



Certified Professional Guardianship Board

Monday, June 10, 2019

SeaTac Office

18000 International Blvd., Ste 1106

SeaTac, WA 98188-4251

9:00 am – 2:00 pm

Meeting Minutes

Members Present

Judge Rachelle Anderson
Ms. Rosslyn Bethmann (telephonically)
Judge Grant Blinn
Ms. Rita Forster
Ms. Amanda Froh
Mr. William Jaback
Ms. Victoria Kesala
Commissioner Diana Kiesel
Judge Robert Lewis
Dr. K. Penney Sanders (telephonically)
Dr. Rachel Wrenn

Members Absent

Ms. Susan (Susie) Starrfield
Ms. Amanda Witthauer

Staff

Ms. Stacey Johnson
Ms. Kathy Bowman
Mr. Christopher Fournier
Ms. Carla Montejo
Ms. Kim Rood
Ms. Eileen Schock

Online Guests – see list on last page.

1. Meeting Called to Order

Judge Rachelle Anderson called the June 10, 2019 Certified Professional Guardianship Board meeting to order at 9:10 am.

2. Welcome, Roll Call and Approval of Minutes

Members were welcomed and a roll call was completed. With no changes or corrections suggested, a motion was made and seconded to approve the minutes of the May 13, 2019 teleconference as written. The motion passed. There were no abstentions.

Motion: *A motion was made and seconded to approve the minutes of the May 13, 2019 teleconference as written. The motion passed. No abstentions.*

3. Chair's Report

Judge Anderson reported that the Superior Court Judges' Association – Guardianship and Probate Committee is working on reviewing 2SSB 5607, Uniform Guardianship Act (UGA). A Legislative workgroup will take place tomorrow, Tuesday June 11. Judge Anderson urged all Board members to personally review the UGA and provide suggestions for the Legislature. Judge Anderson will task the different Board committees with specific issues for review. Overall, the UGA does not change the law as much as it seems.

The Chair also thanked Carla Montejo and Victoria Kesala for presenting to the UW CPG Certification Program.

4. Public Comment

On behalf of Washington Association of Professional Guardians (WAPG), Mr. Gary Beagle presented a letter to members of the Board, which is included as an attachment to these minutes. Mr. Beagle asked that the Board work with WAPG on Section 7 of the Uniform Guardianship Act so further legislation would not be required. Mr. Beagle stated the grievance process is broken and that the CPG Board can look only at the Standards Of Practice by statute. He maintains the court should be allowed to resolve SOP issues, because these issues are not being resolved by the CPG Board.

5. Education Committee Report

Bill Jaback reported on several changes to Continuing Education Regulation 200 recommended by the Education Committee.

Regulation 208.2.1 requires all continuing education activities to have transpired during the two-year reporting cycle. The proposed change to 208.2.1 is as follows: "All continuing education activities *submitted on the Late Compliance Report* must have transpired *either (a) during the two-year reporting cycle, or (b) by March 31st immediately following the reporting cycle*, with the exception of earned carry-forward credits as described in 202.3. *Credits reported on the Late Compliance Report form under 208.2.1(b) may not be used to comply with the minimum education requirement for any other reporting period.*" This proposed change to Regulation 208.2.1 has been posted for public comment for 30 days.

Motion *A motion was made and seconded to adopt the change to 208.2.1 as noted above. All were in favor, none opposed. There were no abstentions. The motion passed.*

Regulation 204.6 currently requires interactivity with any web based educational content. Historically, few CEU courses offered online or otherwise on-demand have an interactive component and approved for credit. Following the model used by the Washington State Bar Association that allows its members to utilize online and on-demand courses to fulfill continuing education requirements, the Education Committee has proposed the following changes:

- Revise Regulation 203.2 to read "[a] credit shall be awarded for each hour actually spent by an active Guardian or an inactive guardian who is planning to become active within the next 12 months in attendance at an approved education activity, *provided that any pre-recorded audio/visual course, including online webinars, is less than five years old.*"
- Strike the current language in Regulation 204.6 in its entirety: ~~*"[n]o course will be approved which involves solely television viewing in the home or office or correspondence work or self-study. Video, motion picture, sound tape, or online presentations may be approved, provided they include a method of student teacher interactive involvement."*~~

Motion *A motion was made and seconded to post the suggested language changes at Regulations 203.2 and 204.6 for public comment. All were in favor, none opposed. There were no abstentions. The motion passed.*

Another recommendation is to revise Regulation 201.12 to allow for Education Committee approval of timely Emerging Issues topics, for example, compensation of guardians and attorneys in Medicaid guardianships (DSHS). Per regulation 201.12, "Emerging Issues shall be identified by the Board at least five months prior to the topic's corresponding reporting period." The current reporting period is January 2019 – December 2020. Under current regulation, no new emerging issue topics would be adopted before January 2021.

Proposed language for Regulation 201.12 will be submitted at the August, 2019 Board meeting for vote on posting for public comment.

6. Grievance Status Update

Staff reported the number of grievances has continued to decrease, with 125 still requiring investigation at the end of May. One CPG with multiple grievances has agreed to a Voluntary Surrender, so these six cases will no longer require investigation and will be terminated once the process has been completed. Judge Anderson asked why the few remaining grievances from 2013, 2014, and 2015 have not yet been resolved. Staff responded that grievance investigators have been focused on CPGs with multiple grievances, and these do include some of the oldest complaints. Judge Anderson then opened the Board's conversation to members of public who were in attendance. Chris Neil commented that working off the older grievances should be a higher priority. Gary Beagle said E & O insurance providers have to be made aware of pending grievances. Karen Newland asked about the membership of the SOPC, when and how many members will need to be changed at the end of the term in September. Bill Jaback will be completing his term in September this year. This open position should be filled with another CPG. Judge Anderson encouraged WAPG to provide the Board with suggestions for a replacement member. Stacey Johnson asked if there was an automatic increase to guardians' insurance costs when a grievance has been filed against them. Gary Beagle answered that with E&O, it's considered a liability when there are grievances pending. As a CPG, Bill Jaback added that as a practice, if you want to bind E&O coverage and there might be a potential claim, you must advise your carrier. However, there is no actual increase of cost for insurance unless there has been a claim that has been paid out. Commissioner Kiesel asked if CPGs are required to notify their insurance carrier if there is a grievance against them. Glenda Voller remarked that she has two old complaints on file, but does not state them because they are so old and "how important can these complaints be if the Board has not yet resolved them?" The Board agreed that a balance is needed between reviewing new grievances for emergent issues versus closing grievances that may not have merit.

7. SSB 5604, Article 7 of Uniform Guardianship Act

Stacey Johnson spoke about Article 7 which is specific to the Board and its operation. A question was asked whether Article 7 still allows for due process for CPGs. The Board wants to ensure that Article 7 accomplishes what it is intended to, and doesn't cause greater issues when there are parallel paths with the court and AOC. The CPG community are potentially the ones at risk. Staff is motivated to step up our processing of grievances.

Article 7 requires grievances to be initially reviewed by the Board within 30 days. Judge Anderson pointed out that "Board members or a subset thereof" do not initially review complaints within 30 days, it is staff who does this, and the language must be changed to allow staff to be of that subset. Staff can complete the initial review within 10 days, and should be

able to gather enough information from CPGs and grievants within the initial 30 days, to ensure the grievance is backed by facts, with specific SOPs and Regulations cited per Article 7. However, if staff is to present their completed investigations to the SOPC for review, there must be more time allowed.

Judge Lewis also raised the issue that Section 128 does not reference Article 7, nor does it set out the next steps for discipline or decertification. If this is what is to be going forward, Section 128 has to be firmed up. At this time we have one Board. Under the UGA, there will be 39 counties with differing practices. Some of the language of Article 7 hamstrings the Board with timing between the Board and the courts. If the full Board must weigh in on a decision, that also causes a delay in the time frame.

Under current rules, the courts cannot address the SOP's, which are the Board's jurisdiction and the Board is under the jurisdiction of the Supreme Court. Current practice has initial review of new complaints completed within one week. If the Board has no jurisdiction, it is decided whether to forward the complaint to the court. If it is determined more information is needed, that is requested from the grievant before the guardian is asked to provide a response. Under current regulation, guardians have 30 days to respond to a complaint. It would not always be possible to collect information from the guardian within the time allowed by Article 7. The court's schedule must be postponed occasionally. Decisions must be made, but perhaps cannot be, within the 180 days allowed under Article 7. Grievance investigations must be done on merit, not just a time line. Direction is needed about what to do if the court decides it requires more time to make a decision. Dr. Sanders noted her concern that while the process is meant to have been streamlined, it still must occur, and must still include time for due process.

Judge Lewis said that the Article 7 requires the Board to initially review a complaint within 30 days but if the complaint is not complete, Article 7 does not address what the next step should be. Judge Lewis said the Board cannot reject a complaint just because it was not filed "perfectly" with all the right words. Staff reminded the Board this is also an access to justice issue. The Board felt it is not unreasonable for a professional care giver to be expected to be quite specific about their complaint, but that an IP should be allowed some leeway. It was recognized that in order for an IP to grieve directly, oftentimes someone has assisted them or advised them in locating the forms, to do so.

Article 7 also states the "Board is limited to the allegations contained in the grievance..." What happens if something is found outside the grievance within a time frame? Current regulations allow the Board to bring a grievance on its own.

Rosslyn Bethmann asked about the additional cost consequence of Article 7. There has been no additional funding provided by the legislature. Commissioner Kiesel remarked that it's not just more money needed for current Board staffing, but the courts do not currently have staff available to do investigations, another need for additional funding.

Commissioner Kiesel asked Gary Beagle to speak directly about his experience on the National level, (California) and he responded that the mission of the CPG Board is only to certify guardians, and investigating guardian complaints should not be part of this Board's process. Mr. Beagle also cited the Lori Peterson/Holcomb decision.

In order to navigate any unintentional consequences of Article 7, Judge Anderson suggested the Board may benefit from partnering with WAPG to come to an agreement and present a unified modification to Article 7.

Stacey Johnson will forward a flow chart of the grievance review process for comments and suggestions from the Board.

8. Executive Session (Closed to the Public)

Victoria Kesala disclosed having a conflict with several Executive Session agenda issues and will excuse herself from these discussions. Rita Forster disclosed she is familiar with an applicant, however, this contact was not deemed to be a conflict.

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

On behalf of the Standards of Practice Committee, Bill Jaback made the following motions:

Motion A motion was made and seconded to proceed with filing a complaint against Gary Beagle for failure to comply with providing requested documentation pursuant to a grievance in question. With a show of hands, four members were in favor of filing a complaint. None were against. Seven members, including the SOP Committee, abstained. The motion passed.

Motion A motion was made and seconded to deny Charge d’Affaires’ request for reconsideration of sanctions levied. All were in favor. There were no abstentions. The motion passed.

Motion A motion was made and seconded that if Charge d’Affaires has not demonstrated compliance within the provided 30 day deadline, to authorize a temporary license suspension of both the Guardian Agency and the Certified Professional Guardian. All were in favor. The Standards of Practice Committee abstained. The motion passed.

Motion A motion was made and seconded to approve the Agreement Regarding Discipline for Ronda Hill as drafted and presented. All were in favor. Victoria Kesala abstained. The motion passed.

On behalf of the Applications Committee, Eileen Schock presented the following applications for Certified Professional Guardian. Members of the Application Committee abstained.

Motion A motion was made and seconded to conditionally approve Jami Herbelin’s application for certification upon completion of the UW Certification Program, with transferrable skills in Social Services. All were in favor. The motion passed.

Motion A motion was made to conditionally approve Kathleen Nibler’s application for certification upon completion of the UW Certification Program, with transferrable skills in Social Services. All were in favor. The motion passed.

10. Wrap Up and Adjourn

The next Board meeting will be held telephonically on August 12, 2019 at 8:00 am. With no other business to discuss, the Board meeting was adjourned at approximately 1:15 pm.

Recap of Motions from June 10, 2019

Motion Summary	Status
Motion: <i>A motion was made and seconded to approve the minutes of the May 13, 2019 teleconference as written. There were no abstentions. The motion passed.</i>	Passed
Motion <i>A motion was made and seconded to adopt the change to 208.2.1 as noted above. All were in favor, none opposed. There were no abstentions. The motion passed.</i>	Passed
Motion <i>A motion was made and seconded to post the suggested language changes to Regulations 203.2 and 204.6 for public comment. All were in favor, none opposed. There were no abstentions. The motion passed.</i>	Passed
Motion <i>A motion was made and seconded to proceed with filing a complaint against Gary Beagle for failure to comply with providing requested documentation pursuant to a grievance in question. With a show of hands, four members were in favor of filing a complaint. None were against. Seven members, including the SOP Committee, abstained. The motion passed.</i>	Passed
Motion <i>A motion was made and seconded to deny Charge d’Affaires’ request for reconsideration of sanctions levied. All were in favor. There were no abstentions. The motion passed.</i>	Passed
Motion <i>A motion was made and seconded that if Charge d’Affaires has not demonstrated compliance within the provided 30 day deadline, to authorize a temporary license suspension of both the Guardian Agency and the Certified Professional Guardian. All were in favor. The Standards of Practice Committee abstained. The motion passed.</i>	Passed
Motion <i>A motion was made and seconded to approve the Agreement Regarding Discipline for Ronda Hill as drafted and presented. All were in favor. Victoria Kesala abstained. The motion passed.</i>	Passed
Motion <i>A motion was made and seconded to conditionally approve Jami Herbelin’s application for certification upon completion of the UW Certification Program, with transferrable skills in Social Services. All were in favor. The Applications Committee abstained. The motion passed.</i>	Passed
Motion <i>A motion was made to conditionally approve Kathleen Nibler’s application for certification upon completion of the UW Certification Program, with transferrable skills in Social Services. All were in favor. The Applications Committee abstained. The motion passed.</i>	Passed

Guests Present

Gary Beagle
Chris Neil
Karen Newland
Glenda Voller

Attachment: WAPG Letter