admitting the misconduct the respondent agrees not to contest the facts on which the misconduct is based;</p> <p>(1) <u>An acknowledgement that the voluntary resignation may be permanent, including the statement, “I understand that my voluntary resignation may be permanent and that any future application by me for reinstatement as a CPG will consider the circumstances around the voluntary resignation including resolution of the pending disciplinary action.”</u></p> <p>A list of all guardian and standby guardian appointments;</p>

		<p>A statement that when applying for any employment as a fiduciary, the respondent agrees to disclose the voluntary resignation in response to any question regarding disciplinary action or the status of the respondent's certification;</p> <p>A statement that the respondent agrees to pay any restitution or additional costs and expenses as may be requested by the Disciplinary Committee, and attaches payment for costs as described in DR 507.3.5; and</p> <p>A statement that when the voluntary resignation becomes effective, the respondent will be subject to all restrictions that apply to a CPG whose certification has been revoked.</p> <p>Public Filing. Upon receipt of a voluntary resignation in lieu of discipline meeting the requirements set forth above, AOC shall file it as a public record of the Disciplinary Committee. AOC will also notify the superior courts and all other agencies from which the CPG receives appointments of the voluntary resignation.</p> <p>(2) <u>Effect. A voluntary resignation in lieu of discipline meeting the requirements set forth above, under this rule is effective upon its filing with the AOC. All disciplinary proceedings against the respondent terminate, except the AOC has the discretion to continue any investigations deemed appropriate under the circumstances to create a sufficient record of the respondent's actions for consideration in the event the respondent seeks certification at a later time.</u></p> <p>Costs and Expenses.</p> <p>A. With the voluntary resignation, the respondent must may be required to pay all actual costs for which AOC provides documentation.</p> <p>B. If additional proceedings are pending at the time respondent serves the notice of intent to voluntarily resign, AOC, through disciplinary counsel, may also file a claim under DR 509.13 for costs and expenses for that proceeding.</p>
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		Review of Costs, Expenses. Any claims for costs and expenses not resolved by agreement between the AOC and the respondent may be submitted at any time including after the voluntary resignation, to the Disciplinary Committee in writing, for the determination of appropriate costs and expenses.
COMMENT (1) From Mindi Blanchard and Brenda Carpenter	<p>“An acknowledgement that the voluntary resignation may be permanent, including the statement, “I understand that my voluntary resignation may be permanent and that any future application by me for reinstatement as a CPG will consider the circumstances around the voluntary resignation including resolution of the pending disciplinary action.”</p> <p>Comment - A CPG may voluntarily resign at any time for any reason. A voluntary resignation is not an admission of guilt. However, the statement proposed assumes guilt.</p>	
STAFF RESPONSE TO COMMENT	The ability to voluntarily resign as not changes. The new regulation includes a Voluntary Surrender in lieu of discipline when grievances have not been resolved.	
COMMENT (2) From Mindi Blanchard and Brenda Carpenter	<p>“Effect. A voluntary resignation in lieu of discipline meeting the requirements set forth above, under this rule is effective upon its filing with the AOC. All disciplinary proceedings against the respondent terminate, except the AOC has the discretion to continue any investigations deemed appropriate under the circumstances to create a sufficient record of the respondent’s actions for consideration in the event the respondent seeks certification at a later time.”</p> <p>Comment - The filed grievances should be sufficient. We see no reason to sue taxpayer dollars to continue to pay AOC staff to investigate something that has become a non-issue at the point of voluntary decertification. We feel that the current 510.1.2 is adequate</p>	
STAFF RESPONSE TO COMMENT	<p>Current regulation 510.1.2 is provided below. This regulation does not refer to voluntary surrender.</p> <p>510.1.2 Prior Board disciplinary action against the professional guardian may be set forth in a separate count of the complaint. Prior Board disciplinary action is a factor to be considered in determining any sanction imposed in a disciplinary action.</p>	

Reg No	Current Regulation	Proposed Regulation
<p>508.2 COMMENCEMENT OF PROCEEDINGS</p>	<p>506.3 The SOPC may request that a complaint be filed if the Board has jurisdiction over the grievance and the grievance and other information available to the SOPC provide grounds for disciplinary action by the Board.</p> <p>510.1 Complaint</p> <p>510.1.1 Upon the SOPC’s request that a complaint be filed, and upon approval of the Board, the AOC shall sign such a complaint that shall set forth the allegations regarding particular acts or omissions of the professional guardian in such detail as to enable the professional guardian to be informed of the allegations. The complaint shall be filed with the AOC.</p> <p>510.1.2 Prior Board disciplinary action against the professional guardian may be set forth in a separate count of the complaint. <u>(1)Prior Board disciplinary action is a factor to be considered in determining any sanction imposed in a disciplinary action.</u></p>	<p>Complaint.</p> <p>Filing. After a preliminary finding of misconduct by the Disciplinary Committee pursuant to DR 506, a Complaint may be filed by the Board with AOC.</p> <p>Service. After the Complaint is filed, AOC must serve the Complaint, with a Notice to Answer, on the respondent CPG. Content. The Complaint must state the respondent CPG’s acts or omissions in sufficient detail to inform the respondent of the nature of the allegations of misconduct and the sanction sought. AOC must sign the Complaint.</p> <p><u>(1)Prior Discipline. Prior disciplinary action against the respondent may be described in the Complaint.</u></p> <p><u>(2) Amendment of Complaint. AOC may amend a Complaint at any time to add facts or charges. AOC shall serve an Amended Complaint on the respondent as provided in DR 508.3.1(B) with a Notice to Answer. A Respondent must answer the amendments to the complaint as described in DR 508.4.</u></p> <p>Joinder. The Disciplinary Committee may, in its discretion, consolidate alleged violations relating to two or more grievances against the same respondent in one Complaint, or may consolidate alleged violations against two or more respondents in one Complaint that relate to the same grievance or grievances</p>
<p>COMMENT (1) From Mindi Blanchard and Brenda Carpenter</p>	<p>“Prior Discipline. Prior disciplinary action against the respondent may be described in the Complaint.”</p> <p>Comment - The complaint should only address the current complaint on its own merit. Describing prior disciplinary action prejudices the investigation.</p>	
<p>STAFF RESPONSE TO COMMENT</p>	<p>Both the current and proposed rules include a provision to consider prior disciplinary action. Prior discipline may show a pattern of behavior and can provide evidence of such behavior. In court, evidence may be excluded if the value of the evidence is substantially outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues,</p>	

	misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence. This is a decision made on a case-by-case basis.
COMMENT (2) From Mindi Blanchard and Brenda Carpenter	<p>“Amendment of Complaint. AOC may amend a Complaint at any time to add facts or charges. AOC shall serve an Amended Complaint on the respondent as provided in DR 508.3.1(B) with a Notice to Answer. A Respondent must answer the amendments to the complaint as described in DR 508.4”</p> <p>Comment - AOC should not have this authority. The complaint should stand on its own merits. Each grievance should be processed and completed as submitted by the grievant.</p>
STAFF RESPONSE TO COMMENT	Investigations and complaints must be performed and processed in the “interest of justice” – what is fair and equitable to the public good. If new information, concerns, grievances, and evidence is uncovered during an investigation, investigators and the Board are obligated to include this information. A failure to do so could endanger other persons. Not including the information and failing to amend a complaint could be reckless and irresponsible.

Reg No	Current Regulation	Proposed Regulation
508.3 NOTICE TO ANSWER	<p>510.4.1 A copy of the complaint with notice to answer, notice of the location of the Board’s disciplinary regulations on the AOC website, and any pleadings, notices, or other documents shall be served on the professional guardian by registered or certified mail at the address on file with the AOC</p> <p>510.4.2 By applying to be certified, all professional guardians agree to accept personal service by registered or certified mail at the address provided by the professional guardian.</p> <p>510.4.3 Service on the Board of any pleadings, notices, or other documents may be made by delivery or mailing to the Administrative.</p> <p>510.4.4 Proof of service by affidavit or certificate of service, or mailing, sheriff’s return of service, or a signed acknowledgment of service, shall be filed in the office of the AOC</p>	<p>The above named CPG: AND TO: Respondent Attorney</p> <p>1. You are hereby notified that a Complaint Regarding Disciplinary Action (hereinafter, “Complaint”) has been filed against you with the Administrative Office of the Courts, a copy of which is served upon you with this Notice. Pursuant to DR 504.1, service is made by registered or certified mail to your address on file with the Administrative Office of the Courts. Service shall be deemed complete on the third day after mailing in accordance with Civil Rule 5(b) (2).</p> <p>2. <u>You must deliver or mail an original and one copy of your Answer to the Disciplinary Action within 30 days of service (exclusive of the date of service) to the Certified Professional Guardianship Board, Administrative Office of the Courts, P.O. Box 41170, Olympia, WA</u></p> <p>98504-1170. Electronic service or filing is not accepted without prior approval.</p>

COMMENT From Mindi Blanchard and Brenda Carpenter	“You must deliver or mail an original and one copy of your.” Comment - The AOC can make their own copies. The CPG shouldn't have to supply them.	
STAFF RESPONSE TO COMMENT	No response.	

Reg No	Current Regulation	Proposed Regulation
508.8 DISCOVERY AND PREHEARING PROCEDURE	<p>511.10 Discovery: The parties shall have the following discovery rights, limited only to the extent the Hearing Officer deems just:</p> <p>511.10.1 Admissions from a party under Superior Court Civil Rule (CR) 36.</p> <p>511.10.2 Depositions of another party or witness under Superior Court Civil Rule (CR) 30.</p> <p>511.10.3 Other discovery under the Superior Court Civil Rules, only on motion and under terms and limitations the Hearing Officer deems just or on the parties' stipulation.</p> <p><u>511.12 Exchange of Materials: The parties shall exchange witness lists and exhibits prior to the hearing, as directed by the Hearing Officer. Failure to comply with the case scheduling requirements as directed by the Hearing Officer may result in the exclusion of witnesses and evidence not timely identified.</u></p>	<p>508.8 DISCOVERY AND PREHEARING PROCEDURES General. The parties should cooperate in mutual informal exchange of relevant non-privileged information to facilitate expeditious, economical, and fair resolution of the case.</p> <p>Requests for Admission. After a Complaint is filed, the parties may request admissions under Civil Rule 36.</p> <p>Other Discovery. After a Complaint is filed, the parties may obtain other discovery under the Superior Court Civil Rules only on motion and under terms and limitations the Hearing Officer deems just or on the parties' Settlement Agreement.</p>
COMMENT From Mindi Blanchard and Brenda Carpenter	Should keep 511.12 of the current rule.	

STAFF RESPONSE TO COMMENT	No response.
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See Page 12

Reg No	Current Regulation	Proposed Regulation
508.9 PARTICIPATION AT DISCIPLINARY HEARING	<p>511.13 Cooperation: It shall be the duty of the professional guardian and the Board's counsel to timely respond to all requests or directions of the Hearing Officer. Upon a party's failure to do so, the Hearing Officer may recommend to the Board that the professional guardian be decertified for non-compliance with the disciplinary process. Such failure may constitute a separate violation of these regulations. The Hearing Officer may dismiss the complaint with prejudice upon failure of the Board's counsel to timely respond to requests or directions of the Hearing Officer.</p> <p><u>511.11 Testimony: Testimony may be live or taken electronically via telephone, video, or other means at the discretion of the Hearing Officer. Hearings shall be electronically recorded and testimony may be presented through depositions. Witnesses shall testify under oath administered by the Hearing Officer.</u></p> <p>511.9 Subpoenas: Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearings or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party's attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as</p>	<p>508.9 PARTICIPATION AT DISCIPLINARY HEARING Respondent CPG Must Attend. A respondent CPG given notice of a hearing must attend the hearing. If, after proper notice, the respondent fails to attend the hearing, the Hearing Officer: May draw an adverse inference from the respondent's failure to attend as to any questions that might have been asked the respondent at the hearing; and Must admit testimony by deposition regardless of the deponent's availability. An affidavit or declaration is also admissible, if: The facts stated are within the witness's personal knowledge; The facts are set forth with particularity; and It shows affirmatively that the witness could testify competently to the stated facts.</p> <p>Witnesses. Witnesses must testify under oath. Testimony may also be submitted by deposition as permitted by Civil Rule 32. Testimony must be recorded by a court reporter or, if allowed by the Disciplinary Committee, by digital or tape recording. The parties have the right to cross-examine witnesses who testify and to submit rebuttal evidence.</p> <p>Subpoenas. Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearing or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party's attorney of record. Subpoenas shall be served in the same manner as in civil cases in superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the</p>

	required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.	grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.
COMMENT From Mindi Blanchard and Brenda Carpenter	Should keep 511.11 of the current rule.	
STAFF RESPONSE TO COMMENT	No response.	
CPGB BOARD RESPONSE	See the attachment entitled “CPGB Approved Revisions to Revised Disciplinary Regulation 500.” See Page 12	

Reg No	Current Regulation	Proposed Regulation
509.3 REVOCATION OF CERTIFICATION	<p>515.2 Imposition of Sanctions: Generally, the following sanctions are available.</p> <p>515.2.1 Decertification is generally appropriate when a professional guardian engages in:</p> <p>515.2.1.1 Professional misconduct incompatible with the Standards of Practice with the intent to benefit the professional guardian or another; or deceive the court; or cause serious or potentially serious injury to a party, the public, or the legal system or causes serious or potentially serious interference with a legal proceeding;</p> <p>515.2.1.2 Felonious criminal conduct,</p> <p>515.2.1.3 Any other intentional misconduct involving dishonesty, fraud, deceit, or</p>	<p>509.3 REVOCATION OF CERTIFICATION</p> <p>1. Applicability of Revocation: Revocation may be imposed when a professional guardian:</p> <p>Fails to comply with the duties, requirements or prohibitions in the Standards of Practice, or Guardianship Program rules or regulations, or Washington statutes, or the guardian’s fiduciary duty; and was previously disciplined with a sanction, remedy or other remedial action by the Board, a court, or a judicial officer; or Engages in any act of dishonesty, fraud, deception, conflict of interest, selfishness or misrepresentation that adversely reflects on the guardian’s fitness to practice; or</p> <p>Engages in gross incompetence, including but not limited to, case tracking, a pattern of late filings, accounting errors, delinquent or late payments of an incapacitated person’s or estate’s financial obligations; or</p>

	<p>misrepresentation that seriously, adversely reflects on the professional guardian's fitness to practice, or</p> <p>515.2.1.4 Gross incompetence as demonstrated by a pattern or practice of late filings, accounting errors, case tracking, or other violations of the same Standards of Practice, and where the guardian has not corrected the behavior despite previous attempts by the courts or the Board to correct the behavior. (Adopted 1-9-12)</p>	<p>Engages in conduct or misconduct that adversely impacts an incapacitated person in a highly significant manner. “Highly significant” in this context, means, but is not limited to, a financial loss to an incapacitated person or their estate that is greater than \$ 750.00, or results in any kind of direct physical harm, infirmity or adverse medical condition to an incapacitated person; or Engages in conduct that occurs either while performing duties as a guardian or outside those duties, that constitutes any Washington felony.</p> <p>2. Duties of CPG upon revocation of certification. Upon receipt of the Supreme Court’s order revoking the CPG’s certification, the CPG will submit a complete list of all active guardianships in which the CPG serves as the court-appointed guardian or standby guardian to AOC, and must immediately notify the superior court with authority over any of the CPG’s cases of the revocation. The CPG shall ensure the timely transfer of any active guardianship cases to a new CPG and cooperate with the court in this process. <u>The CPG shall turn over all client records and provide access to client accounts in a timely manner to the newly appointed CPG.</u> The CPG shall immediately cease holding him or herself out to the public as a professional CPG. If requirements aren’t met the Board may file a motion for contempt of court with the Supreme Court.</p>
<p>COMMENT From Mindi Blanchard and Brenda Carpenter</p>	<p>“The CPG shall turn over all client records and provide access to client accounts in a timely manner to the newly appointed CPG.”</p> <p>Comment - Should be “pertinent copies of client records.” Guardians need to keep their records in case a grievance is reopened.</p>	
<p>STAFF RESPONSE TO COMMENT</p>	<p>The CPG should turn over ALL client records to the new CPG to facilitate that CPG having all information he or she may need to handle the client’s affairs. The CPG should make copies of any documents that he or she believes might be needed in any further legal matter involving the client.</p>	

Approved Revisions

June 12 and October 16, 2017 the Certified Professional Guardianship Board approved the following revisions to the proposed revised version of Disciplinary Regulation 500.

General:

1. Throughout the Proposed Revision of Disciplinary Regulation 500 the term “decertification” will be changed to “revocation of certification” or a form thereof.
2. Several sections will be renumbered.

501.3 GROUNDS FOR DISCIPLINARY ACTION

These rules govern the procedure by which a certified professional guardian may be subjected to disciplinary sanctions or actions for violation of the Certified Professional Guardian Standards of Practice or other regulations adopted by the Board.

A professional guardian may be subject to disciplinary action for any of the following:

1. Violation of or noncompliance with the oath, applicable violations of statutes, fiduciary duties, standards of practice, rules, regulations, and any requirement governing the conduct of professional guardians. ~~and any other authority applicable to professional guardians.~~
2. Commission of any act that constitutes a felony, a misdemeanor or gross misdemeanor involving moral turpitude, whether or not a conviction results.
3. Failure to perform any duty one is obligated to perform as a professional guardian.
4. ~~Violation of the oath, duties, or standards of practice of a professional guardian.~~
5. Permitting the name of a guardian certified by the Certified Professional Guardianship Board ~~a professional guardian's name~~ to be used by an uncertified person or agency.
6. Misrepresentation or concealment of a material fact made in the application for certification.
7. Suspension, decertification, or other disciplinary sanction taken by competent authority in any state, federal, or foreign jurisdiction when such action was taken in connection with a professional guardianship or interaction with an incapacitated or vulnerable person.
8. Hiring, maintaining an office with, having on a Certified Agency’s Board of Directors, or working for or together with any person whose se ~~has been~~ certification has been revoked or suspended as a disciplinary sanction, if the professional

guardian has knowledge of such revocation or suspension. The Board upon application and approval may waive this provision. The Board may set conditions on a waiver.

9. Willful disregard of a subpoena or order of a court, review panel, Board committee or the Board.
10. Making a false statement under oath.
11. Conduct demonstrating unfitness to work as a professional guardian, including but not limited to persistent or repeated violations of rules, standards of practice or regulations, or disciplinary actions.
12. Working as a professional guardian while on inactive status.
13. Failing to cooperate during the course of an investigation as required by the Board's regulations.
14. Incompetence in the performance of the duties of a guardian.
15. Failure to appear for a scheduled court proceeding without good cause.
16. Failure to comply with the terms of a signed Agreement Regarding Discipline.

501.4 DEFINITIONS

Unless the context clearly indicates otherwise, terms used in these rules have the following meanings:

“Advisory Letter” is a non-disciplinary letter to notify a professional that guardian:

While there is insufficient evidence to support disciplinary action, the Board believes that continuation of the activities that led to the investigation may result in further Board action against a respondent certified professional guardian; or

The violation is a minor or technical violation that is not of sufficient merit to warrant disciplinary action; or

While a certified professional guardian has demonstrated substantial compliance through rehabilitation or remediation that has mitigated the need for disciplinary action, the Disciplinary Committee believes that repetition of the activities that led to the investigation may result in further Disciplinary Committee action against a CPG.

“Agreement Regarding Discipline” (Settlement Agreement) is a written settlement agreement approved by the professional guardian and the Board of a disciplinary matter

against a professional guardian. The final agreement, approved by the parties, is a finding of misconduct, is a sanction and is subject to public disclosure.

“**AOC**” means staff of the Administrative Office of the Courts. “Board” means the Certified Professional Guardianship Board.

“**Chair**” when used alone means the Chair of the Certified Professional Guardianship Board.

“**Contempt of ~~Court~~ a Board Proceeding**” means:

Disorderly, contemptuous, or insolent behavior toward a Hearing Officer while conducting a hearing or other proceeding, tending to impair its authority, or to interrupt the due course of a ~~trial hearing~~ or other ~~judicial-board~~ proceedings;

Disobedience of any lawful judgment, decree, order, or process of the ~~court or tribunal~~ Certified Professional Guardianship Board;

Refusal as a witness to appear, be sworn, or, without lawful authority, to answer a question; or

Refusal, without lawful authority, to produce a record, document, or other object.

“**Complaint**” means the formal document, as described in DR 508.2, filed by the Board with the AOC to initiate a contested hearing before a Hearing Officer for a factual hearing on the issue of whether the professional guardian’s conduct provides grounds for the imposition of disciplinary sanctions by the Board. In a complaint, the Board describes how the professional guardian allegedly violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other authority. The Board must approve the filing of a complaint.

“**Court**” unless otherwise specified, means the Supreme Court of Washington.

“**CPG or CPGA**” when used alone means a Certified Professional Guardian or Certified Professional Guardian Agency.

“**Decertification**” of a professional guardian or agency occurs when the Board or the Supreme Court revokes the certification of a professional guardian or agency for any reason.

“**Deliberative Records**” are records that contain preliminary or draft opinions or recommendations as part of a deliberative process.

“**Designated CPG**” means the certified professional guardian working for an agency who has 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.

“Disciplinary Records” are the records maintained by the Washington State Administrative Office of the Courts (AOC) of any disciplinary review, sanction, or other action imposed by the Board on the professional guardian, which shall include the reason for the Board’s action. The AOC shall maintain such records as defined by records retention schedules of the judicial branch and the AOC.

“Disciplinary Action” encompasses the process described by these disciplinary regulations.

“Disciplinary Counsel” the Office of the Attorney General serves as disciplinary counsel for complaints, or when otherwise requested by AOC or the Board.

“Grievance” is a written document filed by any person with the Board, or filed by the Board itself, for the purpose of commencing a review of the professional guardian’s conduct under the statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The grievance must include a description of the conduct of the professional guardian that the grievant alleges violates a statute, fiduciary duty, standard of practice, rule, regulation, or other authority applicable to professional guardians, including the approximate date(s) of the conduct. If the grievant is unable to submit a grievance in written form due to a disability or inability to communicate in written language, it may be communicated orally to AOC staff.

“Grievant” means the person or entity who files a grievance against a CPG.

“Hearing Officer” means the person appointed by the Board to conduct a disciplinary hearing and render a decision.

“Incompetent” means an individual is incapable, inefficient and without the qualities needed to discharge their obligations and duties.

“Investigative Records” are records related to an investigation pursuant to GR 23 and these disciplinary regulations, into the conduct of the professional guardian, prior to the imposition of any disciplinary sanction or dismissal.

“Motion” means a written request to the Disciplinary Committee, Board, Hearing Officer or Supreme Court to issue a ruling or order.

“No Contest” means the accused will not contest the facts on which the charge is based. It is not an admission of guilt. It is comparable to a guilty plea in authorizing a court to punish the accused.

“Party” means respondent CPG and the Board.

"Punitive Sanction" means a sanction imposed to punish.

"Remedial Sanction" means a sanction imposed for the purpose of assurance performance when a failure to perform consists of the omission or refusal to perform an act that is in the person's power to perform.

"Resignation" is the act or instance of resigning something, surrendering; the formal notification of resigning.

"Respondent" means a CPG or CPG agency and a designated CPG against whom a grievance is filed.

"Revoked" or "Revocation" means a professional guardian's certification is cancelled by the Board or the Washington State Supreme Court pursuant to the procedures set forth in these disciplinary regulations or any other regulations of the Board, as a result of the professional guardian's failure to comply with any statutes, fiduciary duties, standards of practice, rules, regulations, any requirement governing the conduct of professional guardians and any other authority applicable to professional guardians. The Board must specify whether the CPG is eligible to apply for certification with the AOC guardian program at a future date.

"Standard of Practice" means a model of established practice as promulgated by the Certified Professional Guardianship Board, that is commonly accepted as correct.

"Summary Judgment" is a judgment rendered by the court or Hearing Officer prior to a verdict because no material issue of fact exists and one party or the other is entitled to a judgment ascertained through the use of statutes, rules, court decisions, and interpretation of legal principles.

"Suspension" of a professional guardian occurs when the Board or the Supreme Court orders that the certification of a professional guardian or agency be temporarily cancelled for a specified period of time. A suspended professional guardian or agency may not act as a certified professional guardian for any person during the period of suspension.

"To File" means submitting a written document, exhibit, or other information to the AOC regarding a grievance which will be included in the disciplinary record.

"Words of Authority"

"May" means "has discretion to," "has a right to," or "is permitted to".

"Must" and "shall" mean "is required to".

"Should" means recommended but not required.

"Voluntary Resign (Surrender)" means a process where a certified professional guardian voluntarily decides to discontinue practice in the profession and surrenders his or her certification pursuant to regulations adopted by the Board.

“Voluntary Resign (Surrender) in Lieu of Discipline” means a process where a certified professional guardian surrenders certification with a statement of charges for dismissal.

502.2 DISCIPLINARY COMMITTEE

Function. The Disciplinary Committee performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include, but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions.

Members ~~should~~ **shall** respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members ~~should~~ **shall** not allow family, social, business or other relationships to influence their conduct or judgment.

Membership. The Chair appoints a Disciplinary Committee of three to four members from among the Board members. At least one of the members must have substantial experience in guardianships. The Chair may change the appointment of members to the Disciplinary Committee as necessary for equitable distribution of work or for other reasons. The Chair does not serve on the Disciplinary Committee.

Terms of Office. A Board member may serve as a Disciplinary Committee member as long as the member is on the Board or for other shorter terms as determined to be appropriate by the Chair of the Board.

Disciplinary Committee Chair. The Chair of the Board designates one member of the Disciplinary Committee to act as its Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.

Meetings. The Disciplinary Committee meets at times and places determined by the Disciplinary Committee Chair. At the Disciplinary Committee Chair’s discretion, the Committee may meet and act through electronic, telephonic, written, or other means of communication.

Disqualification of Disciplinary Committee Members. A Disciplinary Committee member should disqualify him or herself from a particular matter in which the member’s impartiality might reasonably be questioned, including but not limited to instances in which:

The appearance of impropriety is or could reasonably be great or have the appearance of a conflict;

The member has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the matter;

The member previously served as a lawyer, CPG, or was a material witness in the matter in controversy;

A lawyer or CPG with whom the member works, serves or has previously served as a lawyer or CPG concerning the matter, or such lawyer or CPG is or has been a material witness concerning the matter;

The member has a pending grievance;

The member or relative person residing in the member's household has an economic interest in the subject matter in controversy or is a party to the matter, or has any other interest that could be substantially affected by the outcome of the matter.

502.3 CONFLICTS REVIEW COMMITTEE

Function. The Conflicts Review Committee (CRC) performs the functions provided under these rules, delegated by the Board or the Chair, or as necessary and proper to carry out its duties. These functions include but are not limited to investigation, review, making preliminary findings, approving settlement agreements, officiating over hearings, and imposing disciplinary sanctions involving a Board member. Members ~~should~~ shall respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the disciplinary system. Members ~~should~~ shall not allow family, social, business, or other relationships to influence their conduct or judgment.

Membership. The Board Chair shall appoint three members who shall not be current members of the Board. CRC members shall be familiar with guardianship practice in the state of Washington.

Chair. The Board Chair shall designate one member of the CRC to serve as Chair. The Chair should have experience serving in a judicial or quasi-judicial capacity.

Confidentiality Agreement. All proposed members of a CRC are required to sign a confidentiality agreement prior to serving.

CRC Duties. The AOC shall transmit any grievance against a Board member to the CRC. The CRC shall perform the duties that would otherwise be performed by the Disciplinary Committee under these regulations and AOC shall support the CRC in any such grievance.

The CRC may recommend to the Board Chair that the Board member under investigation be placed on a leave of absence from the Board during its investigation.

The CRC will consider the nature of the allegations against the Board member, the available evidence regarding those allegations and the importance of maintaining public trust and confidence in the Board in making its recommendation to the Board Chair. The CRC may make such a recommendation at any time during its investigation and review of the grievance. Except as otherwise set forth in these regulations, the Board Chair shall have the sole discretion to decide whether the Board member should take a leave of absence from the Board and when the Board member may return to the Board.

Reimbursement. Consistent with the AOC policy, CRC members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

Access to Disciplinary Information. CRC Members have access to any otherwise confidential disciplinary information necessary to perform the duties required by these rules. CRC Members shall return original files to the AOC promptly upon completion of the duties required by these rules and shall not retain copies.

Independence. CRC Members act independently of disciplinary counsel and the Board.

Board Member Responsibility. If the Board files a complaint against a Board member, the Board member shall take a leave of absence from the Board until the conclusion of the disciplinary proceeding.

502.5 RESPONDENT CERTIFIED PROFESSIONAL GUARDIAN

1. **Right to Representation.** A CPG may be represented by counsel at the CPG's own expense during any stage of an investigation or proceeding under these rules.

2. **Restrictions on Representation of Respondent.** A former Board member cannot represent a respondent CPG in any proceeding under these rules until three (3) years after leaving the Board. A former CRC member cannot represent a respondent CPG in any proceeding under these rules until one (1) year after the CRC has completed its work. A former AOC staff person shall not represent a respondent CPG in any proceeding under these rules for at least three (3) years after the date of separation from AOC.

3. **Restriction on Charging Fee To Respond to Grievance.** A respondent CPG may not seek to charge a grievant or an incapacitated person's estate a fee or recover costs from a grievant or incapacitated person's estate for responding to the CPG Board regarding a grievance.

4. **Medical and Psychological Records.** A respondent CPG must furnish written releases or authorizations to permit access to medical, psychiatric, or psychological records of the certified professional guardian and the incapacitated person as may be relevant to the investigation or proceeding.

505.2 INVESTIGATION OF GRIEVANCE

Review and Investigation. The AOC must review any alleged or apparent misconduct by a CPG. AOC shall conduct an initial investigation to ensure that any grievances received are complete, meet jurisdictional requirements as defined in DR 501.3, and provide sufficient factual information to warrant further consideration. When appropriate the initial investigation should include the following:

Provide a copy of the grievance to the respondent certified professional guardian and request a response pursuant to DR 506.3.

Provide a copy of the respondent certified professional guardian's response to the grievant and request a response.

Interview persons believed to possess relevant information or documents.

Request and review relevant documents.

Initial Dismissal. AOC may dismiss a grievance that fails to provide sufficient factual information, fails to meet jurisdictional requirements, or fails to identify an action which would result in sanctions. AOC is not required to seek the approval of the Disciplinary Committee or the Board for such dismissals.

Dismissal of Grievance Not Required. None of the following alone requires dismissal of a grievance:

The unwillingness of a grievant to continue the grievance;

The withdrawal of the grievance, a compromise between the grievant and the respondent; or

Restitution by the respondent.

Deferral.

An investigation into alleged acts of misconduct by a CPG may be deferred by the Chair of the Disciplinary Committee or AOC staff with the approval of the Disciplinary Chair, if it appears that the deferral will not endanger the public, and;

The allegations are related to pending civil or criminal litigation; The respondent CPG is physically or mentally unable to respond to the investigation; or
For other good cause shown.

The AOC must inform the grievant and respondent of a decision to defer or a denial of a request to defer and of the procedure for requesting review. A grievant or respondent may request review of a decision on deferral. If review is requested, the AOC refers the matter to the Disciplinary Committee for reconsideration of the decision on deferral. To request review, the grievant or respondent must deliver or deposit in the mail a request

for review to the Board no later than thirty (30) days after the AOC mails the notice regarding deferral.

Duty To Furnish Prompt Response. The respondent CPG must promptly respond to any inquiry or request made under these rules for information relevant to grievances or matters under investigation. Upon inquiry or request, the respondent CPG must:

Furnish in writing, or orally if requested, a full and complete response to inquiries and questions;

Permit inspection and copying of the CPG's business records, files, and accounts that are relevant to the grievance or the proceeding;

Furnish copies of requested records, files, and accounts that are relevant to the grievance or the proceeding; and

Furnish written releases or authorizations if needed to obtain documents or information from third parties.

Failure To Cooperate.

Interim Suspension. If a CPG has not complied with any request made under DR 505.2.5 for more than thirty (30) days, the AOC may notify the CPG that failure to comply within ten (10) days may subject the CPG to interim suspension under rule 509.5.

Grounds for Discipline. A CPG's failure to cooperate fully and promptly with an investigation as required by DR 505.2.5 is also grounds for discipline.

506.1 REVIEW OF GRIEVANCE

Within one hundred twenty (120) days of the AOC receiving the written grievance, the Disciplinary Committee shall attempt to review all initial investigations not dismissed pursuant to DR 505.2.2. If the Disciplinary Committee feels that there is insufficient information, it may request the AOC to conduct further investigation. The AOC shall attempt to complete its investigation and to present the investigation's results to the committee for its review within two hundred ten (210) days after receiving the written grievance. Once the Disciplinary Committee has determined that it has sufficient information regarding the allegation, it must either dismiss the grievance pursuant to DR 506.2 or proceed under DR 507 or DR 508.

Note: The following paragraph will be a footnote:

Due to existing resources, the deadlines set out in Regulation 506.1 are aspirational, rather than mandatory. Although the deadlines in Regulation 506.1 are aspirational, the Disciplinary Committee and AOC will attempt to comply with those deadlines to the extent that existing resources allow for compliance.

507.2 SETTLEMENT AGREEMENTS

Requirements. Any disciplinary matter or proceeding may be resolved by a Settlement Agreement (Agreement Regarding Discipline) at any time. The Settlement Agreement must be signed by the respondent CPG and AOC, and approved by the Disciplinary Committee and the Board. A Settlement Agreement is a finding of misconduct, is a sanction and is subject to public disclosure.

Form. A Settlement Agreement:

Must provide sufficient detail regarding the particular acts or omissions of the respondent to permit the Disciplinary Committee to form an opinion as to the propriety of the proposed resolution, including aggravating and mitigating factors considered, so as to make the Settlement Agreement useful in any subsequent disciplinary proceeding against the respondent CPG; Must set forth the respondent's prior disciplinary record;

Must state that the Settlement Agreement is not binding on the Disciplinary Committee as a final statement of facts about the respondent's conduct until approved by the Certified Professional Guardianship Board, and that additional facts may be proved in a subsequent disciplinary proceeding;

Must fix the amount of costs and expenses, if any, to be paid by the respondent;

May impose terms and conditions and any other appropriate provisions.

Conditional Approval. The Disciplinary Committee's approval is conditional, as all Settlement Agreements must be submitted to the Board for their final approval. The Board's decision on whether to approve a Settlement Agreement shall be reflected in board minutes.

Response. Upon receipt of a proposed Settlement Agreement, the respondent CPG must respond in writing within thirty (30) days to the proposed Settlement Agreement. The CPG may:

Agree to and sign the Settlement Agreement; Propose changes to the Settlement Agreement;

Reject the Settlement Agreement and request a hearing;

Voluntarily resign in lieu of further disciplinary proceedings.

508.8 DISCOVERY AND PREHEARING PROCEDURES

General. The parties should cooperate in mutual informal exchange of relevant non-privileged information to facilitate expeditious, economical, and fair resolution of the case.

Requests for Admission. After a Complaint is filed, the parties may request admissions under Civil Rule 36.

Other Discovery. After a Complaint is filed, the parties may obtain other discovery under the Superior Court Civil Rules only on motion and under terms and limitations the Hearing Officer deems just or on the parties' Settlement Agreement.

Exchange of Materials: The parties shall exchange witness lists and exhibits prior to the hearing, as directed by the Hearing Officer. Failure to comply with the case scheduling requirements as directed by the Hearing Officer may result in the exclusion of witnesses and evidence not timely identified.

508.9 PARTICIPATION AT DISCIPLINARY HEARING

Respondent CPG Must Attend. A respondent CPG given notice of a hearing must attend the hearing. If, after proper notice, the respondent fails to attend the hearing, the Hearing Officer:

May draw an adverse inference from the respondent's failure to attend as to any questions that might have been asked the respondent at the hearing; and

Must admit testimony by deposition regardless of the deponent's availability. An affidavit or declaration is also admissible, if:

The facts stated are within the witness's personal knowledge;

The facts are set forth with particularity; and

It shows affirmatively that the witness could testify competently to the stated facts.

Witnesses. Witnesses must testify under oath administered by the Hearing Officer. Testimony may also be submitted by deposition as permitted by Civil Rule 32. Testimony must be recorded by a court reporter or, if allowed by the Disciplinary Committee, by digital or tape recording. The parties have the right to cross-examine witnesses who testify and to submit rebuttal evidence.

Subpoenas. Any party may issue a subpoena to compel the attendance of witnesses or to produce documents at a hearing or deposition. The subpoena shall be issued in the name of the Board and shall be signed and subscribed to by the party or the party's attorney of record. Subpoenas shall be served in the same manner as in civil cases in

superior court. A failure to attend or produce as required by the subpoena shall be considered contempt of the Supreme Court. A motion to quash or modify the subpoena, on the grounds of unreasonableness or oppression, shall be decided by the Hearing Officer.

509.7 NOTIFICATION OF INTERIM SUSPENSION

Upon entry of an order for interim suspension, the AOC shall notify all superior court presiding judges and, court administrators, and county clerks, the Social Security Administration, the Veteran's Administration and the Department of Social and Health Services of the interim suspension. The AOC shall also remove the respondent CPG's name from all public AOC Web site lists of certified professional guardians.

509.10 PROBATION

1. Probation is a remedy that will be imposed for a period of time that is not less than six months or more than one year in duration when a professional guardian fails to comply with the duties, requirements or prohibitions in the Standards of Practice, or Guardianship Program rules or regulations, or Washington statutes, or the guardian's fiduciary duty. Probation shall consist primarily of a monitoring function that seeks to ensure the guardian:

- A. Fully complies with any sanctions, remedies or other actions imposed by the Board, a court or a judicial officer; and
- B. Fully complies with the duties, requirements or prohibitions in the Standards of Practice, Guardianship Program rules and regulations, Washington statutes, and guardian's fiduciary duty.

2. The Disciplinary Committee Chair may appoint a suitable person to monitor the conditions of the probation are being met. Cooperation with a person so appointed is a condition of the probation. The guardian will be responsible for compensating the appointed monitor.

3. Failure to comply with a condition of probation may be grounds for discipline and any sanction imposed must take into account the misconduct leading to the probation.

4. Probation may be imposed in conjunction with any disciplinary action except Revocation.

510.2 TRANSCRIPT OF HEARING

Ordering Transcript. AOC must order the entire transcript for an evidentiary hearing held before a Hearing Officer when testimony is heard and suspension or decertification is

~~recommended by the Hearing Officer. unless the parties agree that no transcript or only a partial transcript is necessary for review.~~

Filing and Service. The original of the transcript is filed with the AOC and AOC must serve it on the respondent except if the respondent ordered the transcript.

511.5 DECERTIFIED OR SUSPENDED PROFESSIONAL GUARDIANS

1. Referral to Superior Court: Upon receipt of the Supreme Court's order decertifying or suspending a professional guardian, the AOC shall notify ~~each~~ all superior court presiding judges, court administrators, and county clerks, the Social Security Administration, the Veteran's Administration and the Department of Social and Health Services.

2. Agencies: If the Board has recommended decertification or suspension of a professional guardian to the Supreme Court, the employer agency, if any, shall, upon notice of the Supreme Court order contact AOC to determine how the decertification or suspension shall affect continuation of the agency's certification. Continuing certification of an agency affected by the suspension or decertification of a professional guardian shall be determined by the Board. The Board's primary concern shall be the best interests of the incapacitated persons.

3. Notice to Interested Parties: Within ten (10) days of decertification or suspension, the professional guardian shall notify all parties entitled to notice in any active or pending guardianship matters of the professional guardian's decertification or suspension and the anticipated effect on the incapacitated person.

4. Immediate Cessation of Professional Guardian Status: After entry of the order of decertification or suspension, the decertified or suspended professional guardian shall not accept any new appointments or engage in work as a professional guardian in any matter, except to assist in the orderly transfer of cases.

C. A list of all guardian and standby guardian appointments;

D. A statement that when applying for any employment as a fiduciary, the respondent agrees to disclose the voluntary resignation in response to any question regarding disciplinary action or the status of the respondent's certification;

E. A statement that the respondent agrees to pay any restitution or additional costs and expenses as may be requested by the Disciplinary Committee, and attaches payment for costs as described in DR 507.3.5; and

F. A statement that when the voluntary resignation becomes effective, the respondent will be subject to all restrictions that apply to a CPG whose certification has been revoked.

3. Public Filing. Upon receipt of a voluntary resignation in lieu of discipline meeting the requirements set forth above, AOC shall file it as a public record of the Disciplinary Committee. AOC will also notify the superior courts and all other agencies from which the CPG receives appointments of the voluntary resignation.

4. Effect. A voluntary resignation in lieu of discipline meeting the requirements set forth above, under this rule is effective upon its filing with the AOC. All disciplinary proceedings against the respondent terminate, except the AOC has the discretion to continue any investigations deemed appropriate under the circumstances to create a sufficient record of the respondent's actions for consideration in the event the respondent seeks certification at a later time.

5. Costs and Expenses.

A. With the voluntary resignation, the respondent ~~must~~ may be required to pay all actual costs for which AOC provides documentation.

B. If additional proceedings are pending at the time respondent serves the notice of intent to voluntarily resign, AOC, through disciplinary counsel, may also file a claim under DR 509.13 for costs and expenses for that proceeding.

6. Review of Costs, Expenses. Any claims for costs and expenses not resolved by agreement between the AOC and the respondent may be submitted at any time including after the voluntary resignation, to the Disciplinary Committee in writing, for the determination of appropriate costs and expenses.

508.10 HEARINGS

1. Scope of the Hearings. To limit the scope of hearings, parties may stipulate to specific facts, whether misconduct occurred, and/or disciplinary sanctions. The Hearing Officer may determine whether both facts surrounding the alleged misconduct and disciplinary sanctions shall be litigated at the same hearing, or whether they shall be addressed at separate hearings.

2. Upon agreement by both parties, and approval by the Hearing Officer, hearings may be limited to the disciplinary sanction only.

3. Burden of Proof. The Board has the burden of establishing an act of misconduct by a preponderance of the evidence.

4. Proceeding Based on Criminal Conviction. If a Complaint charges a respondent CPG with an act of misconduct for which the respondent has been convicted in a criminal proceeding, ~~the court record of the conviction~~ a certified copy of the Judgement and Sentence is conclusive evidence at the disciplinary hearing of the respondent's guilt of the crime and violation of the statute on which the conviction was based.

5. Rules of Evidence. The rules of evidence shall be those set forth in Chapter 34.05 RCW, the Administrative Procedures Act.

6. Prior Disciplinary Record. The respondent's record of prior disciplinary action, or the fact that the respondent has no prior disciplinary action, must be made a part of the hearing record before the Hearing Officer files a decision.
