

Meeting Materials

June 10, 2019
Meeting Minutes

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

Proposed 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.

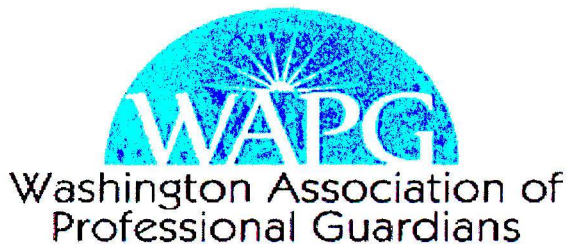
Recap of Motions from June 10, 2019

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
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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



June 10, 2019

Honorable Judge Anderson
CPG Board Chair

Dear Judge Anderson and CPG Board Members,

I would like to take this opportunity for the Washington Association of Professional Guardians (WAPG) 130 members to thank the CPG Board and AOC Staff for their dedication and willingness to engage in constructive discussions on the issues that face CPG's and public interest.

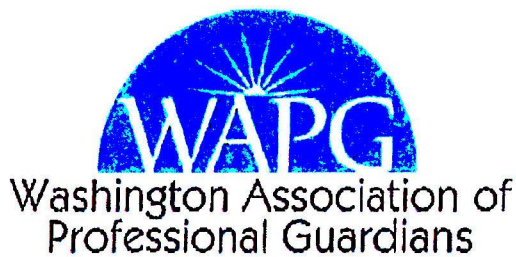
WAPG was a strategic partner in the passage and signing of the Uniform Guardianship Act (UGA) bill by the Honorable Governor Jay Inslee effective January 1, 2021. WAPG strategic partners included 16 previous CPG Board Members and 5 previous CPG Board Chairs who were willing to contact their legislatures and work with WAPG for the inclusion of Article 7, Section 7. WAPG Board Members prepared the language and worked with Senator Pederson's office to have Article 7, Section 7 placed in the bill. Article 7, Section 7 was included in the bill due to the concerns that the CPG Board and AOC staff were not following the original mandate or intent of GR 23. It appeared that the CPG Board, under the previous director, had expanded the CPG Boards role and direction outside their scope and authority.

With the passage of Article 7, Section 7, WAPG would recommend that the CPG Board and AOC staff reassess the entire complaint process and reevaluate GR 23. The current model appears to be unsustainable or realistic. WAPG at the April 23, 2018 CPG Boards Annual Meeting provided several recommendations that if considered and implemented may have alleviated Article 7, Section 7 becoming part of the Uniform Guardianship Act.

It may be prudent for the CPG Board and AOC staff to work with WAPG to reevaluate the complaint process, GR 23 and implementation of Article 7, Section 7 to ensure further legislative recommendations are not required.

Thank you,

Gary Beagle, NMG, CPG, OCPF
Washington Association of Profession Guardian
President



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Toll Free 1-877-460-5880
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April 23, 2018

Dear Judge Lawler, CPG Board Members, & AOC Staff,

I want to take this opportunity to thank you for allowing the Washington Association of Professional Guardians (WAPG) on behalf of its 120 members, to provide input at the CPG Board Annual Planning meeting. I would also like to welcome Stacey Johnson as the Guardianship & Elder Services Manager.

As a Washington State CPG, past CPG Board Member, past President of the Center for Guardianship Certification, Past President of Guardian and Conservator Association of Oregon and current WAPG President, I have had the unique experience of viewing the guardianship profession from several points of view.

WAPG has provided the CPG Board and AOC staff a packet of materials which is referred to within this document. Please refer to the Table of Contents for additional documents provided.

One of the main issues facing the CPG Board and Washington Courts, is locating CPG's willing to serve for individuals in need of guardianship services. The Administrative Office of the Courts AOC staff sends an email blast for CPG's to consider clients from all over Washington State in need of guardians with most individuals being indigent or low income. In 2017 the AOC staff sent approximately 98 emails to current CPG's requesting guardians. The volume of these Guardian ad Litem and/or Attorney requests suggests a lack of CPG's willingness to serve.

The question is, why are CPG's not willing to accept these appointments? In talking to the CPG's across Washington State, the main reluctance of CPGs to being appointed is the CPG Board Grievance process and a lack of trust regarding the CPG's due process rights.

When the CPG Board was founded, the grievance process was conducted differently than the current process. When one takes a historical perspective WAPG has identified four major differences:

- First, the AOC staff utilized a triage approach in which incomplete grievance documentation that did not meet the CPG Board guidelines were dismissed due to lack of documentation or follow up.
- Second, the CPG was contacted by an AOC Investigator for an initial review of the grievance. If the grievance did not have merit, it was dismissed based on the AOC Investigator's initial review.
- Third, the CPG Board forwarded grievances to the Superior Court to rule on facts set forth in the grievance. The Superior Court would evaluate the grievance, render a decision with the

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WAPG is the exclusive organization representing the interests of Certified Professional Guardians (CPGs) in Washington State that meet the standards of certification established by the Washington State Supreme Court through the Certified Professional Guardianship Board.

grievance being dismissed or referred to the CPG Board for further consideration based on the court's findings. Under the current CPG Board grievance process a CPG and/or their Counsel must undergo both a Superior Court proceeding as well as a CPG Board Investigation. This process creates a double jeopardy for the CPG where the Superior Court findings of facts may indicate the grievance has no merit, but the CPG Board will continue its own grievance process. This approach of not rendering a decision based on the Superior Court's findings has drastically increased the time to resolve a grievance.

- Fourth, the AOC staff and CPG Board only ruled on the grievance as outlined by the person or entity. The AOC staff and CPG Board has expanded the scope of a grievance to include the review of up to five years of documents as well as the entire case load of the CPG. Again, this approach has drastically increased the time to resolve a grievance.

As the CPG Board, the public and CPG community is aware, the current grievance process is not working. As of February 28, 2018, the number of outstanding grievances was 143, with some cases going back five years to 2013.

Frankly, CPGs are reluctant to take on difficult clients or clients with difficult interested parties that may file a grievance with the CPG Board. The current CPG Board grievance process is extremely time consuming, expensive, and nerve wracking for the CPG. The time lag of years, means real concerns and/or unfounded allegations are not resolved in a timely manner. Some of Washington States CPG's are certified and/or licensed in other professions or states. The CPG is aware of the process that other certifying and/or licensing boards in which departments are bound by internal policies or statutory timelines to ensure grievances are resolved in a timely manner.

Several CPG agencies/firms have converted to a Washington State Chartered Trust Company to be accountable to the Department of Financial Institution Banking Division instead of the CPG Board. Other CPG's are opting to revise their business model not to include guardianships and offering services outside the jurisdiction of the CPG Board. The reason that many WAPG members are revising their business plans is not wanting to subject themselves to the CPG Board grievance process and lack of trust and transparency between the AOC staff and CPG Board.

WAPG would request the CPG Boards' consideration of the following recommendations to improve the grievance process, trust, and transparency for the clients, public, CPG, CPG Board & AOC staff:

1. It is recommended to transfer the CPG Grievance Process to the Washington State Department that licenses other professionals, or to another department that has the resources available to process grievances in a timely manner and are familiar with the grievances process.
2. It is recommended to appoint a neutral third-party CPG Liaison where CPG's or their counsel can raise concerns or questions as well as provide insight to the CPG Board regarding issues related to the CPGB grievance process. Currently the only course of action if the CPG or their attorney has concerns regarding AOC staff, is to go directly to the Attorney General Counsel which may have a conflict of interest since they represent the CPG Board and AOC staff.

3. It is recommended that the CPG Board and AOC staff research other states that certify or license Professional Fiduciaries. WAPG has provided information from the Department of Consumer Affairs Professional Fiduciaries Bureau which highlight California's approach to Professional Fiduciaries.

The Professional Fiduciaries Bureau of California for fiscal 2017/2018 reported the following statistics regarding their grievances. The statistics are located on page 3 and 4 of the Meeting Minutes of November 15, 2017 which is included in the WAPG packet.

a. AG Cases Initiated	1
b. Citations Issued	5
c. Complaints Received	49
d. Complaints Closed	56
e. Complaints Pending	34
f. Average Day to Close	217
g. New Licenses Issued	24
h. Active Licenses	734

WAPG is providing the CPG Board and AOC a copy of the California Professional Fiduciaries Bureau's budget report for fiscal years 2016-2017 and 2017-2018 which are the last two pages of the Committee Meeting Minutes for November 15, 2017. It appears that the total budget for fiscal years 2017-2018 to be \$538,000.00.

4. It is recommended that the CPG Board consider adopting the California Explanation of Language for the disciplinary process provided in the WAPG packet in the Bureau Actions section. The following is an example of language and definitions:
- a. Accusation – A formal, written statement of charges filed against a licensee
 - b. Cite and Fine Order – Licensee is issued a citation and required to pay a fine commensurate with the violation committed.
 - c. Default Decision – Licensee fails to respond to an accusation by filing a Notice of Defense or fails to appear at an administrative hearing.
 - d. Letter of Public Reprimand – A formal reprimand issued by the Bureau, which could be in lieu of filing a formal accusation.
 - e. Revoked-The license is voided and the right to practice has ended.
 - f. Revoked, stayed, probation – Stayed means the revocation is postponed, put off.
 - g. Statement of Issues – Charges are filed against an applicant to deny licensure due to alleged violations of the Professional Fiduciaries Act.
 - h. Stipulated settlement - The case is negotiated and settled prior to hearing.
 - i. Surrender of license – While charges are pending, the licensee agrees to turn in the license subject to acceptance by the bureau.
 - j. Suspension – The licensee is prohibited from practicing for a specific period.
 - k. Writ – An appeal filed by the licensee in Superior Court to overturn the Bureau's decision.

5. It is recommended that WAPG establish an advisory board that would work directly with the CPG Board to assist in setting goals, identify concerns and to develop solutions.
6. It is recommended to dismiss any grievances generated from Adult Protective Services (APS) that have not also completed the CPG Board complaint process. Currently, anyone can anonymously file an APS complaint against a CPG with only a one or two sentence complaint. The facts do not need to be true or even related to the conduct of the CPG, yet they result in a complaint being filed. Since these APS complaints are anonymous, they cannot be vetted for accuracy. These complaints should not be weighed the same, as a complaint filed directly with the CPG Board. It is extremely difficult for the CPG or their counsel to respond to a two-sentence complaint from an anonymous source.
7. It is recommended that the AOC staff and CPG Board review the complaint prior to generating a form letter requesting information from the CPG, that does not directly apply to the grievance. It appears that the same information is requested on all complaints regardless of the specific allegations in the grievance.
8. It is recommended the AOC staff acknowledge the receipt of the documents that were provided in response to the initial complaint from the CPG or CPG's attorney.
9. It is recommended the AOC staff and the CPG Board review and rule on the current grievance without expanding the scope of the grievance. Under the current process the AOC staff at the CPG Board's direction has taken a proactive role of reaching out to the individual and/or entity filing the grievance to assure the grievance is documented per the guidelines to move the grievance forward or expand the scope of the grievance.
10. Requesting and reviewing court approved documents going back five years not only prolongs the process but does not benefit the person filing the grievance, client, or CPG. The time lag of reviewing CPG complaints has undermined the effectiveness of the CPG Board.
11. It is recommended to rotate the Standards of Practice Committee. A CPG Board member can serve 9 years on the committee, thus providing only one CPG Board member's perspective.
12. It is recommended to develop, approve and distribute a written CPG Board Conflict of Interest Policy that sets forth guidelines for not participating in a grievance by CPG Board members and AOC staff following the same conflict of interest guidelines that a CPG must adhere. The Supreme Court case that has been referenced by CPG Board members and AOC staff relating to conflict of interest may not be interpreted the same way as others within the legal community. The CPG Board should request the Attorney General's office provide a Conflict of Interest Policy for the CPG Board and AOC staff. This should be a transparent process that is available to all parties.

13. It is recommended the CPG Board retain greater oversight of the AOC staff to ensure professional interactions between the CPG's and the AOC staff are maintained.
14. It is recommended that the CPG Board and AOC staff reconsider the premise that only the CPG Board can rule on standards of practice. With the recent Appellate Court rulings, it appears that the Superior Courts can rule as they do routinely with other professional standards.
15. It is recommended that an alternative course of action be considered if the CPG disagrees with the recommendations from the SOP committee and/or CPG Board. If a CPG wants to contest a decision by the CPG Board and/or AOC staff other than an administrative hearing, it must go before the Washington State Supreme Court. This proves to be extremely costly to a CPG and limits the CPG's due process rights.
16. It is recommended that a limitation for when a grievance can be filed. Currently a grievance can be filed for cases that have been discharged by the court for an indefinite amount of time. The same standard for filing a grievance should have the same statutory limits as other legal proceedings.
17. It is recommended that if the AOC staff or CPG Board determines to outsource the grievances investigation process to a third party, this approval should be fully vetted by the CPG Board. The vetting process should include time for public comment and approval by the CPG Board. Currently CPG's are receiving correspondence from the AOC staff regarding a review of the grievance materials submitted to a Washington State University (WSU) accounting class, or a WSU accounting professor. The CPG Board and AOC staff should consider the following when an alternative process is considered prior to dictating this approach:
 - a. Does this third-party outsourcing require a contract?
 - b. HIPAA requirements and confidentiality of client and CPG.
 - c. Experience and qualifications to review documents related to the Guardian of Person or Guardian of Estate.
 - d. Clear guidelines for the CPG and AOC staff on what the third party is reviewing and what aspects of the grievance is to be reviewed. Guardianship accountings do not have the same standards as standard accounting principles, and anyone reviewing the financial documents should be aware of this difference.

WAPG would like to address the Office of Public Guardian (OPG) and offer the following recommendations about this program:

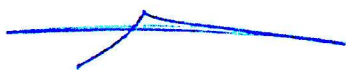
- 1.) It is recommended that the OPG contract with existing CPG's for services based on the client's evaluation and requirements. The State of Oregon contracts with Oregon Certified Professional Fiduciaries (OCPF) to provide guardian of the person services. The contract is for a two-year period that outlines the amount of the contract where the OCPF must provide verification of E & O Insurance, Liability Insurance, OCPF Certification and other documents that will meet the guidelines for any vendor contracting with the state and/or county. The clients that are

appointed a Guardian have issues that will require the OPCF to expend an enormous amount of time and/or require advocacy to keep them out of the mental health or medical systems which will reduce the cost of care to the State Medicaid system. An analysis is conducted that allows for additional funding for the first two years with subsequent contracts reflecting the cost based on the first two years. The first two-year contract can range from \$3,500.00 to \$10,000.00 depending on the client needs.

- 2.) It is recommended that the funds expended for the administration and cost of the current OPG's be combined with additional funding to contract with the existing CPG's already trained and subject to Superior Court and CPG Board oversight.
- 3.) It is recommended that CPG agencies (as opposed to individual CPGs) be able to dedicate a CPG or Case Manger to provide services to clients. The advantages of this approach is it allows for the agency to provide backup, benefits and act as a resource for the designated CPG or Case Manager on difficult clients.
- 4.) It is recommended that the AOC conduct an analysis of whether the OPG should be assigned to an agency that has social service expertise and the skills necessary to evaluate the client services provide. Evaluation of the CPG's work with a client is critical as well as the review of reports and invoices to ensure the client's needs are being met and the CPG is performing the duties as outlined in the contract.

Again, I would like to thank you for allowing WAPG the opportunity to participate in the CPG Board's Annual Meeting. WAPG's goal is to work in conjunction with the CPG Board and AOC staff to ensure the duties delegated to the CPG's are performed within the standards of practice. WAPG understands the CPG Board and AOC staff's importance in regulating the CPG profession.

Respectfully,



Gary Beagle, NMG, CPG, OCPF
President
GB/sm



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 Website: www.fiduciary.ca.gov



COMPLAINT FORM

To file a complaint against a licensed professional fiduciary subject to the licensing laws of the Professional Fiduciaries Act (Act) or against an unlicensed person, acting as a professional fiduciary subject to the Act, please fill out and submit the form to the Professional Fiduciaries Bureau (Bureau) at the address or fax above. For information regarding the complaint process and providing your personal information on the form please see document, Filing a Complaint Against a Professional Fiduciary. For information regarding other possible relevant government agencies to contact, see document, Referrals to Other Agencies for Complaints Against Fiduciaries. You may access these documents on the Bureau website or contact the Bureau to request copies.

(Please type or write legibly in ink)

COMPLAINT REGISTERED AGAINST			
NAME (FIRST, LAST)		BUSINESS AFFILIATION	
ADDRESS Number and Street			TELEPHONE NUMBER
City	State	Zip Code	E-MAIL ADDRESS
NOTE: LEAVE PERSONAL INFORMATION SECTION BLANK IF YOU WISH TO FILE THE COMPLAINT ANONYMOUSLY. HOWEVER, IF YOU LEAVE THIS SECTION BLANK THE BUREAU MAY NOT BE ABLE TO CONTACT YOU OR HELP RESOLVE YOUR COMPLAINT.			
PERSON FILING COMPLAINT			
NAME (FIRST, LAST)			
ADDRESS Number and Street			TELEPHONE NUMBER
City	State	Zip Code	E-MAIL ADDRESS
DATE(S) OF INCIDENT(S)		BUSINESS PHONE	HOME TELEPHONE
DETAILS OF COMPLAINT			
<input type="checkbox"/> Consumer Harmed by Fiduciary Action			
1. IN DETAIL, DESCRIBE YOUR COMPLAINT:			

DETAILS OF COMPLAINT (continued)	
1. LIST OTHER PEOPLE SUCH AS FAMILY MEMBERS, FRIENDS, STAFF OR OTHER PROFESSIONALS INVOLVED IN THIS MATTER, AND THEIR RELATIONSHIP TO YOU:	
NAME	RELATIONSHIP TO YOU
NAME	RELATIONSHIP TO YOU
NAME	RELATIONSHIP TO YOU
2. LIST ALL ATTORNEYS INVOLVED IN THIS MATTER AND WHO THEY REPRESENT, INCLUDING ANY ATTORNEY WHO REPRESENTS YOU:	
ATTORNEY NAME	PARTY REPRESENTING
ATTORNEY NAME	PARTY REPRESENTING
ATTORNEY NAME	PARTY REPRESENTING
3. HAS A LEGAL ACTION BEEN FILED WITH THE COURTS, OR DO YOU INTEND TO FILE A LEGAL ACTION, AGAINST THE LICENSEE IN THIS MATTER? <input type="checkbox"/> YES <input type="checkbox"/> NO	
IF YES, PROVIDE DETAILS, INCLUDING TYPE OF LEGAL ACTION PURSUING:	
4. IS THERE A PENDING COURT CASE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
IF YES, PROVIDE THE FOLLOWING INFORMATION:	
CASE NAME	CASE NUMBER
COURT LOCATION	DATE FILED
PARTIES INVOLVED	
5. HAS A COURT ISSUED A FINDING AND ORDER IN THIS MATTER? <input type="checkbox"/> YES <input type="checkbox"/> NO	
IF YES, PROVIDE THE FOLLOWING INFORMATION:	
CASE NAME	CASE NUMBER
COURT LOCATION	DATE RESOLVED
OUTCOME	
6. DO YOU INTEND TO FILE A COMPLAINT, OR HAVE YOU FILED A COMPLAINT WITH ANY OTHER ENTITY REGARDING THIS MATTER? <input type="checkbox"/> YES <input type="checkbox"/> NO	
IF YES, PROVIDE THE FOLLOWING INFORMATION:	
NAME OF ENTITY	
CONTACT PERSON	DATE COMPLAINT FILED
STATUS OF COMPLAINT	
NAME OF ENTITY	
CONTACT PERSON	DATE COMPLAINT FILED
STATUS OF COMPLAINT	

DETAILS OF COMPLAINT (continued)

7. HAVE YOU OR YOUR LAWYER SPOKEN WITH THE LICENSEE OR THE LICENSEE'S LAWYER REGARDING THIS MATTER? YES NO

IF YES, PLEASE LIST BELOW, PARTIES, DATES AND NATURE OF THE COMMUNICATION:

PARTIES INVOLVED IN COMMUNICATION	NATURE OF COMMUNICATION	DATE OF COMMUNICATION

8. PLEASE IDENTIFY ANYONE WHO HAS HELPED YOU FILL OUT THIS FORM:

NAME	RELATIONSHIP	TELEPHONE NUMBER

9. IS THERE ANY OTHER INFORMATION THAT YOU WOULD LIKE TO PROVIDE THE BUREAU TO ASSIST WITH THE INVESTIGATION INTO THIS MATTER?

10. WHAT DO YOU WANT THE BUREAU TO DO FOR YOU TO RESOLVE YOUR COMPLAINT? PLEASE BE AS SPECIFIC AS POSSIBLE AND INCLUDE DATES IF YOU CAN.

ATTACH ADDITIONAL SHEETS AS NEEDED. YOU MAY INCLUDE COPIES OF ANY COURT FINDINGS AND ORDERS AND ANY OTHER DOCUMENTS YOU WOULD LIKE TO REGISTER WITH THIS COMPLAINT.

I HEREBY CERTIFY UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT TO THE BEST OF MY KNOWLEDGE ALL OF THE ABOVE STATEMENTS ARE TRUE AND CORRECT.

SIGNATURE _____ DATE _____

FOR AGENCY USE ONLY

REFERRED TO:

- APS Ombudsman District Attorney Law Enforcement Courts
 Bureau of Medi-Cal Fraud and Elder Abuse Other (Specify) _____

INTERNAL USE ONLY: Date Complaint Received _____ Jurisdictional Non-Jurisdictional

Person Assigned to: _____

Agency Referred to: _____ Date Referred to: _____

Agency Referred to: _____ Date Referred to: _____

Grievance Status Update

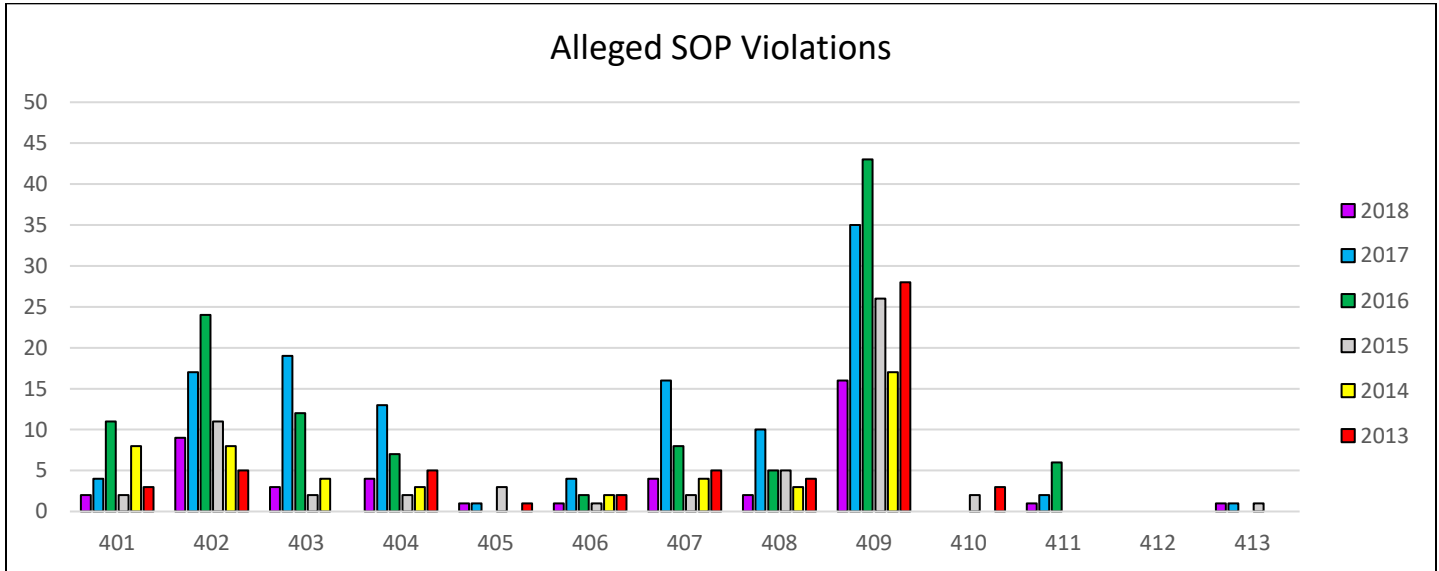
Certified Professional Guardians Grievance Status

July 31, 2019

Grievance Status by Year Received	2019	2018	2017	2016	2015	2014	2013	Total
Grievances Requiring Investigation – 05/30/19	25	40	24	23	7	4	2	125
New Grievances:	5							3
Voluntary Surrender Pending:	1	2	3	3		1		10
ARD Pending:								
Complaint/Hearing Pending:								
Grievances Resolved This Reporting Period:	6	9	1 4	3 7	6	3	2	4 37
Grievances Requiring Investigation – 07/31/19	23	31	20	14	1	1	0	90

Grievance Resolutions:	2019	2018	2017	2016	2015	2014	2013	Total
Dismissal – No Jurisdiction	3							3
Dismissal – No Actionable Conduct	1	9	4	7	6	3	2	32
Dismissal – Insufficient Grievance	1							1
Mediated – Dismissed								
Advisory Letter 507.1	1							1
ARD - Admonishment								
ARD - Reprimand			1	3				4
ARD - Suspension								
Terminated – CPG Death								
Terminated – Voluntary Surrender								
Terminated – Administrative Decertification								
Terminated – Decertification								
Total Resolved Grievances – 07/31/19	6	9	5	10	6	3	2	41

Grievance Resolutions	2019	2018	2017	2016	2015	2014	2013	Total
Total Grievances Received To Date 07/31/19	36	85	104	104	65	64	57	515
Dismissal – No Jurisdiction	8	22	29	20	13	17	13	122
Dismissal – No Actionable Conduct	2	27	44	46	28	21	24	192
Dismissal – Insufficient Grievance	1	3	1	2		2	1	10
Mediated – Dismissed					1			1
Advisory Letter 507.1	1						1	2
ARD - Admonishment					1			1
ARD – Reprimand			1	4	4		3	12
ARD - Suspension								
Termination – CPG Death					2			2
Termination – Administrative Decertification			1	2	13	11	3	30
Termination – Voluntary Surrender			6	13	2	11	9	41
Termination – Decertification							3	3
Total Grievances Resolved To Date: 07/31/19	12	52	82	87	64	62	57	416



400 Standards of Practice Regulations

- 401 Guardian’s Duty to Court
- 402 Guardian’s Relationship to Family and Friends of Incapacitated Person and to Other Professionals
- 403 Self-Determination of Incapacitated Person
- 404 Contact with the Incapacitated Person
- 405 General Decision Standards
- 406 Conflicts of Interest
- 407 Residential Decisions
- 408 Medical Decisions
- 409 Financial Management
- 410 Guardian Fees and Expenses
- 411 Changes of Circumstances/Limitation/Termination
- 412 Sale or Purchase of Guardianship Practice
- 413 Responsibilities of Certified Public Guardian Agencies

ID	Year Cert.	Open	Year(s) Grievances Received	Status
A	2015	2	2018 (1), 2019 (1)	
B	2002	6	2014 (1), 2016 (1), 2017 (2), 2018 (2)	Voluntary Surrender in Work
C	2014	2	2017 (1), 2019 (1)	
D	2010	2	2017 (1), 2018 (1)	
E	2005	4	2014 (1), 2016 (1), 2017 (1), 2018 (1)	
F	2010	2	2017 (1), 2019 (1)	
G	2004	3	2017 (1), 2018 (2)	
H	2014	2	2016 (1), 2019 (1)	Voluntary Surrender in Work
I	2001	3	2018 (3)	
J	2001	4	2017 (1), 2018 (1), 2019 (2)	
K	2017	2	2018 (2)	
L	2007	2	2019 (2)	
M	2009	4	2018 (3), 2019 (1)	
N	2001	12	2016 (6), 2017 (1), 2018 (4), 2019 (1)	
O	2001	2	2018 (1), 2019 (1)	
P	2011	4	2017 (1), 2018 (2), 2019 (1)	
Q	2013	3	2018 (3)	
R	2009	2	2017 (1), 2019 (1)	
S	2001	3	2016 (1), 2018 (1), 2019 (1)	
T	2001	3	2016 (2), 2017 (1)	
U	2009	4	2016 (1), 2017 (1), 2018 (1), 2019 (1)	
V	2015	2	2016 (1), 2019 (1)	
W	2010	2	2017 (2)	
	Total	75		

Of 90 currently open grievances, 75 concern 23 Agencies or CPGs with 2 or more open grievances.

Education Committee Recommendations

Certified Professional Guardianship Board

Date: Thursday, June 20, 2019

To: Education Committee

From: Chris Fournier, Staff

RE: Proposed Regulation Changes Status Update

Regulation 208.2.1- Late Compliance Filing

- Approved by the Board at June 10 meeting
- Notice of the approved change was sent to the CPG listserv
- Regulation is now effective

Regulation 203.2 and 204.6- Removes interactivity requirement from webinar CEUs

- Board approved the regulation be posted for public comment at June 10 meeting
- Posted for public comment on June 17.
- The Regulation will return to the Board for the August 12 meeting for vote to approve

Regulation 201.12- Allows CEU sponsors to apply for emerging issues credits for issues that are not pre-approved by the Board

- Committee voted to recommend this change to the Board at the Committee's June 6 meeting
- This proposed change will go to the Board to vote on posting for public comment on August 12
- If approved for public comment, the Board will vote on approval of the change at October 14 in person Board meeting

Regulation 205.6- Would permit AOC Staff and the Education Committee to approve NGA courses without have a sponsor file a CEU application

- If approved by the Committee, the Board could vote to post this for public comment at the August 12 meeting
- The Board would then vote on approval of this change at the October 14 in person Board meeting

Certified Professional Guardianship Board

Date: April 29, 2019

To: Education Committee

From: Christopher Fournier, Staff

RE: CEU Interactivity Requirement

During both the March Education Committee Meeting and the April Board Meeting, members of the Board and Committee asked staff to prepare proposed language regarding possible removing or modifying the Board's current requirement that online or audio/visual courses have an interactive element.

Background

Education Regulation policy 204.6 currently states that "[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."

During the 2017-2018 reporting period the Board approved 90 CEU courses. Only seven of these 90 courses were online or otherwise on-demand. Of the seven approved webinars, three are sponsored by the AOC and only awarded credit for CPG's who attended the webinar while it was live. As of April 29, 2019 AOC staff have only approved one online CEU course, the WSBA's Elder Law Conference which allows both in-person and online live attendance.

Proposal

Staff believe that one possible method to increase the number of webinar CEU's available to CPGs is to adopt the model used by the Washington State Bar Association. The Bar association currently allows its members to utilize online and on-demand courses to fulfill their continuing legal education requirements. The WSBA only requires that an online or on-demand course meet the same standards of approval that an in-person course would have to meet and requires that a pre-recorded course cannot be five years or older at the time the WSBA member views the course for credit.

Following the WSBA's model, Staff believe that the following changes to the Education Regulations could increase the CPG's access to CEU opportunities:

- 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 as follows: ~~"[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."~~

Please let me know if you have any questions would like any further information.

Christopher M. Fournier

Certified Professional Guardianship Board

Date: April 29, 2019

To: Education Committee

From: Christopher Fournier, Staff

RE: Emerging Issues Staff Proposal

Background

During the processing of the 2017-2018 waiver requests, staff encountered several instances where CPG's were short unknowingly short on Emerging Issues credit because the CPGs were under the incorrect impression that CEUs that discuss new or changes to laws impacting guardians were Emerging Issues. Furthermore, with the passage of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGA) staff have seen an increase in CEU applications including requests for credit to cover the UGA. Currently these courses are being awarded as general credits even though staff believe the UGA is a very impactful emerging issue for the guardianship profession. The current education requirements require the Board to approve Emerging Issues credits at least five months prior to the new reporting period. With changing the reporting period from one year to two, that means that the emerging issues courses at the end of a reporting cycle are covering only issues that arose at least 29 months prior. Staff believe, that allowing CEU Sponsors to apply for Emerging Issues credits for topic and issues that impact guardianship and have arisen during the current reporting period will ensure that CPG's are receiving training on emerging issues in a timely manner and will likely increase the number of emerging issues credits offered to CPGs.

Current Regulation 201.12

"To qualify for 'emerging issues credit' a course of subject must encompass training and information pertaining to a topic specifically identified by the Board. The Board will determine for each reporting period which emerging issue(s) should be addressed in guardianship education. Emerging Issues shall be identified by the Board at least five months prior to the topic's corresponding reporting period."

Proposed Language

"To qualify for 'emerging issues credit' a course of subject must encompass training and information pertaining to a topic specifically identified by the Board. The Board will determine for each reporting period which emerging issue(s) should be addressed in guardianship education. Emerging Issues shall be identified by the Board at least five months prior to the topic's corresponding reporting period. **A CEU Sponsor may choose to include with their CEU application a written request that the Board approve a topic outside of the preapproved Emerging Issues categories as Emerging Issues credit. The request must provide explanation as to how the topic is of important significance to the guardianship profession and that the topic or issue has arisen during the current reporting period. AOC Staff have discretion to approve or deny a request for a topic to be approved as an Emerging Issues credit. Any approval or denial of a topic as Emerging Issues must be ratified**

by the Education Committee. A credit that is denied as an Emerging Issue may be approved as a General credit.

Please let me know if you have any questions would like any further information.

Christopher M. Fournier

Certified Professional Guardianship Board

Date: Monday, June 17, 2019

To: Education Committee

From: Chris Fournier, Staff

RE: NGA CEU Credit Proposal

During the processing of the 2017-2018 CEU reporting affidavits, Staff have received input from CPG's that believe that the Board should approve courses offered by the National Guardianship Association (NGA) without a sponsor being required to submit an application for CEU credit approval. Currently the NGA offers 13 self-guided courses and 24 webinars.

Staff believes that adding a procedure to automatically reviewing NGA courses could result in more on-demand CEU credits being available to CPGs around the state and could help ensure CPG's have the CEU opportunities necessary to timely complete their reporting requirements. However, implementing this proposal would require a revision of the Board's Education Regulations and Staff to implement internal policies for implementing this process.

Regulation Revision

Currently, the procedure for approving CEU activities is governed by Regulation 205. Regulation 205 requires a sponsor to submit an application to the Committee. Reg. 205.1. This application needs to include a credit approval fee. Reg. 205.1. The credit approval fee may be waived if the course is a court-sponsored training that is specifically for guardians. A CEU credit application is approved or denied based on the requirements for the specific type of CEU credit requested. Within 30 days of the approved activity, the sponsor must submit an attendance list to the AOC along with completed course evaluations. Reg. 205.5

In order to allow the Board to approve CEU credits without a sponsor applying for approval, Staff recommend the following revisions to Reg. 205:

Add the following language as new subsection **205.6**, "**The Board may, on its own behalf, approve a course or activity for Continuing Education Credit without an application for Continuing Education Credit from an active Guardian or sponsoring agency. A continuing education activity approved under this subsection must be granted or denied in accordance with the provisions of Regulation 207. Neither a credit approval fee nor an attendance list will be required for a continuing education activity approved under this subsection 205.6.**

205.6.1 A guardian who chooses to participate in a continuing education activity approved under this subsection must provide the AOC with a certificate of completion, or some other documentation which demonstrates the guardian's participation in the activity.

205.6.2 A guardian or other third party must provide an application for approval of continuing education activity in compliance with subsection 205.1 through 205.4 of this section and cannot request the Board approve a continuing education activity on its own behalf in lieu of the third party submitted the required application.”

Staff Policy

If the Board chooses to adopt this proposal it would also be necessary for AOC staff to adopt policies and procedures for the implementation of this proposal. A staff policy and procedure would include the following elements:

- In January of each year, Staff will review and grant CEU credit for the NGA courses that were released in the previous calendar year.
 - Staff will then present the approved courses to the Education Committee for review and ratification at the Education Committee’s February Meeting.
- If approved, Staff will review and approve NGA courses that currently exist for CEU credit upon the Board’s approval of this proposal. Following this initial approval period, review and approvals will only take place during January of the year following the courses creation.
- If a CPG desires the Board to grant CEU credit for an NGA course sooner, the CPG or credit sponsor may submit a CEU approval application in accordance with Regulation 205.1-205.5. This includes payment of the credit approval fee.
- The type and quantity of credits provided will be based on the materials made available by the NGA or other sponsoring entity. If Staff is unable to determine either the content or duration of an activity, then no credits will be granted for that activity.
- If a CPG believes that a CEU course could be approved for a category of credit other than the category approved by Staff, the CPG may apply for the alternative credit category through the application process in Regulation 205.
- Initially this policy will apply only to webinars and self-guided courses offered by the NGA. However, the Board can direct Staff to expand or contract what courses may be approved at the Board’s discretion.
- In compliance with proposed Education Regulation 203.2, an approved NGA course will only be approved for credit if it is five or fewer years old when the CPG completes the course.