

Meeting Minutes

March 8, 2021



Certified Professional Guardianship Board

Monday, March 8, 2021

8:00 a.m. – 9:00 a.m.

Zoom Meeting

<https://wacourts.zoom.us/j/98839674954>

Meeting ID: 988 3967 4954

Proposed Meeting Minutes

Members Present

Judge Rachelle Anderson
Ms. Rosslyn Bethmann
Dr. K. Penney Sanders
Judge Grant Blinn
Ms. Rita Forster
Ms. Amanda Froh
Judge Diana Kiesel
Judge Robert Lewis
Ms. Lisa Malpass
Mr. Dan Smerken
Ms. Susan (Susie) Starrfield
Ms. Amanda Witthauer (telephonically)
Dr. Rachel Wrenn

Staff

Ms. Stacey Johnson
Ms. Kathy Bowman
Mr. Christopher Fournier
Ms. Jennifer Holderman
Ms. Thai Kien
Ms. Kay King
Ms. Heather Lucas
Ms. Eileen Schock
Ms. Rhonda Scott
Ms. Brandy Walker

Guests – see list on last page

1. Meeting Called to Order

Judge Rachelle Anderson called the March 8, 2021 Certified Professional Guardianship Board (Board) meeting to order at 8:01 am.

2. Welcome, Roll Call and Approval of Minutes

Judge Anderson welcomed all those present. Hearing no suggested changes or corrections, a motion was made and seconded to approve the minutes of the Board meeting held on January 11, 2021 as written. The motion passed.

Motion: A motion was made and seconded to approve the January 11, 2021 Certified Professional Guardianship Board meeting minutes as written. The motion passed.

3. Introduction, New Staff and Board Members

New Staff member Brandy Walker was introduced and welcomed by the Board.

4. Chair's Report

Judge Anderson thanked Kay King and the Regulations Committee for all the work being done on updating the Regulations. Judge Blinn and Ms. King are working with Judge Anderson to

present at the UW. Ms. King reminded everyone the proposed amendments to GR 23 are posted for comments. She continued by announcing that at the next CPGB meeting, which will be held April 12, 2021, will be open to the public for questions and comments. Judge Anderson further announced the Executive Committee will be focused today on applications.

5. Grievance Status Update

Staff reported thirty four (34) open grievances at the end of February. Thirteen (13) new grievances have been received in 2021; eight new grievances in January and five new grievances in February. Seven grievances were closed in January. Three grievances were dismissed for no actionable conduct, three were dismissed as insufficient grievances, and one was resolved by voluntary surrender of the CPG. Six grievances were closed in February. One was dismissed for no jurisdiction, three were dismissed for no actionable conduct, one was dismissed as an insufficient grievance, and one was resolved after issuing an advisory letter.

Of the total thirty four (34) currently open grievances, twenty one (21) grievances relate to only a few agencies. Dan Smerken addressed the thirteen (13) grievances received in 2021, asking if staff have noticed a pattern or specific trends. Staff answered they have not noticed a pattern. Judge Robert Lewis asked if any of the grievances within the same agency are related. Staff reported they are somewhat related and that Staff is actively working to close these.

Rosslyn Bethmann asked if there are any COVID-19 related grievances. Staff reported though there are mentions of COVID in a handful of cases since it began, no actionable grievances have been filed regarding COVID.

6. Regulations Committee

Judge Diana Kiesel praised Kay King and the Regulations Committee for their diligence working through the regulation updates. She said they have been amazing to work with, and have been meeting twice a week. The committee has continued with the debates and research needed for the definitions, including the definitions for decision making and independent judgment. Judge Kiesel also noted they are getting help with definitions and decision making from the U.S. Department of Labor.

Judge Kiesel also spoke on RCW 11.130.125 that requires a guardian employing an agent to do a background check, she mentioned definition of an agent and protections without undue burden on a CPG. She gave examples of databases for minimal background checks, including the WA State Patrol Watch Report, the courts' databases like Odyssey, LINX in Pierce, and ECR in King County. She said there are others but they are inaccessible or too expensive, such as the FBI database. Also, she noted that discretion is given to CPGs under RCW 103.4.3 regarding employees and agents, and that the Committee wanted it to be dependent on the type of work being done with the protected person.

Dr. Penney Sanders asked if there is a schedule for when the new regulations would be available for public comment. Kay King answered saying, when the board is ready to post the regulations, they will be posted for 30 days for comments and then will be considered for final action at the next Board meeting. Ms. King also mentioned that the new regulations will roll out in chunks, rolling out each section as it is ready, rather than waiting for them all to be finished.

Ms. Starrfield made a motion to put the 100 series out for public comment.

Motion: A motion was made and seconded to post Regulation Series 100 for public comment. The Regulations Committee abstained. All members voting approved. The motion passed.

7. Board Member Attendance

Judge Anderson requested that Board members provide 24 hour notice to either staff or the Chair if you cannot attend a Board meeting. 80% attendance is required.

8. Executive Session (Closed to Public)

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

On behalf of the Application Committee, Judge Lewis presented the following applications for certification. The Application Committee abstained.

Motion: A motion was made and seconded to approve Jay Becker's application for certification, with transferrable skills in social services and financial. All members voting approved. The motion passed.

Motion: A motion was made and seconded to approve Rhonda Wilson's application for certification, with transferrable skills in social services and financial. All members voting approved. The motion passed.

Motion: A motion was made and seconded to conditionally approve Angela Carlson-Whitley's application for certification, upon completion of mandatory training, with transferrable skills in legal. All members voting approved. The motion passed.

Motion: A motion was made and seconded to conditionally approve Deborah Jameson's application for certification, upon completion of mandatory training, with transferrable skills in legal. All members voting approved. The motion passed.

Motion: A motion was made and seconded to conditionally approve Meera Shin's application for certification, upon completion of mandatory training, with transferrable skills in social services. All members voting approved. The motion passed.

Motion: A motion was made and seconded to conditionally approve Mary Shobe's application for certification, upon completion of mandatory training, with transferrable skills in financial. All members voting approved. The motion passed.

Motion: A motion was made and seconded to conditionally approve Amanda Zahller's application for certification, upon completion of mandatory training, with transferrable skills in healthcare and social services. All members voting approved. The motion passed.

Motion: A motion was made and seconded to conditionally approve Melanie Maxwell's application for certification, upon review of WSP and FBI background checks, with transferrable skills in legal. All members voting approved. The motion passed.

10. Wrap Up/Adjourn

The next CPG Board meeting will take place via Zoom on Friday, April 12, 2021 at 9:00 am. Public Comments will be welcomed at this meeting. As there was no other business to discuss, the March 08, 2021 meeting was adjourned at 9:01 a.m.

Recap of Motions

Motion Summary	Status
Motion: <i>A motion was made and seconded to approve the January 11, 2021 Certified Professional Guardianship Board meeting minutes as written. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to post Regulation Series 100 for public comment. The Regulations Committee abstained. All members voting approved. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to approve Jay Becker's application for certification, with transferrable skills in social services and financial. All members voting approved. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to approve Rhonda Wilson's application for certification, with transferrable skills in social services and financial. All members voting approved. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Angela Carlson-Whitley's application for certification, upon completion of mandatory training, with transferrable skills in legal. All members voting approved. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Deborah Jameson's application for certification, upon completion of mandatory training, with transferrable skills in legal. All members voting approved. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Meera Shin's application for certification, upon completion of mandatory training, with transferrable skills in social services. All members voting approved. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Mary Shobe's application for certification, upon completion of</i>	Passed

	<i>mandatory training, with transferrable skills in financial. All members voting approved. The motion passed.</i>	
Motion:	<i>A motion was made and seconded to conditionally approve Melanie Maxwell's application for certification, upon review of WSP and FBI background checks, with transferrable skills in legal. All members voting approved. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to conditionally approve Amanda Zahller's application for certification, upon completion of mandatory training, with transferrable skills in healthcare and social services. All members voting approved. The motion passed.</i>	Passed

Guests Present

- Jeff and Teresa Owen
- Shelly U
- Katlyn Balsam (did not return following executive session)
- Scott Malavotte
- Karen Newland Puget Sound
- Christopher Fast
- Glenda Voller joined 8:07 am
- Michael Longyear joined 8:09 am
- Mary Shobe joined 8:23 am

Public Comment

Bowman, Kathy

From: Ash@neillaw.com
Sent: Thursday, April 1, 2021 4:02 PM
To: Stacey.Johnson@courts.wa.gov; Bowman, Kathy
Cc: Chris Neil
Subject: CPG Board April Meeting Materials Request
Attachments: 20210315 UW analysis white paper.pdf

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Dear Ms. Johnson and Ms. Bowman,

My name is Ashlyn Hannus and I am a Legal Intern at Neil and Neil P.S. Attorneys At Law, under Mr. Chris Neil.

I would like to request to have the attached material included in the April 2021 meeting materials. I would also like to request the opportunity to speak in the allotted public comment session during the April meeting to present the material to the Board. I am happy to answer any questions.

Very Best,

Ashlyn J Hannus
Legal Intern

Ashlyn J Hannus | Legal Intern | Neil & Neil, P.S.
5302 Pacific Avenue, Tacoma, WA 98408 | Ash@Neillaw.com
(253)475-8600 | f:(253)473-5746

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GERALD W. NEIL
CHRISTOPHER E. NEIL
DEBORAH J. JAMESON

NEIL & NEIL, P.S.
ATTORNEYS AT LAW
5302 PACIFIC AVENUE
TACOMA, WASHINGTON 98408
(253) 475-8600
(253) 473-5746 FAX

April 1, 2021

Stacy Johnson

Via Email ONLY Stacey.Johnson@courts.wa.gov

Kathy Bowman

Via Email ONLY Kathy.Bowman@courts.wa.gov

Re: CPG Meeting

Dear Ms. Johnson and Ms. Bowman:

Enclosed please find material I would like included in the CPG Board April 2021 meeting materials. Also, I would like to request the opportunity to speak in the allotted public comment session during the April meeting to present the material to the Board.

Sincerely,



Ashlyn J Hannus

Legal Intern

Enc: Report regarding CPGB training and grievances.

Grievances: “It’s a coin toss.”¹

Grievances against CPGs trained before & after UW Certification.

In 2009, the Certified Professional Guardian Board (CPG Board) began requiring CPG candidates to attend the [University of Washington Guardianship Certificate Program](#) (UW Program). Beginning in 2016, the CPG Board began comparing and reporting the number of grievances filed against CPGs who were Pre-UW Program vs Post-UW Program (“UW Table”). The UW Table is reported in many [CPG Board meeting materials](#). There has been no published analysis of the data to determine if there is a measurable difference in the number of grievances filed depending on a professional guardian’s training. This paper is an attempt at such an analysis of the publicly available data.

	Year Guardian Certified	# of Guardians
Before UW Certificate Program	2001	1
	2002	
	2003	
	2004	
	2005	
	2006	1
	2007	1
	2008	
	Total	3
UW Certificate Program	2009	
	2010	
	2011	
	2012	
	2013	
	2014	1
	2015	
	2016	1
	2017	
	2018	
	Total	2

Summary Results: Pre-UW 45% vs Post-UW 54%

The analysis covers the reporting period November 14, 2016 to March 8, 2021. The CPG Board provided the UW Table (see above) in its meeting materials 32 times during that period. Those 32 UW Tables have data on 697 filed grievances.² Of the 697 filed grievances, 317 were grievances filed against guardians who did not complete the UW Program and 380 were filed against guardians did complete the UW Program. So, professional guardians who did not complete the UW training comprised 45% of the total grievances and guardians who took the UW training comprised the remaining 54%.

Source: This data is reported in CPG Board meeting materials as a table and is publicly available on the CPG Board website³ beginning November 14, 2016. The data does not appear in every set of meeting materials. This is the only publicly available data.⁴

Focus Periods: Due to the intermittent inclusion of the UW Table in meeting materials across the full 53-month time period (2016-2021), a more focused analysis was conducted during two periods where the data was more consistently reported. The first focus period (February 2017 to March 2019) has 17 UW Tables over a 26-month period (65%). During this 26-month period 527 grievances were filed, of which: 233 (46%) were Pre-UW Program and 294 (54%) were Post-UW Program. The second focus period (March 2020 to December 2020) has 10 UW Tables over 10 consecutive

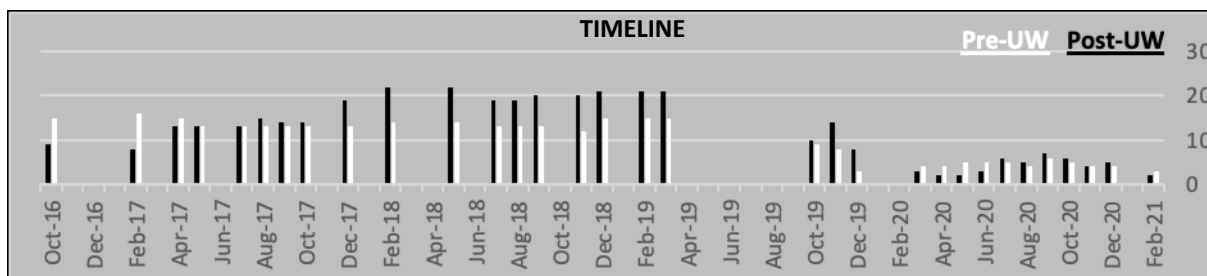
¹ This paper is an analysis of data collected and published by the CPG Board. This paper is not an analysis of the [UW Certification in Guardianship Program](#) and should not in any way be viewed as a commentary on the quality of training provided to CPGs by the [UW Certification in Guardianship Program](#).

² A “filed” grievance is an unsubstantiated allegation of misconduct. The vast majority of “filed” grievances (over 95%) are dismissed.

³ <https://www.courts.wa.gov/guardianportal/index.cfm?fa=guardianportal.board&content=meetings>

⁴ More data may be available in CPG Board files or other sources.

months. During this 10-month period a total of 89 grievances were filed, of which 46 (52%) were Pre-UW Program and 43 (48%) were Post-UW Program.



Difficulties with the data: The publicly available data is incomplete and contains discrepancies.

Discrepancies: The UW Table had identical reporting figures over several months, which seems improbable. All UW Tables reported between December 2018 to March 2019 have identical figures. More frequently, partial replicas were reported for some months. One group’s data would stay the same while the other would vary slightly, for several months in a row. From May 2017 to September 2018 there were eleven UW tables reported. Of the eleven reports the same Pre-UW figure was reported nine times (82%). These patterns were notable since one might presume the data would display natural variance between nearly every month.

Incomplete data: The UW Table also had significant gaps in time as reported above. The UW Table looks at the two groups, (Pre vs Post UW) but does not account for other important variables such as: (a) the number of CPGs in each group, (b) the number of total guardianships managed by each group, (c) the difficulty of the guardianship cases in each group, or (d) the number of “substantiated” grievances for each group.

Conclusion: The idea of tracking filed grievances to compare Pre & Post UW training might have yielded a conclusive result. However, in this case, from both the overall data and the two focus time periods, it is nearly as likely that a CPG who took the UW training versus one who was certified prior to the training would have a grievance. The number of total grievances filed (697) is significant. Yet there seems no significant correlation for either group. One could say it’s a coin toss.

Recommendation: The CPG Board should discontinue the collection of data regarding grievances filed for CPGs trained Pre and Post UW Program. The data does not provide guidance helpful to the Board role to establish the standards and criteria for the certification of professional guardians.⁵

⁵ GR 23 RULE FOR CERTIFYING PROFESSIONAL GUARDIANS “(a) Purpose and Scope. This rule *establishes the standards and criteria for the certification of professional guardians...*”

Michael L. Johnson Law Office

Attorney at Law

1037 NE 65th St. - # 81768, Seattle, WA 98115

(206) 623-3030 Fax 1-888-801-8949

James R. Hardman, Of Counsel (1950-2017)
Michael L. Johnson, J.D., LL.M.

hardmanjohnson@gmail.com

Via email to Kae King at Stacey.Johnson@courts.wa.gov

April 2, 2021

Certified Professional Guardian Board
Olympia, Washington

Re: Guardianship Decision-Making for RHC Residents

Dear Members of the Board:

I am a former certified professional guardian (CPG) and I represent many guardians (including some CPGs) of residents of the State's residential habilitation centers (RHCs) in individual guardianship cases. The RHCs established under Article XIII of the Washington Constitution, and operated by the Department of Social and Health Services (DSHS), Developmental Disability Administration (DDA), are Fircrest School, Lakeland Village, Rainier School and Yakima Valley School. The views in this letter are mine.

The State has chosen to participate in the federal Medicaid program, offering the intermediate care facilities for individuals with intellectual disability (ICF/IID), is reimbursed for more than half of its expenses by the federal government, and must comply with many conditions in federal and state law. The law is extremely complex and is not easily understood by guardians, much less by residents who do not have a guardian to support them. With respect to the RHCs, Medicaid programs include skilled nursing facility (SNF) care, ICF/IID care, or both. In addition, there is a Medicaid waiver program consisting home and community-based services (HCBS) that may be available to as an alternative to residing in an RHC.

Under federal law, DSHS is required to administer Medicaid in the best interests of program beneficiaries. In addition, all the programs mentioned combine a program-centered approach with a person-centered one: DSHS must comply with program-specific requirements and procedures that entails developing and implementing an individualized plan.

At the present time, there is a concerted, systematic effort by DDA to eventually disenroll all residents of the ICF/IID program at Rainier School and re-enroll them alternative Medicaid

programs, including (in relevant part here) HCBS under the Medicaid waiver program. This raises significant questions about how a guardian should discharge their duties.

Question 1: Do guardians of residents of ICF/IID sufficiently discharge their duties when they decide the loss of entitlement to future services, coupled with a reduction in services, is not in the best interests of the resident?

When DDA proposes a move to HCBS, there are two significant facts that must be considered in guardian decision-making. First, the ICF/IID resident will lose their legal entitlement to services as a consequence of moving. ICF/IID is a legal entitlement to services under Medicaid; HCBS is not. Second, a resident will not receive an equal or better level of services in the HCBS program. The HCBS program does not include all the services that are provided in ICF/IID and therefore a move will result in a reduction in services. Can the loss of the legal entitlement to future services, together with a reduction in services, ever be in the best interests of a resident?

Question 2: How can guardians best discharge their duties when DDA practices sharply diverge from the procedures outlined in federal and state law?

The entitlement to ICF/IID services is given procedural protections under federal and state law. Under federal law, DDA conducts an assessment, finds and proposes feasible alternatives based on that assessment, and gives (in relevant part here) a resident the choice of staying in ICF/IID or choosing HCBS. Under Washington's Froberg law, when DDA concludes an alternative in the community (including HCBS) is in the best interests of the resident, it must give notice of a right to fair hearing to the resident, consult with the resident, and if the matter actually goes to hearing, must prove that the move is in the best interests of the resident.

Unfortunately, DDA has not been adequately implementing these procedures. In fact, guardians are being pressured to cooperate, which in this situation means going along with DDA's determination. In fact, a guardian's choice and determination that it is in the best interests for the resident stay in the ICF/IID program, fully in accordance with the entitlement, and intended to avoid a reduction of services, might actually result in a DDA petition to remove the guardian and install someone else more "cooperative". Current implementation of DDA procedures seem to invite guardians to not perform any due diligence and just go along with proposals. There is a huge gap between the law and DDA practice, and guardians are caught in the middle.

Finally, it should be noted that the rights of the residents in this situation are not easily vindicated. DDA strictly limits residents from using their own money to challenge DDA determinations to move to HCBS. There is another complication. Although a policy consensus has been reached about the need for the ICF/IID program within a continuum of care, some publicly funded legal services organizations and agencies purporting to represent all persons with disability typically refuse to represent residents of ICF/IID, are ideologically opposed to their entitlement to the ICF/IID program, or paternalistically would deny residents the right to choose.

Michael L. Johnson to Certified Professional Guardian Board
April 2, 2021
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I appreciate the opportunity to start a discussion about these issues.

Best regards,

/s Michael L Johnson

Michael L. Johnson
MLJ/a

Regulations Committee Report

Guardianship and Conservatorship Program ~~Rules~~ Regulations

Regulation 100 Application Regulation

~~Adopted February 12, 2000~~
~~Renumbered January 13, 2003~~
~~Revised July 9, 2012~~

Contents:

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Guardianship and Conservatorship Program Rules Regulations

101 Application for Certification

Every person or agency desiring to be certified as a CPGC must submit an application approved by the CPGC Board, undergo a criminal history check, pay the fee set by the CPGC Board, attend a mandatory training, and satisfy all requirements set forth in the applicable rules and regulations.

Guardianship and Conservatorship Program Rules Regulations

102 Definitions

102.1 “Applicant” means any individual or agency that submits an application to become a CPGC or a Certified Professional Guardian and Conservator Agency.

102.2 “Agency” means any legal entity in the Sstate of Washington authorized by its formation documents to act as a fiduciary, guardian, or ~~limited guardian conservator (full or limited)~~ (Revised 3-8-10).

102.3 “Conditional approval” is the status granted by the Board to applicants that meet application requirements with the exception of any identified outstanding obligation(s). Conditionally approved applicants must complete all additional outstanding obligations, as identified by the Board, in order to attain certification. Conditional approval shall not authorize an applicant to identify him/herself as a certified professional guardian and conservator or a conditionally approved certified professional guardian and conservator. (Adopted 7-9-12).

102.4 “Designated CPGC” means the identified certified professional guardian and conservator(s) within an agency who have the final decision-making authority for ~~incapacitated persons or their estate- individuals subject to guardianship or individuals subject to conservatorship or their estates~~ on behalf of the agency. (Revised 4-13-15).

102.5 “Experience working in a discipline pertinent to the provision of guardianship and conservatorship services” in GR 23(d)(1)(iv) includes volunteer work experience that is supervised, verifiable and based on actual hours worked, except as otherwise set forth in these regulations. (Adopted 8-10-09).

102.6 “Experience working in a discipline pertinent to the provision of guardianship and conservatorship services” in GR 23(d)(1)(iv) does not include providing services for a family member. (Adopted 9-14-09).

102.7 “Experience working in a discipline pertinent to the provision of guardianship and conservatorship services” in GR 23(d)(1)(iv) includes experience in which the applicant has developed skills that are transferable to the provision of guardianship and conservatorship services. (Adopted 8-10-09).

102.8 “Decision-making or the use of independent judgment on behalf of others” in GR 23(d)(1)(iv) is not limited to- decision making or use of independent judgment on behalf of incapacitated persons individuals subject to guardianship or conservatorship. (Adopted 8-10-09)

102.8.1 “Decision-making” is the act or process of deciding something. Components of the decision-making process include: defining the problem or issue; collecting relevant information and data; exploring and weighing options; choosing the optimal option; planning and executing the option; and taking appropriate follow up action.

102.8.2 “Independent judgment” is:

In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct and acting or making a decision after the various possibilities have been considered. The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources.

The exercise of discretion and independent judgment implies that one has authority to make an independent choice, free from immediate direction or supervision. However, discretion and independent judgment can be exercised even if the decision or recommendation is reviewed at a higher level. Thus, the term "discretion and independent judgment" does not require that the decisions being made have to be final or free from review. The fact that one's decisions may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that one is not exercising discretion and independent judgment. Source: US Department of Labor

102.9 “Fees and Filing Requirements Table” refers to the listing of Board-approved fees for the various CPGC and agency application and reporting requirements identified in these Regulations. The Fees and Filing Requirements Table is accessible to the public online at http://www.courts.wa.gov/programs_orgs/guardian. (Adopted 7-9-12).

102.10 “GR 23” refers to Washington State Court General Rule 23 which establishes the scope and authority of the CPGC Board, minimal qualifications for guardian and conservator and agency applicants, and mandatory ongoing guardian and conservator and agency disclosure requirements. Washington State Court Rules are found at www.courts.wa.gov/court_rules. (Adopted 7-9-12).

~~102.11 “On behalf of others” in GR 23(d)(1)(v) means for the benefit of others. (Adopted 8-10-09) Every person or agency desiring to be certified as a CPG must submit an application approved by the CPG Board, undergo a criminal history check, pay the fee set by the CPG Board, attend a mandatory training, and satisfy all requirements set forth in the applicable rules and regulations.~~

Guardianship and Conservatorship Program ~~Rules~~ Regulations

103 Qualifications

103.1 The certification qualifications are set out in General Rule 23, Rule for Certifying Professional Guardian and Conservators. Successful individual applicants must meet or exceed those requirements.

103.2 All individual applicants must complete an approved CPGC training course as described in Section 108. ~~(Adopted 7-9-12)~~

103.3 Pursuant to the timeline¹ established by the Administrative Office of the Courts (AOC), an individual applicant must submit a complete application packet to the AOC which shall include the following: ~~(Adopted 7-9-12)~~

103.3.1 A fully completed CPGC online application form. The applicant should keep a copy of the completed application.

103.3.2 A separate official transcript, received in a sealed envelope mailed from every accredited college and university attended. ~~(Revised 7-9-12)~~

103.3.3 Proof of each relevant professional license or certification currently held. ~~(Revised 7-9-12)~~

103.3.4 A fingerprint card that has been ~~processed at a local police department~~ processed and obtained by a Board approved process.

103.3.5 A completed, signed Authorization and Release of Information.

¹The timeline for application submissions and approvals can be found on the Certified Professional Guardianship and Conservatorship Board's web site: www.courts.wa.gov/programs_orgs/guardian/

103.3.6 A declaration submitted under penalty of perjury, that the guardian and conservator will take steps to ensure the guardian's employees who come into contact with the person or estate of an incapacitated person have passed a criminal history check prior to having contact with the incapacitated person or incapacitated person's estate shall exercise reasonable care, skill, and caution in ensuring a background check is conducted on their own employees, their agents, and any employees of those agents, prior to those persons providing direct services to the individual subject to a guardianship or conservatorship.

When determining the scope of a background check, the guardian or conservator should consider the abilities and vulnerabilities of the protected person and the specific task(s) that the employee or agent are being delegated.

A background check must include a criminal history check utilizing public or proprietary databases ²that are available to the public.

² Examples of public or proprietary databases include, but are not limited to, the Washington State Patrol's "Washington Access to Criminal History" (WATCH), Superior Court databases (Odyssey, LINX, ECR Online), Department of Social and Health Services Public Disclosure Office, and the Federal Bureau of Investigations Identity History Summary Check (IdHSC).

Additionally, a background check should include a check of public or proprietary databases that report substantiated findings of abuse, neglect, or exploitation of a vulnerable adult.

When engaging licensed agencies that are required by law or regulation to obtain background checks on their employees, the guardian and conservator may rely on the declaration of the agency that they comply with State background check requirements.

103.3.7 A non-refundable application fee as identified on the Fees and Filing Requirements Table. ~~(Revised 7-9-12)~~

103.3.8 A personal credit report obtained from a Board approved credit reporting agency. ~~(Adopted 1-9-12)~~

103.3.9 If an individual has declared bankruptcy in the seven (7) years prior to his or her application, the applicant must provide copies of the following documents: bankruptcy petition, discharge order, and a copy of the bankruptcy case docket. ~~(Adopted 1-9-12)~~

103.3.10 A sworn statement that he/she has read and agrees to abide by the continuing disclosure requirements of GR 23 and all other requirements imposed by rule, regulation or statute for CPGCs.

103.4 An agency applicant must provide:

103.4.1 A fully completed CPGC agency on-line application. The applicant should keep a copy of the completed application.

103.4.2 A copy of the formation documents of the legal entity.

103.4.3 A declaration submitted under penalty of perjury that it ~~will~~shall

(a) ~~take steps to ensure~~ exercise reasonable care, skill, and caution in ensuring a background check is conducted on its own employees, its agents, and any employees of those agents, board members, or anyone formally associated with the agency entity, prior to those persons providing direct services to the individual subject to a guardianship or conservatorship who may come into contact with the person or estate of an incapacitated person has passed a criminal history check prior to having contact with the incapacitated person or their estate, and ensure that all officers and directors meet the qualifications of Chapter ~~44.88-11.130~~ RCW for guardian and conservators.

When determining the scope of a background check, the CPGC agency should consider the abilities and vulnerabilities of the protected person and the specific task(s) that the employee or agent are being delegated.

A background check must include a criminal history check utilizing public or proprietary databases ³that are available to the public.

³ Examples of public or proprietary databases include the Washington State Patrol's "Washington Access to Criminal History" (WATCH), Superior Court databases (Odyssey, LINX, ECR Online), Department of Social and Health Services Public Disclosure Office, and the Federal Bureau of Investigations Identity History Summary Check (IdHSC).

Additionally, a background check should include a check of public or proprietary databases that report substantiated findings of abuse, neglect, or exploitation of a vulnerable adult.

When engaging licensed agencies that are required by law or regulation to obtain background checks on their employees, the CPGC agency may rely on the declaration of the licensed agency that they comply with State background check requirements

103.4.4 The names of the agency's current board of directors, members, managers, owners, and/or its officers.

103.4.5 A list identifying all CPGCs at the agency (a minimum of two are required), and a copy of either meeting minutes or a board resolution identifying the designated CPGCs. The designated CPGCs shall submit the Acceptance of Designated CPGC form. (~~Revised 1-9-12~~)

103.4.6 A non-refundable application fee as identified on the Fees and Filing Requirements Table. (~~Revised 7-9-12~~).

103.4.7 A sworn statement that they have read and agree to abide by the continuing disclosure requirements of GR 23 and all other requirements imposed by rule, regulation or statute for CPGCs.

Guardianship and Conservatorship Program Rules Regulations

104 Filing Application for Certification

Persons or agencies applying to receive certification as CPGCs or CPGC Agencies under GR 23 must submit the required application and fee electronically using the online application available at www.courts.wa.gov/programs_orgs/guardian. Additional material may be sent by mail to:

Certified Professional Guardian and Conservator Program
Administrative Office of the Courts (AOC)
PO Box 41172
Olympia, WA 98504-1172.

Guardianship and Conservatorship Program ~~Rules~~ Regulations

105 Initial Review and Verification of Applications for Certification

105.1 Initial Review of the Application. The AOC will review applications submitted under Regulation 103.3 and 103.4 for completeness. Incomplete applications ~~will~~ may be rejected, but the applicant may re-apply in the future. (~~Adopted 7-9-12~~).

105.2 Verification of Application. The AOC will verify completeness of the online application form in writing, and will instruct the applicant to complete all remaining application requirements. Upon written notification, each applicant will have a period of (30) thirty calendar days to complete these requirements. Failure to timely complete these requirements will result in rejection of the application, but the applicant may re-apply in the future. (~~Revised 7-9-12~~)

Guardianship and Conservatorship Program ~~Rules~~ Regulations

106 Processing of Applications for Certification.

106.1 Certification and Application Committee

The Chair of the Board shall appoint the members of the Certification and Application Committee. The Chair of the Board shall designate one of the committee members as the committee chair. The term of all members, including the chair, shall be one year.

106.2 Approval of Individual Applications

106.2.1 After an application is complete, the Certification and Application Committee shall report to the Board in executive session on the merits of the application.

106.2.2 The Board shall approve the applications for certification or conditional approval, refer the applications back to the Certification and Application Committee for additional information, or deny the applications.

106.3 Approval of Agency Application

106.3.1 The AOC has authority to approve agency applications which comply with all requirements set forth in these Regulations. ~~(Adopted 7-9-12).~~

106.3.2 If the AOC denies an agency application, the denial will be reviewed by the Application and Certification committee, and the CPGC Board. The CPGC Board shall hold the final decision-making authority for denying an agency application. ~~(Adopted 7-9-12)~~

Guardianship and Conservatorship Program ~~Rules~~ Regulations

107 Right to Appeal of Denial of Certification or Conditional Approval

107.1 Right of Appeal. Every applicant denied shall have a right of appeal before an Appeals Panel. The applicant shall receive a copy of the written application file relied on by the Board with the notice of denial.

107.2 Appeals Panel. The Chair shall appoint an Appeals Panel made up of three Board members who did not serve on the Application Committee.

107.3 Filing of Appeal. An applicant may appeal denial of certification or conditional approval by submitting a written request to:

Certified Professional Guardiansship and Conservatorship Board
Administrative Office of the Courts
PO Box 41170
Olympia WA 98504-1170

107.4 Procedure for Appeal

107.4.1 Commencement. The request must:

107.4.2 Be filed within sixty (60) calendar days of the date the denial of application was issued;

107.4.3 Identify the applicant; and

107.4.4 Explain fully the applicant's reason for contesting denial of certification.

107.4.5 Additional Material Shall Not be Considered. The appeal is limited to the information submitted originally by the applicant for application purposes, and reviewed by the Applications Committee. Denied applicants wishing to submit additional information may newly apply. ~~(Revised 7-9-12)~~

107.4.6 Stipulations. The Appeals Panel may use written stipulations. ~~(Adopted 1-12-00)~~

107.4.7 Time Lines and Scheduling of the Appeal.

107.4.7.1 The date of review of the appeal will be not more than sixty (60) calendar days from the date of receipt of applicant's materials by the AOC. The AOC will notify the applicant of the schedule date for the consideration of the appeal.

107.4.7.2 An Appeals Panel will not consider any request for appeal that does not strictly comply with the times stated, unless waived. Upon a showing of good cause, the Appeals Panel may waive the time requirements, reschedule the review for an earlier, or later date.

107.4.8 Review by the Appeals Panel. The Appeals Panel shall make a decision based solely on the written record.

107.4.9 Decision of the Appeals Panel. Within twenty (20) calendar days after the date of review of the appeal, the assigned Appeals Panel shall file with the AOC written findings of fact, conclusions of law, and a recommendation to the Board to approve or deny the appeal. ~~(Amended 11-12-02)~~

107.4.10 Decision of the Board. Within sixty (60) calendar days of the Appeals Panel's decision, the Board shall review the findings, conclusions and recommendation of the Appeals Panel. The Board shall adopt, modify, or reverse the findings, conclusions, and recommendation of the Appeals Panel. A copy of the Board's decision, as set forth in the minutes of the Board meeting or in a separate written decision of the Board, shall be served on the applicant by mail within thirty (30) calendar days.

Guardianship and Conservatorship Program ~~Rules~~Regulations

108 Training

Each approved applicant shall complete and pass the training program that has been approved by the Board. The training will incorporate the goals and objectives and content adopted by the Board. Applicants shall submit to the AOC a certificate of completion which shall be valid for two years ~~form-~~ from the date of completing the training. Certification is dependent on documentation of ~~completing-~~ completion of this training.

Guardianship and Conservatorship Program Rules Regulations

109 Certification by the Supreme Court

109.1 The Board shall submit the names of those persons and agencies that have successfully completed the requirements and are recommended for approval as a CPGC or Certified Professional Guardian and Conservator Agency to the Supreme Court. Certification shall be effective upon order of the Supreme Court.

109.2 A certified professional guardian and conservator or certified professional guardian and conservator agency shall be appointed and carry E & O Insurance in the name as certified. A CPGC or CPGC Agency may include a business name in contact information and promotional materials concerning the provision of guardianship services provided that the name of the CPGC or CPGC agency is listed.

109.2.1 If an individual certified professional guardian and conservator is appointed as guardian or conservator, the certified professional guardian and conservator shall assure that letters of guardianship and/or letters of conservatorship are issued to the certified professional guardian and conservator individually. If a certified professional guardian and conservator agency is appointed as guardian or conservator, the agency shall assure that letters of guardianship and/or conservatorship are issued to the certified professional guardian and conservator agency.

109.2.2 A certified professional guardian and conservator or certified professional guardian and conservator agency shall not make a false or misleading communication about the guardian and conservator or the guardian and conservator's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, omits a fact necessary to make the communication considered as a whole not materially misleading.

Guardianship and Conservatorship Program Rules Regulations

110 Fees

110.1 Schedule of Fees. The Board shall determine a schedule of application fees and other processing fees as may be required. All fees shall be published annually by the Board in the Fees and Filing Requirements Table at www.courts.wa.gov/programs_orgs/guardian. ~~-(Revised 7-9-12).~~

110.2 Payment of Initial Certification Fee

110.2.1 The initial certification fee for both individuals and agencies is due sixty (60) calendar days after notice of the application's approval by the Board for certification.

110.2.2 The initial certification fess is not prorated.

110.2.3 Upon receipt of the initial certification fee, the application will be forwarded to the Supreme Court with the Board's recommendation for certification.

110.3 Failure to Pay Initial Certification Fee. In the event an applicant does not timely pay the initial certification fee, the Board will not forward the application to the Supreme Court for certification, and the Board will deny certification.

110.4 Training Fee. This is an administrative fee unrelated to the cost of training that may be paid to the trainer.

¹The timeline for application submissions and approvals can be found on the Certified Professional Guardian Board's web site:

www.courts.wa.gov/programs_orgs/guardian/

{Adopted February 12, 2000; Renumbered January 13, 2003; Revised July 9, 2012; Adopted as Amended {Date} Effective January 1, 2022}

CPG Board Annual Report

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2020

Certified Professional Guardianship Board



Annual Report

Certified Professional Guardianship Board 2020 Annual Report

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“The judicial branch is responsible for the delivery of justice and those of us who work in the branch are stewards of justice.”

INTRODUCTION

We are pleased to present the 2020 Certified Professional Guardianship Board Annual Report. We make this report publicly available with the goal of increasing awareness of the work of the Certified Professional Guardianship Board and the Administrative Office of the Courts' Office of Guardianship and Elder Services.

The Washington State Supreme Court has authority over guardianship practice in the state, as professional guardians are officers of the court. The Supreme Court established a certification, regulation and discipline framework for professional guardians and related agencies by promulgating General Rule (GR) 23. GR 23 created the Certified Professional Guardianship Board (Board) to implement a process to certify, regulate and discipline individuals who choose to become professional guardians. GR 23(a) cites the purpose of the rule as:

This rule establishes the standards and criteria for the certification of professional guardians as defined by RCW 11.88.008 and prescribes the conditions of and limitations upon their activities. This rule does not duplicate the statutory process by which the courts supervise guardians nor is it a mechanism to appeal a court decision regarding the appointment or conduct of a guardian.

The Supreme Court, however, retains primary jurisdiction over the Board and its functions, including:

- The Supreme Court retains jurisdiction over all professional guardians who practice in the state of Washington. GR 23(b).
- The Supreme Court appoints all members to the Board. GR 23(c)(1)(i).
- The Supreme Court designates the Chair of the Board. GR 23(c)(1)(iii).
- The Supreme Court enters the order certifying an individual or as a certified professional guardian. GR 23(c)(2)(v).
- The Board may seek Supreme Court enforcement of an order or subpoena that it issued. GR 23(c)(2)(x)(c).
- The Supreme Court approves the Board's expense budget. GR 23(c)(3).
- The Supreme Court, pursuant to its statutory authority to direct the Administrative Office of the Courts, instructs the Administrative Office of the Courts (AOC) to provide administrative support to the Board and authorizes AOC to contract with other agencies or organizations on behalf of the Board. GR 23(c)(8).
- The Supreme Court extends quasi-judicial immunity to the Board where the Supreme Court would have immunity in performing the same functions. GR 23(c)(5).

The Board is charged with all substantive duties of certification including:

- Processing applications
- Implementing standards of practice
- Establishing a training program
- Adopting regulations for continuing education
- Approving or denying certification
- Investigating grievances and issuing disciplinary sanctions

In order to facilitate the discharge of the duties delegated by the Supreme Court, the Board, through its bylaws and regulations, has created several Committees charged with overseeing specific Board duties and providing input and expertise to the Board on these areas. During 2020, the following four Board Committees were active:

- Applications Committee
- Education Committee
- Regulations Committee
- Standards of Practice Committee

The Office of Guardianship and Elder Services, within the Administrative Office of the Courts, is directed by the Supreme Court, to provide administrative staff support to the Board and its Committees.

WASHINGTON LEGISLATIVE CHANGES IMPACTING GUARDIANSHIP

Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act

The Washington Legislature adopted substantial amendments to the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (the “Act”), RCW chapter 11.130, in the 2020 session. Of notable significance, the effective date of the Act was delayed until January 1, 2022, with the exception of minor guardianships. The effective date of Article 2, the section of the Act applicable to minor guardianships, continued as January 1, 2021.

The emergency guardianship and emergency conservatorship provisions were substantially amended to include expanded procedural rights for respondents and reporting requirements for guardians and conservators. Language relating to the rights to association under current law was incorporated into the Act. The Act was amended to add the sale or encumbrance of any real estate, and a number of other actions related to real estate, as acts requiring specific court approval and required notice to notice parties. A conservator’s authority on the death of an individual subject to conservatorship was further clarified. Procedural amendments were made to the Act relating to grievances received by the Board. Definitions of “court visitor” and “notice party” were added to the Act. A provision for mediation was added as well. The requirement that the superior court approve the fees of a guardian was also clarified in the 2020 amendments.

Several of the 2020 amendments to the Act related to minor guardianships. The 2020 amendments included procedural changes, such as revised notice requirements and a supplemental declaration of facts supporting the guardianship. Substantive provisions included the status of non-parental custody orders under RCW 26.10 and clarifying language regarding the basis for appointment of a guardian for a minor.

APPLICATIONS COMMITTEE: 2020 AT A GLANCE

GR 23 establishes the standards and criteria for the certification of professional guardians.¹ Every individual, or agency, desiring to be certified as a CPG must submit an online application to the Certified Professional Guardianship Board (Board) and must satisfy all requirements set out in the Board Application Regulations.

Individual CPG Requirements

GR 23 and Board certification requirements for individual certification include having a degree from an accredited educational institution; possessing a requisite number of years of experience transferable to the work of a guardian, including decision-making for the benefit of others; passing background checks; demonstrating financial responsibility and successfully completing a training program approved by the Board. Additionally, applicants must also meet the qualifications set out in RCW 11.88.020.²

Education

Applicants are required to have a degree from an accredited institution. The level of the degree determines the minimum number of full years of experience, transferable to providing guardianship services, required for certification: AA four years, BA/BS two years, Masters, J.D. Ph.D. or equivalent, one year.³

Transferable Experience

In addition to possessing the requisite number of full years of experience (work or volunteer) transferable to providing guardianship services, a component of the experience must include decision-making for the benefit of others in the area of legal, financial, social services, healthcare or other disciplines pertinent to the provision of guardianship services.

Background Checks

After requesting and receiving an applicant's consent, four background checks are conducted: Adult Protective Services, Child Protective Services, Washington State Patrol and FBI. In reviewing the background checks, the Board has discretion to consider an applicant's explanation concerning circumstances related to negative reporting in the background checks.

¹ CPG Agency certification is not included in this summary because regulations direct that AOC staff approves CPG Agency applications. Information regarding CPG Agency certification requirements can be found in GR 23 (d)(2) and Board Regulation 100.

² In addition to the requirements set out in GR 23 and the Board Application Regulations, RCW 11.88.020, requires that an individual applying for CPG certification be at least 18 years of age, be of sound mind and have no felony or misdemeanor convictions involving moral turpitude.

³ GR 23 requires "full" years (full time) transferable experience.

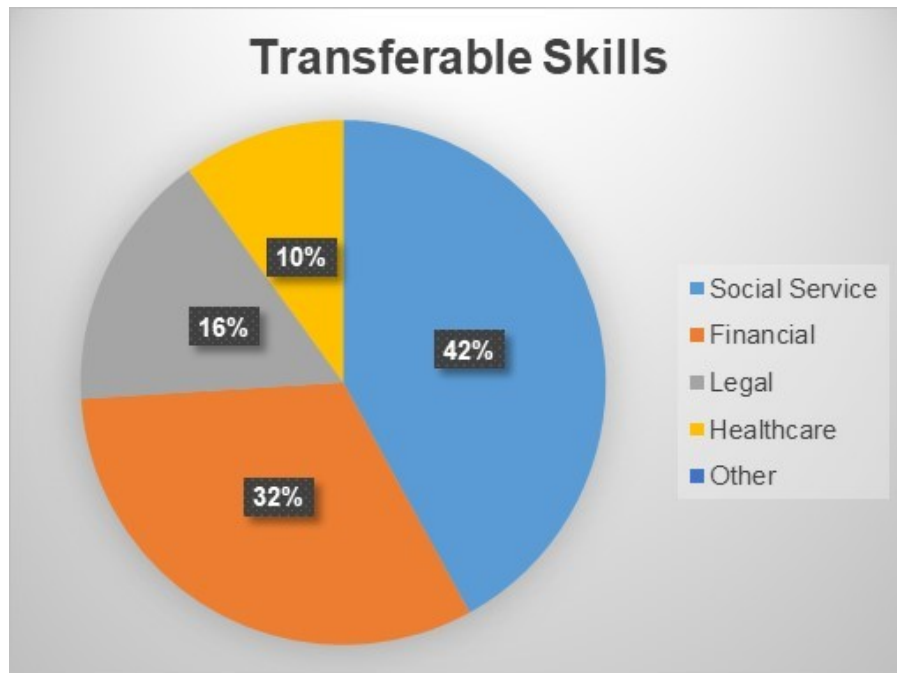
Financial Responsibility

Applicants are required to demonstrate financial responsibility based on a FICO credit score and a credit report. FICO scores of 700 or higher are deemed to meet the financial responsibility requirement.

FICO scores between 650 and 699 require Board review of an applicant’s full credit report and an applicant’s explanation regarding circumstances concerning their credit and negative report indicators. If a score falls into the 650-699 range, the Board has discretion to determine whether or not the financial responsibility requirement is met. Scores below 650 are deemed not to meet the requirement.

Individual Certification Process

The Applications Committee meets monthly to review completed applications and make recommendations to the Board to approve, conditionally approve or deny applications. Committee recommendations also identify the transferable skills category (or categories) applicable to each applicant. GR 23 provides the following list of transferable skills categories: social services, financial, legal, healthcare and other. The chart below shows the percentage of transferable skills applicable to applicants reviewed by the Board in 2020.⁴



The Committee recommends Board approval of an application when all certification requirements have been satisfied, including successful completion of the training program required by the Board. Conditional approval is recommended when all certification requirements have been satisfied with the exception of successful completion of the required training. If denial is recommended, denial must be based on specific findings.

⁴ Social Services 42%, Financial 32%, Legal 16 %, Healthcare 10%, Other 0%.

The Board reviews applications at each regularly scheduled meeting.⁵ Recommendations for approval are sent to the Washington State Supreme Court for approval, entry of an Order of Certification and issuance of a CPG Certificate. Recommendations for conditional approval are forwarded to the Court after successful completion of the required training. Recommendations for denial are appealable to the Board.

2020 Certification Related Information

- 23 enrolled students successfully completed the UW Guardian Certificate Program
- 23 application packets were reviewed by the Board: 17 conditional approvals, 6 approvals and 0 denials
- 20 CPGs were certified by the Washington State Supreme Court⁶
- 14 individual CPGs and 1 CPG Agency voluntarily surrendered certification⁷
- 8 individual CPGs were administratively decertified for non-renewal of certification and/or non-compliance related to continuing education

⁵ The Board meets nine times per year (The Board does not meet in February, July or December).

⁶ Although the Board only approved 6 applications in 2020, the Washington State Supreme Court certified 20 new CPGs because 14 of the 20 Court certifications were applicants who were conditionally approved in 2019 and completed the UW program in 2020.

⁷ The primary reasons for voluntary surrenders were planned retirement and serious health issues.

EDUCATION COMMITTEE: 2020 AT A GLANCE

GR 23(c)(vii) grants the Board the authority to adopt and implement regulations concerning continuing education for professional guardians. The Board requires all professional guardians to complete a minimum of twenty-four (24) credit hours of approved education during each biennial reporting period. Of these twenty-four credit hours, there are at least four (4) ethics and four (4) emerging issues credits. Failure to comply with the Board's continuing education requirements may result in a professional guardian being administratively decertified.

The Board's Education Committee is tasked with overseeing the Board's continuing education regulations and requirements. This includes approving continuing education courses and ensuring that professional guardians comply with the Board's continuing education reporting requirements. The Education Committee also has the authority to modify or waive any of the Board's continuing education requirements for undue hardship, infirmity, or other good cause.

Recent Changes to the Board's Continuing Education Regulations

In 2020 the Education Committee also recommended the Board make a change to the Board's Education Regulations in order to address a reduction in the number of available CEU courses due to the COVID-19 pandemic.

Regulation 202

The Board amended Regulation 202 to reduce the number of CEU credits professional guardians need to complete in the 2019-2020 reporting period. The Board reduced the number of required CEU credits for the 2019-2020 report period from 24 total CEU credits, including 4 ethics credits and 4 emerging issues credits, to 12 total CEU credits, including 2 ethics credits and 2 emerging issues credits. The Board also increased the number of CEU credits a professional guardian may carryover from the 2019-2020 reporting period into the 2021-2022 reporting period to allow 24 total carryover credits, including up to 4 ethics and 2 emerging issues credits.

REGULATIONS COMMITTEE: 2020 AT A GLANCE

The Regulations Committee continued its work taking into account the 2020 legislative amendments to the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (the “Act”), RCW 11.130, delaying the effective date of the Act until January 1, 2022, with the exception of minor guardianships.

The Regulations Committee monitored the impact of the COVID-19 crisis and heralded the Washington Supreme Court’s Order No. 25700-B-617 regarding visitation by certified professional guardians during the public health emergency.

The Regulations Committee initiated two listening sessions for CPGs and other stakeholders, hosted by CPG Board Chair Judge Anderson and Regulations Committee Chair Judge Kiesel. The focus of the listening sessions was the impending regulations changes, and the feedback of stakeholders was solicited.

The Regulations Committee devoted significant time to consideration of proposed changes to General Rule 23. The most significant proposed change to General Rule 23 involved the requirement of formal post-secondary education. The Committee recognized that the requirement can be a barrier to entry to the profession for otherwise qualified individuals due to historical barriers to post-secondary education for certain communities. The Committee’s proposed changes went to the full Board, as the entity suggesting the changes to the Supreme Court. The Supreme Court’s review and eventual action is expected in 2021.

The Regulations Committee completed preliminary work on several series of Regulations to be considered for adoption by the full Board after stakeholder review and comment pursuant to the Series 600 Regulation Amendment process.

THE GRIEVANCE PROCESS

One of the key duties delegated by the Supreme Court to the Board is the duty to promulgate and enforce standards of practice and to ensure that certified professional guardians comply with all applicable statutes, fiduciary duties, standards of practice, rules, and regulations. GR 23(c)(2) sets out the duties of the Board in receiving and reviewing grievances against professional guardians:

(viii) Grievances and Disciplinary Sanctions. The Board shall adopt and implement procedures to review any allegation that a professional guardian has violated an applicable statute, fiduciary duty, standard of practice, rule, regulation, or other requirement governing the conduct of professional guardians. The Board may take disciplinary action and impose disciplinary sanctions based on findings that establish a violation of an applicable statute, duty, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians. Sanctions may include decertification or lesser remedies or actions designed to ensure compliance with duties, standards, and requirements for professional guardians.

Although the Supreme Court, through GR 23, has delegated primary responsibility to the Board to receive, investigate, and discipline professional guardians for violations of applicable statutes, fiduciary duties, standards of practice, rules, or regulations, the Supreme Court retains primary jurisdiction over all professional guardians practicing in the state of Washington. Any Board recommendation of suspension or decertification resulting from a disciplinary proceeding must be filed with the Supreme Court. The Supreme Court must review such a recommendation after consideration of the transmitted record. By written order, the Court may adopt, modify, or reverse the Board's recommendation.

Disciplinary Regulation 500 (DR 500) et seq. contains the Board's rules and procedures relating to the investigation, review, and resolution of grievances against professional guardians.

Opening a Grievance

A "grievance" is a written document filed by any person with the Board, or filed by the Board, Standards of Practice Committee, or the AOC itself, for the purpose of commencing a review of the professional guardian's conduct under the rules and disciplinary regulations applicable to professional guardians. Grievances may be completed online on the Washington Courts website at www.courts.wa.gov, or by submitting a written grievance to AOC.

AOC investigation staff, within one week of receiving a grievance, conducts an initial review of the grievance to determine whether the Board has jurisdiction and if the grievance alleges facts that, if proven true, could constitute a violation of a law, regulation, rule, or standard that applies to the conduct of a professional guardian or guardianship agency. If AOC staff make a determination that the grievance alleges a possible violation, and that the Board has proper jurisdiction over the grievance, AOC staff then provides the professional guardian or agency identified in the grievance with a copy of the grievance and an opportunity to respond to the allegations and facts alleged in the grievance. Generally, a professional guardian or agency will have at least one month to provide a response to a grievance.

Grievance Investigations

Following the initial determination that a grievance meets the Board's jurisdictional requirements, AOC staff investigate grievances and provide the Board's Standards of Practice Committee with sufficient factual information to allow the Committee to determine how a grievance should be resolved.

An investigation will include a review of materials provided to the Board by both the grievant and the professional guardian. An investigation may also include the request and review of relevant documents, and interviewing other individuals with possible knowledge of the issues alleged in the grievance, including possibly the incapacitated person.

A professional guardian has a duty to cooperate with a Board investigation into the professional guardian's conduct as well as a duty to promptly furnish information requested by the Board.

Standards of Practice Committee Review

After the completion of the investigation into a grievance, the Standards of Practice Committee reviews the information collected during the investigation and determines whether there has been a violation of the Board's Standard of Practice or another applicable law, rule, regulation, or duty related to the conduct of a professional guardian. If the Committee finds that no violations have occurred, the Committee will dismiss the grievance. However, if the Standards of Practice Committee finds, by a preponderance of the evidence, that a violation has occurred, the Committee will then determine what action should be taken to resolve the grievance. The Committee may recommend the Board file a complaint against the professional guardian or agency, recommend the Board enter into an agreement regarding discipline with the professional guardian or agency, or issue an advisory letter.

Complaint Process

In order to resolve a grievance, the Standards of Practice Committee may request that the Board file a complaint regarding disciplinary action against the certified professional guardian or agency. Filing of a complaint commences a hearing process similar to an administrative hearing. However, a Board disciplinary hearing is governed by the Board's Disciplinary Regulations and not the Administrative Proceedings Act, which governs administrative hearings related to executive branch agencies. Once filed, the complaint is of public record and is posted on the website. All subsequent proceedings are open to the public.

The Administrative Office of the Courts contracts with a hearing officer to conduct the remainder of the hearing proceedings. The hearing officer presides over the case, hears and decides upon motions from both the Board and the Respondent guardian, and presides over any evidentiary hearings that take place. Following the conclusion of the disciplinary hearing, the hearing officer must prepare a written findings of fact, conclusions of law, and recommendations to the Board regarding the disposition of the matter. The Board then reviews the findings, conclusions, and recommendation of the hearing officer and determines what further action to take.

If the Board suspends or decertifies a professional guardian, that decision is reviewed by the Supreme Court.

Types of Grievance Resolutions

Dismissal

The Board has delegated authority to AOC staff to dismiss grievances which the Board does not have the jurisdiction to investigate or that fail to allege facts that, if proven true, could constitute a violation of the Board's Standards of Practice or other applicable laws, rules, regulations, standards, or duties related to the conduct of a guardian.

Besides dismissal for insufficient grievance or no jurisdiction, the Standards of Practice Committee may also dismiss a grievance for no actionable conduct if the Committee determines that the professional guardian's conduct did not violate the Board's Standards of Practice or other applicable laws, rules, regulations, standards, or duties related to the conduct of a guardian.

Decertification

Decertification is the Board's most severe sanction. If a professional guardian is decertified, RCW 11.88.008 limits the number of guardianship cases for which a guardian may accept compensation to two (2).

DR 509.3.1 sets out that the Board may decertify a professional guardian if the professional guardian:

509.3.1.a. 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

509.3.1.b. 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

509.3.1.c. 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

509.3.1.d. Engages in conduct or misconduct that adversely impacts an incapacitated person in a highly significant manner; or

509.3.1.e. Engages in conduct that constitutes any Washington felony that occurs either while performing duties as a guardian or outside those duties; or

509.3.1.f. Engages in conduct that constitutes a misdemeanor or gross misdemeanor involving moral turpitude that occurs either while performing duties as a guardian or outside those duties.

Administrative Decertification

Guardians are required to renew their certification annually and complete 24 credit hours of continuing education biennially. If a professional guardian fails to meet either the annual certification or biennial education requirements, that professional guardian may be decertified by the Board for failure to comply with program requirements.

If a professional guardian who is administratively decertified has open pending grievances against them, those grievances are closed. However, if the professional guardian re-applies to be certified by the Board, those grievances will be re-opened and resolved as part of the application process.

Voluntary Surrender

At any time a professional guardian may choose to voluntarily surrender their guardianship certification. If a professional guardian voluntarily surrenders their certification, any open grievances against the professional guardian are closed. However, if the professional guardian re-applies to be certified by the Board, those grievances will be re-opened and resolved as part of the application process.

Prohibition on Taking New Cases

The Board may prohibit a professional guardian from accepting new guardianship cases for a fixed period of time if the Board finds that the professional guardian has failed 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, or that the professional guardian has engaged in conduct that adversely reflects on the professional guardian's fitness to practice. A prohibition on taking new cases may be imposed for conduct or misconduct which does not rise to the level of decertification.

Suspension

If a professional guardian engages in conduct or misconduct that does not rise to the level of decertification, the Board may suspend the professional guardian from the practice of guardianship for a fixed period of time if the professional guardian:

509.4.a. 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; or

509.4.b. Engages in conduct that occurs either while performing duties as a guardian or outside those duties, that meets the statutory elements of any Washington gross misdemeanor or misdemeanor, and which adversely reflects on the professional guardian's fitness to practice; or

509.4.c. Engages in ordinary negligence in the performance of their duties as a guardian. "Ordinary negligence" is defined in this context as a guardian's failure to exercise reasonable care in the performance of their professional duties; or

509.4.d. Engages in conduct or misconduct that adversely impacts an incapacitated person in a manner that is not "highly significant" as defined above.

Reprimand

The Board may issue a letter of reprimand where 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 but the

misconduct does not rise to the level of decertification, suspension, or prohibition on taking new cases.

Probation

Probation is a resolution that will be imposed for at least six months and no more than one year. Probation shall consist primarily of a monitoring function that seeks to ensure the guardian fully complies with any sanctions, remedies or other actions imposed by the Board, a court or a judicial officer, and fully complies with the duties, requirements or prohibitions in the Standards of Practice, Guardianship Program Rules and Regulations, Washington statutes, and the guardian's fiduciary duty. Failure to comply with a condition of probation may be grounds for additional discipline.

Restitution

Restitution is the payment of the victim's out-of-pocket expenses directly related to the guardian's misconduct. After a finding of misconduct, a guardian may be ordered to make restitution to persons financially injured by the guardian's misconduct.

Other Disciplinary Sanctions - DR 509.11

The Board may implement various remedies for the purpose of ensuring the guardian complies with the duties, standards, and requirements of a professional guardian. This may include, but is not limited to, requiring the guardian to attend additional training or education courses, undergo drug or alcohol treatment or behavioral modification classes, be subject to periodic reporting and audit requirements by the Board, or work with a mentor.

Agreement Regarding Discipline (ARD)

An Agreement Regarding Discipline (ARD) is a conditional settlement agreement negotiated between the Standards of Practice Committee and a professional guardian in lieu of initiating the complaint process to resolve a grievance with a substantiated violation. Once an agreement has been reached, it is presented to the Board for approval. Approved agreements are posted on the Washington Courts website for public disclosure. An ARD may contain any of the above mentioned sanctions, including but not limited to, a letter of reprimand, probation, prohibition on taking new cases, restitution, or other disciplinary sanctions as provided by DR 509.11.

Advisory Letter

An advisory letter may be issued by the Standards of Practice Committee when discipline is not warranted but it is appropriate to caution a professional guardian about their conduct. DR 507.4 sets out that an advisory letter may be appropriate where:

- While there is insufficient evidence to support disciplinary action, the Standards of Practice Committee believes that continuation of the activities that led to the investigation may result in further Board action against a respondent certified professional guardian;
- 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 Standards of Practice Committee believes that repetition of the activities that led to the investigation may result in further Standards of Practice Committee action against a CPG.

An advisory letter is not discipline or a sanction and is not posted to the public website. However an advisory letter may be subject to a public disclosure request.

GRIEVANCES AT A GLANCE - 2020

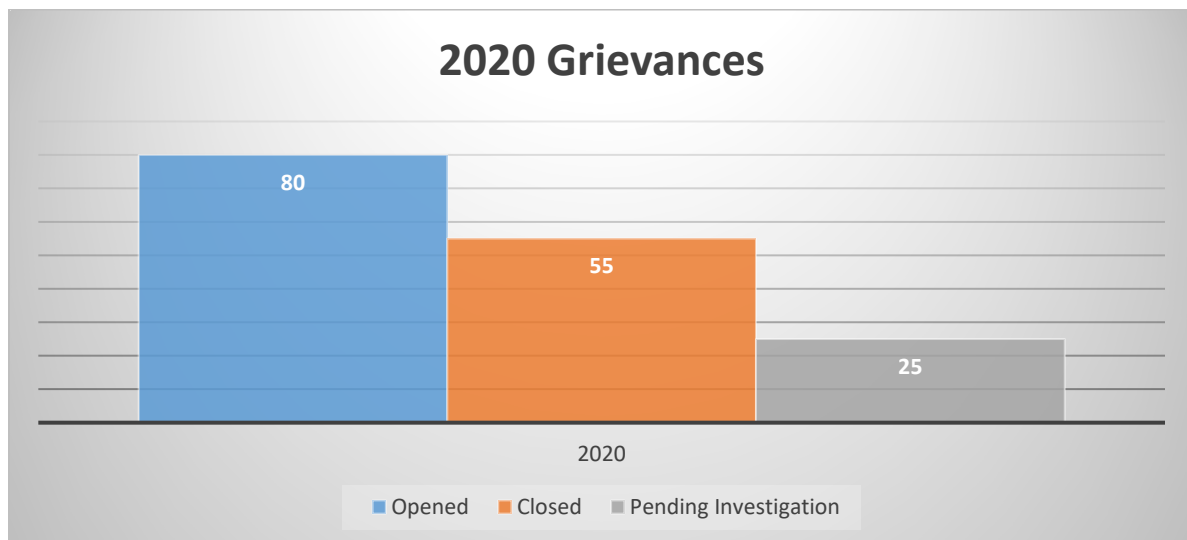
During 2020, the Board received eighty (80) new grievances and resolved one hundred eight (108) grievances. The Board and AOC continued the trend from 2019 of closing more grievances than the Board received. In 2020, the Board resolved twenty-eight (28) more grievances than the Board received.

Grievances By Year

	Grievances Opened	Grievances Closed	Grievances Opened minus Grievances Closed
2013	57	16	41
2014	64	35	29
2015	65	47	18
2016	104	76	28
2017	104	68	36
2018	85	69	16
2019	77	165	-88
2020	80	108	-28

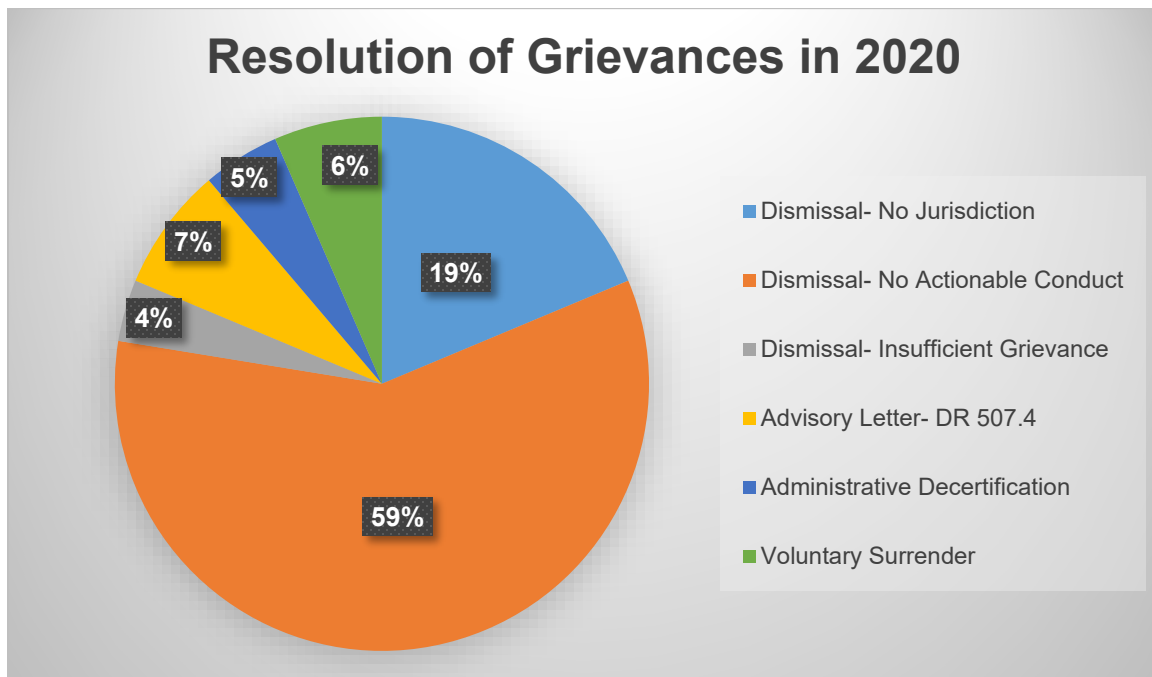
2020 Grievances

In 2020, the Board opened eighty (80) grievances. A total of fifty-five (55) of the grievances opened in 2020 were closed by the end of the year. Twenty-six (26) grievances opened in 2020 remain requiring investigation or resolution. Of the fifty-five (55) 2020 grievances that were closed, twenty (20) were dismissed for no jurisdiction, four (4) were dismissed for insufficient grievance, twenty-nine (29) were dismissed for no actionable conduct, and one (1) was resolved through a 507.1 Advisory Letter issued by the Standards of Practice Committee.



Grievance Resolutions

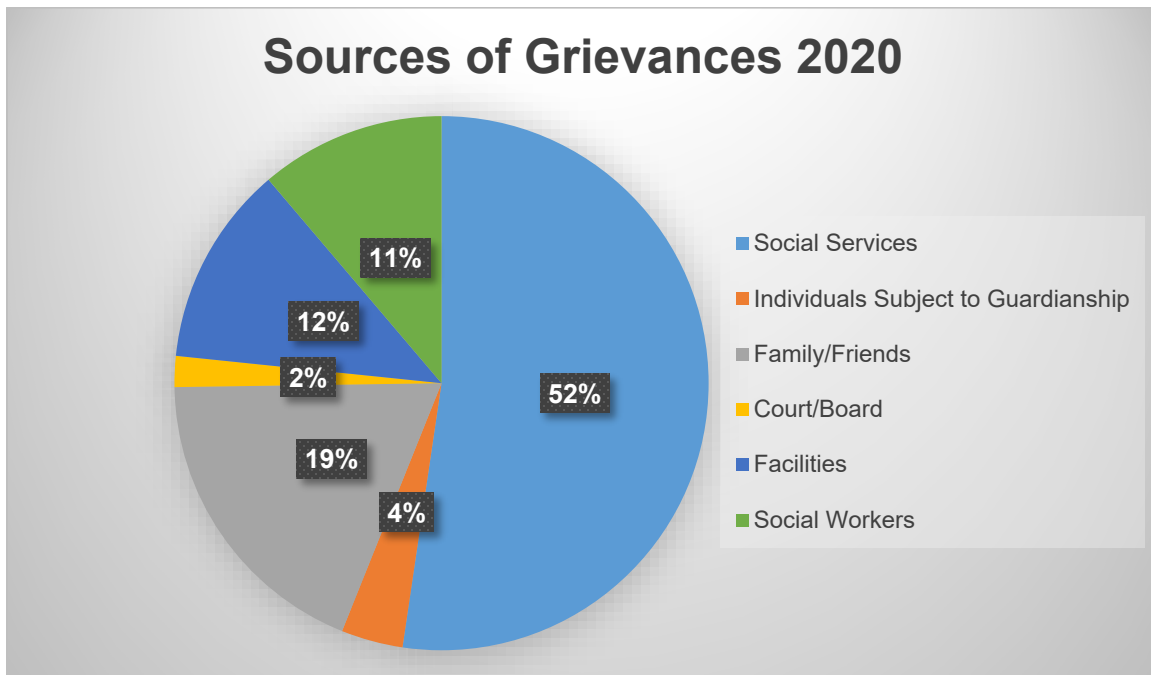
During 2020, one hundred and eight (108) grievances were resolved by the Board. Sixty-three (63) of those grievances were dismissed for no actionable conduct. Another twenty (20) grievances were dismissed for no jurisdiction, and four (4) were dismissed for insufficient grievance. Eight (8) grievances were resolved through a DR 507.1 Advisory Letter. In 2020, no grievances were resolved through the issuance of a disciplinary sanction against a CPG.



Grievance Resolutions	2014	2015	2016	2017	2018	2019	2020	Total
Dismissal – No Jurisdiction							20	20
Dismissal – No Actionable Conduct			1	2	6	25	29	63
Dismissal – Insufficient Grievance							4	4
507.4 Advisory Letter				1	2	4	1	8
Administrative Decertification			1		1	3		5
Voluntary Surrender	1		2	2	2			7
Total Closed	1		4	5	11	32	55	108

Sources of Grievances

Any person may file a grievance regarding the conduct of a certified professional guardian. The Board may on its own authority file a grievance against a guardian either as a result of a random audit or concerns that have been brought to the Board's attention.



In 2020, 52% of all grievances were submitted by social service personnel or agencies. This group includes Adult Protective Services (APS), DSHS, and Residential Care Services. The Board refers matters raising the possibility of abuse, neglect or exploitation to APS, which has its own intake and investigation process. Although both APS and the Board are concerned about the protection of vulnerable individuals, their purposes, scope, and remedies are different.

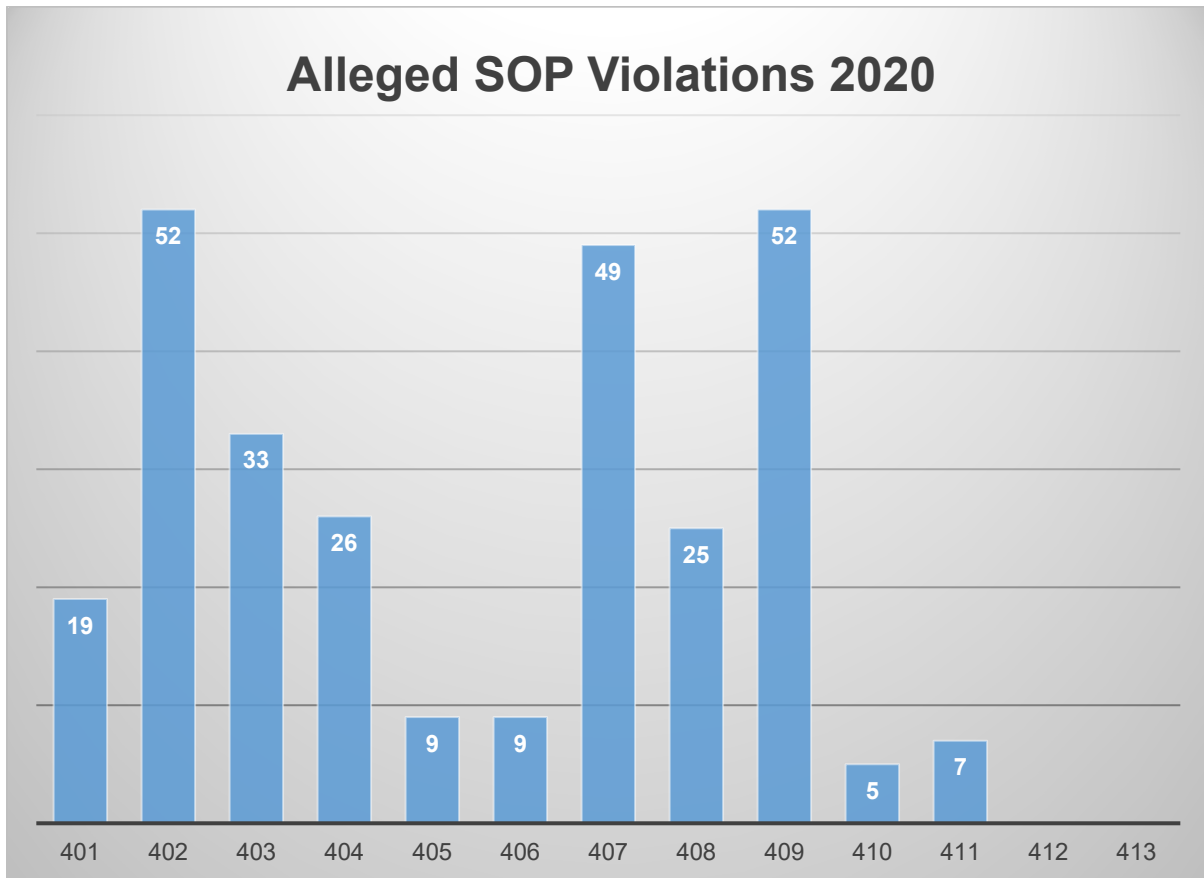
The second most common group to submit grievances were family members and friends of individuals subject to guardianship. This group submitted 19% of the grievances received. The third largest group to submit grievances were residential facilities, which accounted for 12% of the grievances received.

Sources of Grievances in 2020

Source	Grievances Received	Percent of Total Grievances Received
Social Services	56	52%
Individuals Subject to Guardianship	4	4%
Family/Friends	20	19%
Court/Board	2	2%
Facilities	13	12%
Social Workers	12	11%

Grievances by Standards of Practice

The Standards of Practice are standards of conduct promulgated by the Board that apply to all certified professional guardians and certified professional guardianship agencies. The Standards of Practice cover the broad range of a professional guardian's responsibilities.



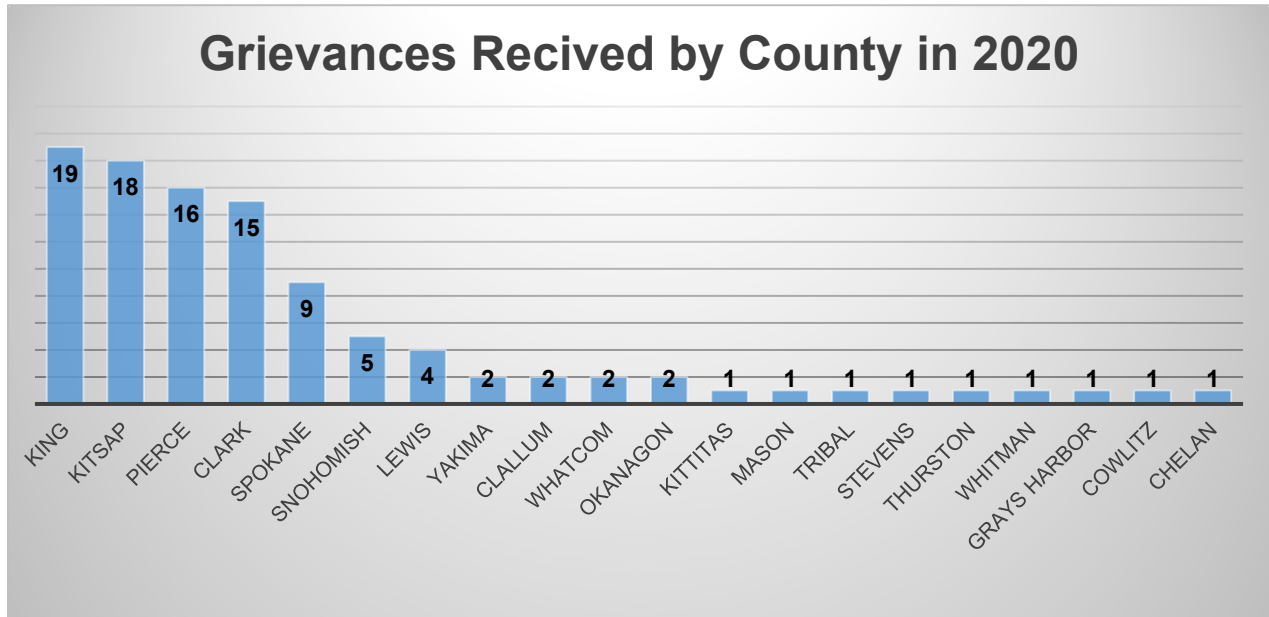
Guardians with Multiple Grievances

At the end of 2020, there were nine (9) professional guardians or professional guardianship agencies with two or more open grievances. These nine (9) professional guardians account for twenty-seven (27) of the thirty-nine (39) grievances that remain open. Sixty-nine percent (69%) of the open grievances at the end of 2020 are attributed to nine professional guardians or professional guardianship agencies.

CPG ID	Year Certified	Open
A	2012	2
B	2010	2
C	2016	3
D	2014	4
E	2014	2
F	2007	3
G	2001	7
H	2006	2
I	2001	2

Grievances Received By County

During 2020, the Board received eighty (80) grievances from nineteen (19) of Washington State's thirty-nine (39) counties. The Board also received one grievance that concerned guardianship in a tribal court. The largest number of grievances were received from King County, with nineteen (19) grievances. The second largest number of grievances was received from Kitsap County, where eighteen (18) grievances were submitted. Pierce and Clark Counties also had more than ten (10) grievances submitted.



GRIEVANCES RESOLVED IN 2020

Administrative Decertification

CPGB 2018-034, Joyce Richards [CPG# 5304] [Pierce County], decertified administratively for noncompliance with annual recertification requirements. CMR 703.3.1.

CPGB 2019-008, Joyce Richards [CPG# 5304] [Pierce County], decertified administratively for noncompliance with annual recertification requirements. CMR 703.3.1.

CPGB 2019-064, Joyce Richards [CPG# 5304] [Pierce County], decertified administratively for noncompliance with annual recertification requirements. CMR 703.3.1.

Dismissal with Advisory Letter

CPGB No. 2016-026, 2017-100, 2018-011, 2018-059, 2019-012 [Kitsap County], CPG failed to retain documentation of previous guardianship managed by agency in which CPG was designated guardian of at the time grievance was filed. Resolved through DR 507.1 Advisory Letter.

CPGB No. 2019-010 [Grays Harbor County], CPG filed final guardianship report with court three months late. CPG, on their own accord, took remedial measures to ensure future reports are not late. The measures included a prohibition on taking new cases, creating a new calendaring and deadline tracking system, and assigning one person to be responsible for all filing deadlines. SOPC advised CPG that remedial measures taken by the CPG were sufficient to not merit sanction at this time, but that future late filings may result in discipline. SOP 401.1, 401.3. Resolved through DR 507.1 Advisory Letter.

CPGB No. 2019-018 [Kitsap County], CPG did not document accounting of monthly visitations with IP. SOP 401.3 and RCW 11.92.043 (1)(b)(vi). Resolved through DR 507.1 Advisory Letter.

CPGB No. 2019-054 [King County], CPG did not timely provide notice of IP's new address to the Grievant which has resulted in the Grievant being unable to communicate with the IP, partially due to ambiguity in order appointing the CPG. SOP 401.1, 401.2, 401.3, RCW 11.92.043, SOP 407.7. Resolved through DR 507.1 Advisory Letter.

CPGB No. 2019-025 [Pierce County], CPG delegated IP's health care decisions to facility. Though CPG states the delegation was not actually used, CPG did sign the facility Permission to Provide Informed Consent. SOP 400 (paragraph 6). Resolved through DR 507.1 Advisory Letter.

Dismissal

CPGB No. 2016-002 [Spokane County], alleged the CPG failed to provide the Grievant (IP's first cousin once removed) with timely notice of the IP's death. SOP 402.2; Dismissed for no actionable conduct.

CPGB No. 2017-064 [Spokane County], alleged the CPG was consistently late in providing spending money to the IP. SOP 409.1, 409.4; Dismissed for no actionable conduct.

CPGB No. 2017-079 [Clark County], alleged the CPG took money from the IP's Special Needs Trust for rent, which renders the IP ineligible for Medicaid and violates the Trust. SOP 409.1, 409.2. Dismissed for no actionable conduct.

CPGB No. 2018-018 [Pierce County], alleged that the CPG collected excessive guardianship fees in 2016/2017; \$2916.75 from the IP's trust fund and \$2071.00 from the guardianship court. SOP 409.1. Dismissed for no actionable conduct.

CPGB No. 2018-023 [Clark County], alleged the CPG does not timely respond to attempts to reach her, failed to provide a special mattress for the IP, does not inform the IP about their finances, did not provide snacks and household items to the IP, and does not give adequate time for the IP's needs. SOP 402.1, 404.1.2, 408.4. Dismissed for no actionable conduct.

CPGB No. 2018-031 [Pierce County], alleged that the guardian improperly switched the IP from his long term care facility to a lower care facility that does not meet his needs to justify CPG's payment rather than IP's needs for care; specifically to lower the cost of care so that his budget would cover guardian fees, putting the IP at risk of losing his core waiver status. SOP 406.1, 406.2, 407.1, 407.2, 407.3. Dismissed for no actionable conduct.

CPGB No. 2018-033 [King County], alleged the CPG has sufficient money to pay the IP's past due care bill, but has refused to pay for arrearages accrued prior to guardianship appointment. SOP 401.1, 409.1. Dismissed for no actionable conduct.

CPGB No. 2018-042 [Spokane County], alleged the CPG failed to regularly visit the IP. SOP 404.1. Dismissed for no actionable conduct.

CPGB No. 2018-067 [Clallam County], alleged the CPG was not depositing the IP's monies into her account, and was not paying for the IP's needs. SOP 400, 409.1. Dismissed for no actionable conduct.

CPGB No. 2019-001 [Puyallup Tribe], alleged that the guardian failed to complete a required eligibility review for the IP and that as a consequence the IP's services, including long-term care benefits ended on November 30, 2018. SOP 409.1, 409.7. Dismissed for no actionable conduct.

CPGB No. 2019-016 [Lewis County], alleged that the CPG was not respecting the human rights of the IP which was based on a DDA functional assessment to come and go from her home as she pleases, to befriend who she chooses, and to speak on the phone to whomever she chooses. SOP 403.1, 403.2, 403.3. Dismissed for no actionable conduct.

CPGB No. 2019-017 [Clark County], alleged the CPG is mismanaging the IP's special needs trust and that the CPG is not providing the IP with requested information and documentation related to the IP's finances and special needs trust. SOP 409.1, 409.1.1, 409.4, 403.6. Dismissed for no actionable conduct.

CPGB No. 2019-019 [Clark County], alleged the CPG did not respond to efforts to contact her, did not pay the IP's cost of care nor insurance, removed the IP from her preferred facility, failed to refill the IP's medications, and retaliated against the IP by asking the court to file contempt of court charges for failing to produce a document. SOP 402.7, 409.1, 407.3, 408.1, 408.4. Dismissed for no actionable conduct.

CPGB No. 2019-020 [Yakima County], alleged the CPG is not having regular contact with the IP, has not scheduled medical appointments for the IP, and that the IP is not receiving proper care giving services. SOP 404.1, 404.1.1, 404.1.2, 408.1, 408.4, 403.1, 403.2, 403.3, 402.2. Dismissed for no actionable conduct.

CPGB No. 2019-022 [Kitsap County], alleged the CPG has not paid the previous charges owed to the IP's facility and has not assisted the IP in getting a new cell phone. SOP 409.1, 409.4. Dismissed for no actionable conduct.

CPGB No. 2019-027 [Pierce County], alleged the CPG is not assisting the IP in finding housing, is allowing the IP to remain homeless, does not answer calls from homeless shelter employees, and is not providing the IP with money to find housing. SOP 407.1, 407.6, 407.9, 402.2, 402.3, 403.2, 409.1, 409.4. Dismissed for no actionable conduct.

CPGB No. 2019-029 [Snohomish County], alleged the CPG moved IP's (2) from AFH without prior notice and consultation as well as out of retaliation against the grievant. CPG alleges to have not personally visited IP's and did not pay their personal needs allowance. SOP 400, 404.3, 407.3, 407.5, 407.7, 409.1.2. Dismissed for no actionable conduct.

CPGB No. 2019-033 [Clark County], alleged the CPG's abrupt communication style upsets the IP and quit serving as the IP's guardian without a successor guardian being appointed SOP 401.1, 401.2, 401.3, 403.2. Dismissed for no actionable conduct.

CPGB No. 2019-041 [Cowlitz County], alleged the CPG did not ensure the IP had an adequate oxygen supply and nebulizer when the IP moved to a new facility. SOP 408.1, 408.4, 407.6. Dismissed for no actionable conduct.

CPGB No. 2019-043 [Clark County], alleged the CPG has not removed the IP's roommate's property from the IP's apartment and that the CPG is moving the IP to a group home against the IP's wishes. SOP 403.2, 403.4, 409.1, 407.1, 407.2, 407.3, 409.1. Dismissed for no actionable conduct.

CPGB No. 2019-045 [Clark County], alleged the CPG is not assisting the grievant (hospital) in finding safe discharge placement for the IP. SOP 402.1, 402.2, 407.1, 407.6, 407.9. Dismissed for no actionable conduct.

CPGB No. 2019-047 [King County] alleged the CPG moved the IP against her will and has not allowed the IP to contact the grievant, friends or family. SOP 401.1, 401.2, 402.2, 403.2, 407.3, 407.5, 407.2, 407.4 and RCW 11.92.195. Dismissed for no actionable conduct.

CPGB No. 2019-048 [King County], alleged the CPG has been unresponsive to staff at the IP's residential facility and did not attend a scheduled care conference. SOP 402.7, 404.1.2. Dismissed for no actionable conduct.

CPGB No. 2019-049 [Clark County], alleged the CPG failed to assist the IP in obtaining housing after the IP was found to be functionally ineligible for DSHS long-term care services. SOP 409.1, 409.4, 409.7, 407.1. Dismissed for no actionable conduct.

CPGB No. 2019-055 [King County], alleged the CPG is isolating the IP from their family by moving the IP too far away for them to visit. SOP 401.1, 401.2, 402.2, 407.1, 407.2, RCW 11.92.195. Dismissed for no actionable conduct.

CPGB No. 2019-059 [Kitsap County], alleged CPG sought a prescription for the IP which the IP's care provider cannot administer under DDA policy No. 5.16. SOP 408.1, 408.4, 401.1, 401.3. Dismissed for no actionable conduct.

CPGB No. 2019-062 [Yakima County], alleged the CPG is ignoring the IP's request to have a different staff member from the CPG agency visit the IP and is not assisting the IP in having the guardianship terminated or limited. SOP 405.1, 411.1, 411.2, 411.3, 403.2, 403.4, 405.1. Dismissed for no actionable conduct.

CPGB No. 2019-066 [Pierce County], alleged the CPG did not assist the hospital with finding timely discharge placement for the IP. SOP 402.2, 402.4, 402.7, 409.1. Dismissed for no actionable conduct.

CPGB No. 2019-069 [Clark County], alleged the CPG is isolating the IP from his family, the IP does not have access to entertainment, and that the CPG disposed of all the tool's in the IP's workshop. SOP 401.1, 401.2, 402.2, 403.2, 403.3, 409.1, 409.1.2, RCW 11.92.195. Dismissed for no actionable conduct.

CPGB No. 2019-071 [Spokane County], alleged the CPG is not assisting the IP in having the guardianship terminated or in moving to a new residential facility. SOP 411.1, 411.2, 411.4, 407.2, 407.3, 407.6. Dismissed for no actionable conduct.

CPGB No. 2019-072 [King County], alleged the CPG failed to apply for VA disposition benefits for the IP and did not put the IP's personal needs allowance in the IP's facility trust account. SOP 409.1, 409.4, 409.7. Dismissed for no actionable conduct.

CPGB No. 2019-075 [King County], alleged the CPG is not providing the IP with the spending money the IP requests and is not assisting the IP in furnishing the IP's apartment, including providing the IP with a power recliner. SOP 409.1, 409.1.2, 409.4. Dismissed for no actionable conduct.

CPGB No. 2019-076 [Spokane County], alleged the CPG is not assisting the IP in finding new housing, does not communicate with the IP and does not talk about the IP's needs with the IP. SOP 404.1, 404.1.1, 403.2, 407.1, 407.3. Dismissed for no actionable conduct.

CPGB No. 2019-077 [Clark County], alleged the CPG gave all of the IP's belongings in a storage unit away without the IP's consent. SOP 403.2, 409.1, 409.1.1, 409.4. Dismissed for no actionable conduct.

CPGB No. 2020-001 [Okanogan County], alleged the CPG has been unresponsive to social workers and other professionals involved in the IP's care during the IP's hospital admittance. SOP 402.1, 402.2, 404.1.2. Dismissed for no actionable conduct.

CPGB No. 2020-002 [Kittitas County], alleged the lay guardian failed to appoint a standby guardian prior to leaving on a cruise. Dismissed for no jurisdiction.

CPGB No. 2020-003 [Clallam County], alleged the CPG is allowing the IP's former agent under a DPOA to store the IP's personal belongings. SOP 409.1, 409.2, 409.4. Dismissed for no actionable conduct.

CPGB No. 2020-004 [Whatcom County], alleged the CPG is not allowing the IP to move closer to the IP's family and is not assisting the grievant in becoming the IP's successor guardian. SOP 411.1, 411.2, 411.3, 402.2, 402.4, 407.1, 407.2, 407.6. Dismissed for no actionable conduct.

CPGB No. 2020-006 [Spokane County], alleged the CPG has not assisted the IP in getting the guardianship terminated, threatened to have the IP arrested after the IP showed up at the CPG's office, began arguing with the CPG about the IP's finances and has only provided the IP with \$40 to live on each month. SOP 409.1, 409.4, 411.1, 411.2, 411.3, 411.4, 403.1, 403.2, 403.4. Dismissed for no actionable conduct.

CPGB No. 2020-007 [Chelan County], alleged that GAL visited dementia patient, spouse of incapacitated person, to request approval of hospital's removal of life support for his wife. Husband was non responsive. GAL failed to consult with staff. Dismissed no jurisdiction.

CPGB No. 2020-009 [Stevens County], alleged the CPG did not communicate with the grievant to provide information on the IP's care and condition, did not allow the grievant to visit the IP, failed to provide the grievant with gas money to visit the IP per Court Record, did not attempt to find the IP a residential placement closer to the grievant, and failed to cancel the IP's supplemental health insurance plan after the IP was put on a Medicare Advantage plan. SOP 409.1, 409.4, 402.2, 402.4, 401.1, 401.3, 407.1, 407.2, RCW 11.92.150. Dismissed for no actionable conduct.

CPGB No. 2020-010 [King County], alleged that IP's family members wants to become guardian and that the CPG is making decisions without consulting the IP. Dismissed for insufficient grievance.

CPGB No. 2020-011 [Lewis County], alleged the CPG is overlooking the IP's medical needs and is refusing to place the IP in a geriatric psychiatry placement. SOP 407.1, 407.2, 407.6, 408.1. Dismissed for no actionable conduct.

CPGB No. 2020-012 [Mason County], alleged the lay guardian is not managing the IP's finances or DDA benefits. Dismissed for no jurisdiction.

CPGB No. 2020-013 [Snohomish County], alleged the CPG is allowing the IP's health to decline, is allowing the IP to live in an unsafe environment, and is not paying the IP's bills. SOP 403.1, 403.3, 408.1, 407.1, 407.3, 407.5, 407.6, 407.9, 405.1, 405.2, 409.1, 409.4. Dismissed for no actionable conduct.

CPGB No. 2020-014 [Clark County], alleged the CPG did not communicate with the IP's hospital and did not assist in finding the IP a safe discharge option from the hospital. SOP 402.2, 402.3, 402.4, 407.1, 407.6, 407.9. Dismissed for no actionable conduct.

CPGB No. 2020-015 [Okanogan County], alleged the lay guardian is not responsive and that the IP wants a new guardian. Dismissed for no jurisdiction.

CPGB No. 2020-016 [Whitman County], alleged the CPG is refusing to allow the IP to move into an apartment, is not providing the IP with monthly spending money, and is late on paying the IP's bills. SOP 400, 401.1, 407.2, 407.3, 407.6, 409.1, 409.4, 409.1.2. Dismissed for no actionable conduct.

CPGB No. 2020-017 [Clark County], alleged the CPG did not pay the participation to the IP's facility for two consecutive months. SOP 409.1, 409.4, 409.7, 409.12. Dismissed for no actionable conduct.

CPGB No. 2020-018 [Kitsap County], alleged the lay guardian has not spent down the IP's estate and has not paid the IP's facility for three months of rent, which now amounts to \$31,500 in money owed to the facility. Dismissed for no jurisdiction.

CPGB No. 2020-019 [King County], alleged the CPG allowed the IP to be discharged from a rehab facility to an adult family home before the IP was eligible for Medicaid. SOP 409.1, 409.7. Dismissed for no actionable conduct.

CPGB No. 2020-020 [Pierce County], alleged the CPG did not ensure the IP had access to needed medical and dental care and did not frequently visit the IP in person. SOP 404.1, 408.1, 408.4. Related to CPGB No. 2020-025. Dismissed for no actionable conduct.

CPGB No. 2020-021 [Pierce County], alleged the lay guardian does not provide the grievant with enough access to the IP and does not communicate with the grievant. Dismissed for no jurisdiction.

CPGB No. 2020-022 [King County], alleged the IP feels unsafe because the CPG is trying to make the IP move against the IP's stated desire to remain at her current facility; the facility has lost its license to provide caregiver services. SOP 407.1, 407.2, 407.3. Dismissed for no actionable conduct.

CPGB No. 2020-023 [King County], alleged the lay guardian's letters expired and that the IP is at risk of losing benefits. Dismissed for no jurisdiction.

CPGB No. 2020-024 [Clark County], alleged the CPG did not communicate with or assist the hospital in finding a safe discharge placement for the IP and did not apply for long term care services for the IP. SOP 402.1, 402.3, 402.4, 407.1, 407.2, 407.6, 407.8, 407.9, 407.10, 409.1, 409.4, 409.7. Dismissed for no actionable conduct.

CPGB No. 2020-025 [Pierce County], alleged the CPG did not ensure the IP had access to needed medical and dental care and did not frequently visit the IP in person. SOP 404.1, 408.1, 408.4. Related to CPGB No. 2020-020. Dismissed for no actionable conduct.

CPGB No. 2020-026 [Spokane County], alleged the CPG does not timely pay the IP's facility participation, does not provide the IP with adequate spending money. CPG misfiled the IP's taxes and then charged the tax penalties out of the IP's funds. SOP 409.1, 409.4. Dismissed for no actionable conduct.

CPGB No. 2020-027 [Spokane County], alleged the CPG purposefully did not obtain the highest possible price for the IP's home there is a conflict of interest with the CPG and CPG's attorney in regards to the sale of the IP's home. CPG failed to protect the IP's personal belongings after the IP moved out of her home. SOP 406.1, 406.2, 409.1, 409.4. Dismissed for no actionable conduct.

CPGB No. 2020-028 [Snohomish County], alleged the GAL has been biased in their reports to the court and has omitted important information from their reports. Dismissed for no jurisdiction.

CPGB No. 2020-029 [County Not Provided], grievance involved conduct of a lay guardian. Dismissed for no jurisdiction.

CPGB No. 2020-031 [Snohomish County], alleged the GAL is biased against the IP's family and has engaged in misconduct. Dismissed for no jurisdiction.

CPGB No. 2020-033 [Clark County], alleged the GAL is not assisting the AIP's social workers in getting the AIP eligible for Medicaid and discharged from the hospital. Dismissed for not jurisdiction.

CPGB No. 2020-034 [King County], alleged the CPG is not allowing the IP to move in with the IP's boyfriend and threatened to have the IP arrested. SOP 401.1, 403.1, 403.2, 403.3, 403.4. Dismissed for no actionable conduct.

CPGB No. 2020-035 [Pierce County], alleged the CPG took the IP on a tour of a facility without providing PPE to the IP and potentially exposing the IP to COVID-19, attempted to move the IP against the IP's will, and did not inform the IP's facility of the CPG's intention to move the IP to a new facility. SOP 401.1, 401.2, 401.3, 408.1, 403.2, 407.1, 407.3, 407.4, 407.6, 407.7, 402.1, 402.2, 402.4, 402.7. Dismissed for no actionable conduct.

CPGB No. 2020-037 [King County], alleged that guardian is not following medical provider's recommendations regarding feeding of IP and concerns regarding IP's aspiration of liquids. Dismissed for Lack of Jurisdiction – Lay Guardian. Grievance forwarded to court for review.

CPGB No. 2020-042 [King County], alleged the CPG allowed the IP to be neglected and abandoned by the IP's home care provider. SOP 403.1, 402.7, 404.1.1, 404.1.2, 404.3. Dismissed for no actionable conduct.

CPGB No. 2020-043 [Whatcom County], alleged multiple concerns and raises questions for Title 26 GAL. Dismissed for Lack of Jurisdiction as the matter is a MOD 3 Domestic Modification matter (Family Law). Grievance forwarded to court for review.

CPGB No. 2020-046 [King County], alleged the CPG has allowed the IP to reside in a residential placement that does not meet the IP's care needs and where the IP is at risk of self-injury. SOP 407.9, 407.10, 408.5, 404.1.2, 404.1.3. Dismissed for no actionable conduct.

CPGB No. 2020-047 [Lewis County], alleged the CPG is attempting to move the IP against the IP's will, did not inform the IP's facility of the CPG's intention to move the IP to a new facility, misled the IP into visiting a potential new facility, and ignored the IP's facility's policies regarding COVID-19. SOP 470.3, 405.1, 403.2, 403.4, 402.2, 402.4, 401.1, 401.3, 400. Related to Grievance No. 2020-048. Dismissed for no actionable conduct.

CPGB No. 2020-048 [Lewis County], alleged the CPG is attempting to move the IP against the IP's will, did not inform the IP's facility of the CPG's intention to move the IP to a new facility, misled the IP into visiting a potential new facility, and ignored the IP's facility's policies regarding COVID-19. SOP 470.3, 405.1, 403.2, 403.4, 402.2, 402.4, 401.1, 401.3, 400. Related to Grievance No. 2020-047. Dismissed for no actionable conduct.

CPGB No. 2020-049 [Pierce County], grievance related to the conduct of a lay guardian. Dismissed for no jurisdiction.

CPGB No. 2020-051 [Snohomish County], alleged the CPG has not ensured the IP's medications are properly administered, has not provided the IP with adequate footwear and CPAP machine, does not provide the IP with adequate food given the IP's health and nutritional

needs, and did not organize transportation for the IP to a haircut so the IP had to walk six miles round trip to and from the appointment. SOP 408.1, 408.4, 409.4, 403.1, 405.1, 405.2. Dismissed for no actionable conduct.

CPGB No. 2020-052 [Kitsap County], alleged the lay guardian has not ensured the IP has received their VA benefits. Dismissed for no jurisdiction.

CPGB No. 2020-053 [King County] alleged the CPG stole or kept IP's personal items of value, overcharged, intentionally overbilled, misused IP's funds, and demeaned and retaliated against IP's based on their race or dislike for them. SOP 400 (paragraph 5), 403.2, 406.1, 406.2, 409.1, 410.0. Dismissed for no actionable conduct.

CPGB No. 2020-054 [Pierce County], alleged IP is legally entitled to have CPG give the IP all of the IP's money now that the IP is 65 years old. Dismissed for insufficient grievance.

CPGB No. 2020-055 [Spokane County], alleged the CPG has not checked on the IP since February, 2020, that the IP does not have any food and is refusing to eat, that the IP does not have air conditioning in her apartment and has been living in 100+ degree temperatures, that the IP has not received adequate medical care, and that the CPG has refused to act when the grievant informed the CPG of the conditions the IP was living in. SOP 404.1, 404.1.1, 407.6, 409.4, 408.1, 408.4, 402.1, 402.2, 402.4. Dismissed for no actionable conduct.

CPGB No. 2020-057 [Pierce County], alleged the CPG did not work with other professionals in planning the discharge of the IP from the hospital to a facility, did not want the IP to move to the recommended residential treatment facility because the CPG would not be paid if the IP was discharged there, and did not assist in filling out paperwork necessary for the IP to receive outpatient psychiatric services. SOP 402.2, 402.4, 407.1, 407.2, 407.6, 407.7, 409.4, 400 para. 6, 406.1, 406.2, 406.3, 408.1, 409.7. Dismissed for no actionable conduct.

CPGB No. 2020-058 [Snohomish County], alleged the CPG is not responsive to the IP's medical needs and is preventing the IP's SOLA staff from properly caring for the IP, is not responsive to phone calls or emails from SOLA staff, is not allowing the IP to get a blood draw of begin a new medication, and is not assisting SOLA staff in arranging medical appointments for the IP. SOP 402.1, 402.2, 402.4, 408.1, 408.4, 408.5, 402.3. Dismissed for no actionable conduct.

CPGB No. 2020-059 [Clark County], alleged the CPG has not attended medical appointments with the IP and does not communicate with the IP's medical and care providers. SOP 402.3, 402.7, 404.1.2. Dismissed for no actionable conduct.

CPGB No. 2020-063 [Kitsap County], alleged the CPG did not timely provide the IP with life alert, food stamps, or a medicine dispenser. SOP 400, 401.3, 402.7, 403.1, 403.2, 403.3, 407.6, 407.9. Dismissed for no actionable conduct.

CPGB No. 2020-064 [King County], alleged the CPG is attempting to move the IP to a new facility against the IP's wishes and is moving the IP to ensure the CPG is able to continue to be paid their guardianship fees. SOP 403.1, 403.2, 407.1, 407.3, 407.6, 407.7, 405.1, 405.2, 406.1, 406.2, 406.3. Dismissed for no actionable conduct.

CPGB No. 2020 -065 [King County], alleged CPG controlled assets and not allowing IP access to finances. Dismissed for insufficient grievance.

CPGB No. 2020 -067 [King County], alleged CPG took mail related to finances from USPS postal box. Dismissed for insufficient grievance.

CPGB No. 2020 -068 [Pierce County], alleged CPG did not seek timely medical care with resulted in the death of the IP. SOP 402.3, 408.1, 408.4. Dismissed for no actionable conduct.

CPGB No. 2020-069 [Pierce County], alleged lay guardian is unresponsive to IP's need for a decision to be made. Dismissed for no jurisdiction.

CPG No. 2020-072 [King County], grievance related to conduct of a lay guardian. Dismissed for no jurisdiction.

Voluntary Surrender Terminations

CPGB 2014-030 (Kitsap County).

CPGB 2016-038 (Kitsap County).

CPGB 2017-032 (Kitsap County).

CPGB 2017-087 (Kitsap County), bank reports open guardianship account with no activity for 18 months when final accounting was reported to court. SOP 409.1.

CPGB 2018-038 (Kitsap County), alleged lack of communication, interference with other agencies by guardian as pertains to client's mental health and allowing unfit individuals to reside with client.

CPGB No. 2018-074 (Kitsap County), alleged by a financial institution that a final account was filed with court by guardian even though client had an open account, on which there had been no activity for eighteen months. SOP 409.1.

Grievance Status Update

Certified Professional Guardians Grievance Status

Month-End

March 31, 2021

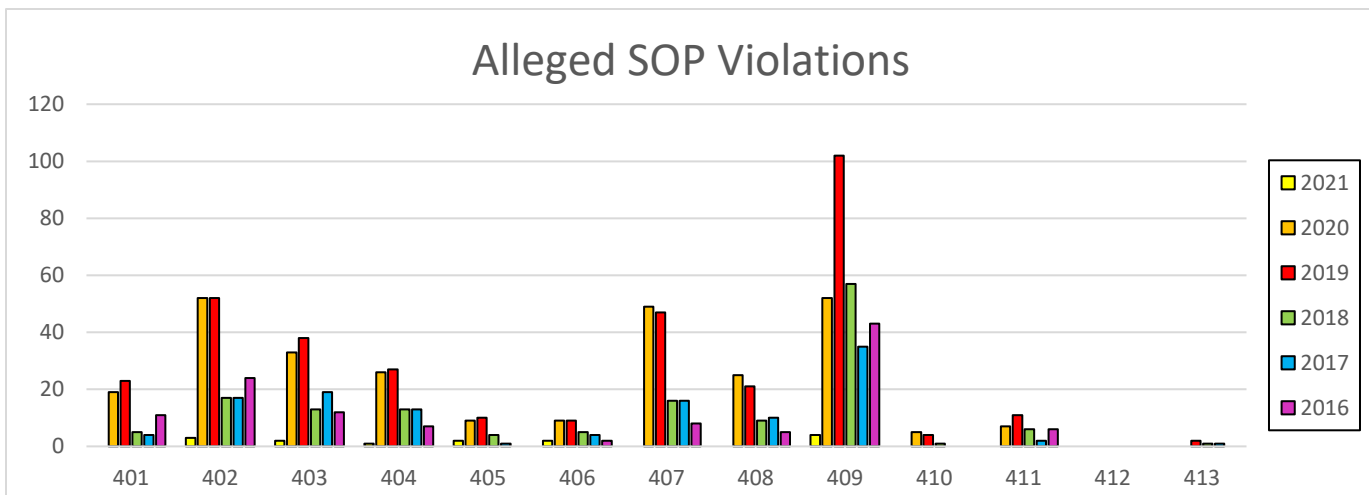
Grievance Status – February 28, 2021	2021	2020	2019	2018	2017	2016	Total
New Grievances Received:	10	0	0	0	0	0	10
Grievances Resolved this Month:	[4]	[5]		[1]			[10]
Grievances Remaining Requiring Investigation*:	15	13	4	1	1	0	34

Grievances Pending*	2021	2020	2019	2018	2017	2016	Total
Voluntary Surrender/Litigation:							
Conflicts Review Committee:			1				1
ARD:		1		1			2
Complaint/Hearing:						1	1
Administrative Decertification:							
Total Pending:		1	1	1		1	4

[*Grievances in Pending status are not counted as Grievances Requiring Investigation.]

Resolution of Grievances – March 31, 2021	2021	2020	2019	2018	2017	2016	Total
Dismissal – No Jurisdiction	2						2
Dismissal – No Actionable Conduct	1	5		1			7
Dismissal – Insufficient Grievance	1						1
Mediated – Dismissed							
Advisory Letter 507.1							
ARD - Admonishment							
ARD - Reprimand							
ARD - Suspension							
Terminated – Voluntary Surrender							
Terminated – Administrative Decertification							
Terminated – Decertification			5	1	1		7
Total Resolved Grievances: March 31, 2021	4	5	5	2	1		17

Grievance Resolutions	2021	2020	2019	2018	2017	2016	Total
Total Grievances Received	23	80	77	85	104	104	473
Dismissal – No Jurisdiction	3	21	15	22	30	20	111
Dismissal – No Actionable Conduct	2	34	38	51	59	55	239
Dismissal – Insufficient Grievance	3	9	5	3	1	2	22
Mediated – Dismissed							
Advisory Letter 507.1		2	5	3	2	4	16
ARD - Admonishment							
ARD – Reprimand					1	4	5
ARD - Suspension							
Termination – CPG Death							
Termination – Administrative Decertification			3	1	1	3	8
Termination – Voluntary Surrender			1	2	8	15	26
Termination – Decertification			5	1	1		7
Grievances <u>Resolved To Date</u>: March 31, 2021	8	66	72	83	102	103	434



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

Pending Grievances Involving Guardians with Multiple
Grievances March 31, 2021

ID	Year Cert.	Open	Year(s) Grievances Received	Status
A	2012	2	2020 (1), 2021 (1)	
B	2016	2	2021 (2)	
C	2014	5	2017 (1), 2019 (1), 2020 (2), 2021 (1)	
D	2014	2	2020 (1), 2021 (1)	
E	2007	3	2019 (2), 2020 (1)	
F	2001	7	2018 (1), 2019 (1), 2020 (5)	
G	2006	3	2020 (2), 2021 (1)	
H	2018	5	2021 (5)	
		29		

Of 34 currently open grievances requiring investigation, 29 concern 8 Agencies/CPGs with 2 or more open grievances.

	Year Guardian Certified	# of Guardians
Before UW Certificate Program	2001	1
	2002	
	2003	
	2004	
	2005	
	2006	1
	2007	1
	2008	
	Total	3
UW Certificate Program	2009	
	2010	
	2011	
	2012	1
	2013	
	2014	2
	2015	
	2016	1
	2017	
	2018	1
	Total	5

Question to Board
from Attorney Micah Balabas

Bowman, Kathy

From: Micah L. Balasbas Law <micahb_law@comcast.net>
Sent: Wednesday, March 31, 2021 1:48 PM
To: Schock, Eileen
Subject: RE: Contact information

Follow Up Flag: Follow up
Flag Status: Flagged

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Dear Eileen, Thank you again for your call. I appreciate your suggestion of asking the CPG Board to consider the issue of what are the duties of Guardians to assess and inspect placements during this time of COVID restrictions. I have also included another issue, the duty of Guardians to maintain a functioning guardianship, for consideration by the CPG board.

First: What are the duties of Guardians to assess and inspect placements during this time of COVID restrictions?

This issue of the duty of Guardians to assess and inspect has risen because guardians I represent (CPG and lay) are being pressured to move people they represent from RHCs (Residential Habilitation Centers including Fircrest and Rainier School) to placements in the community. Guardians of residents at RHCs have not be able to assess (other than limited outside 'patio' visits) the people they represent for over one year. This lack of access which has prevented Guardians from discharging their duty to assess, inspect, monitor and ensure the best interests of the people they represent - both at their current placement and after the resident has moved. Further, the Guardians cannot assess or inspect any proposed placement option because of limitations on visiting.

The only option guardians have is to review situations by video call which does not give the participants a complete picture of any situation and to rely on the statements of others. In the past week there has been some relaxation of rules prohibiting visitations (visiting for longer periods and closer proximity), but Guardians still are not able to go into the resident's home, or future home, to assess or inspect. Issues that have arisen as a result of inability of Guardians to assess and inspect in person include concerns about changes in residents' physical abilities and needs, how habilitation programs are being run, how the current home meets or does not meet the person's need, etc. And for placement homes: how the home will meet the persons' needs, including ADA accessibility, physical set-up of placement homes, programs offered, etc. Despite all these limitations DDA is demanding that guardians move residents from Fircrest and Rainier School. The Guardians are being told to 'trust' because DDA knows what they are doing.

What criteria must a Guardian meet to discharge their duty to assess, inspect, monitor and ensure the best interest of the person they represent with COVID restrictions?

Second: What are the duty of the Guardian to maintain a functioning guardianship for the person represented?

The Guardians I represent are encountering this problem in the situation described below, but it can arise in other situations when a person is move from one placement to another.

Background: At RHCs (Fircrest, Rainier, etc. schools) a residents' funds are used to pay participation, which will be cover court ordered representation costs as allowed by WAC. When residents moves from an RHC, the persons' funds are reclassified depending on where they move to. At some placement placements (SOLA, supported living) client funds are first used to pay for their expenses; at other placements (adult family homes and nursing homes) clients pay participation. For persons needing the support of a SOLA, or having sufficient independence for supported living, their expenses of rent, utilities, etc. often completely use their monthly funds (leaving no funds to pay for representation), or are even greater than they can afford (necessitating State funds to pay for expenses which then by state policy prohibits use any of the persons' funds for paying for representation).

Thus depending on the placement decision, the needed representation is compromised. For some persons OPG has taken on the task of paying for representation (but OPGs capacity is limited), but for other persons their ability to have representation limited/foreclosed. When person cannot pay for representation, support agencies are left with working through the courts to obtain necessary permissions and consents when problems arise.

This situation will only worsen as more people move from the RHCs. And to there is a compounding problem that many unpaid parent/lay guardians are aging and will be unable to meet the new requirements of the new Uniform Guardianship law, necessitating more persons needing to pay for representation. Statements have been made to me, and guardians I represent, that placements have been chosen by guardians based on the ability of the person to pay for representation, even when the placement is not in the best interest of the person.

What is the criteria that a Guardian must meet to maintain a functioning guardianship for the benefit of the person represented?

Thank you. Micah

Micah Louise Balasbas

Attorney at Law
4570 Avery Ln SE, PMB #260
Lacey, WA 98503
206-462-0983

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From: Schock, Eileen <Eileen.Schock@courts.wa.gov>
Sent: Thursday, March 18, 2021 8:22 AM
To: 'Micah L. Balasbas Law' <micahb_law@comcast.net>
Subject: RE: Contact information

Hi Micah, Thank you.

Eileen

Eileen Schock
Senior Court Program Analyst / Guardian Grievance Investigator
Office of Guardianship and Elder Services
PO Box 41170

Olympia, WA 98504-1170
Phone: (360)704-5539
Fax: (360) 956-5700
Eileen.Schock@courts.wa.gov
[http://www.courts.wa.gov/Mgmt Services Division](http://www.courts.wa.gov/Mgmt_Services_Division)

From: Micah L. Balasbas Law [mailto:micahb_law@comcast.net]
Sent: Wednesday, March 17, 2021 3:16 PM
To: Schock, Eileen <Eileen.Schock@courts.wa.gov>
Subject: Contact information

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Eileen, Thank you for talking with me. I will get an email with a general overview next week.

Thank you. Micah

Micah Louise Balasbas

Attorney at Law
4570 Avery Ln SE, PMB #260
Lacey, WA 98503
206-462-0983

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