

Meeting Minutes

August 9, 2021



Certified Professional Guardianship Board

Monday, August 9, 2021

Zoom Meeting

8:00 a.m. – 9:00 a.m.

PROPOSED Meeting Minutes

Members Present

Judge Rachelle Anderson¹
Judge Diana Kiesel
Judge Robert Lewis
Ms. Rosslyn Bethmann
Ms. Rita Forster
Ms. Amanda Froh
Ms. Lisa Malpass
Dr. K. Penney Sanders²
Mr. Dan Smerken
Ms. Susan Starrfield

Members Absent

Judge Grant Blinn
Ms. Amanda Witthauer
Dr. Rachel Wrenn

Staff

Ms. Stacey Johnson
Ms. Thai Kien
Ms. Kay King
Ms. Rhonda Scott
Mr. Christopher Fournier
Ms. Eileen Schock
Ms. Kathy Bowman
Ms. Heather Lucas
Ms. Brandy Walker
Ms. Amber Collins
Mr. Chris Stanley

Guests – see list on last page

1. Meeting Called to Order

Judge Anderson called the August 9, 2021 Certified Professional Guardianship Board (Board) meeting to order at 8:06 a.m.

2. Welcome, Roll Call and Approval of Minutes

Judge Anderson welcomed all present. Hearing no suggested changes or corrections, a motion was made, and seconded, to approve the minutes of the Board meeting held on June 14, 2021, as written. The motion passed.

Motion: A motion was made and seconded to approve the June 14, 2021 Certified Professional Guardianship Board meeting minutes as written. The motion passed.

¹ Judge Anderson experienced an internet disruption at 8:08 am and returned by telephone at 8:10 am.

² Dr. Sanders left the meeting at 8:39 a.m.

3. Chair's Report

Judge Anderson's Chair's Report was interrupted due to a technical issue. Staff announced the nomination of a new advocacy representative for the Board has been submitted to the Supreme Court. New AOC Director of Management Services, Chris Stanley, and new AOC Guardian Monitoring Program Coordinator, Amber Collins were introduced to the Board.

5. Grievance Report: June - July, 2021

Chris Fournier reported there have been fifty-eight (58) grievances received to date in 2021. There are currently a total of forty-six (46) grievances open for investigation. During the month of June, eight (8) new grievances were received and eight (8) grievances were closed. In July, seven (7) new grievances were received and six (6) were closed. Of the fourteen (14) grievances that were closed in June and July, one (1) was dismissed for No Jurisdiction, eleven (11) were dismissed for No Actionable Conduct, and one (1) was dismissed as an Insufficient Grievance. One (1) grievance was resolved with an Agreement Regarding Discipline, Letter of Reprimand.

6. Regulations Committee: Standards of Practice 401, 410, 411, 412, 413, 414

Judge Kiesel thanked the Regulations Committee for their hard work and provided a brief report. Judge Kiesel asked for a motion to approve posting the Standards of Practice Regulations 401, 410, 411, 412, 413 and 414 for public comment. A motion was made and seconded. The motion passed.

Motion: A motion was made and seconded to approve posting the Standards of Practice Regulations 401, 410, 411, 412, 413 and 414 for public comment. The motion passed.

7 Regulations – Proposed Amendments and Public Comments: Standards of Practice 400, 402, 403, 404, 405, 406, 407, 408, 409

Judge Kiesel noted public comments were received regarding proposed amendments to Regulations 400, 402, 403, 404, 405, 406, 407, 408 and 409 and asked for a motion. Judge Lewis said if the Committee was moving forward, he moved to accept the proposed amendments as written. The motion was seconded and passed.

Motion: A motion was made and seconded to accept the proposed amendments to Standards of Practice Regulations 400, 402, 403, 404, 405, 406, 407, 408 and 409 as written. The motion passed.

8. Executive Session (Closed to Public)

The Board went to Executive Session at 8:28 a.m., estimating it would reconvene Public Session at 8:50 a.m. Members of the Public were moved to the Waiting Room.

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

The Board reconvened the Public Session at 8:52 a.m.

Judge Kiesel made a motion to withdraw the earlier motion to approve proposed amendments to Regulations 402-409, and remand to the Regulation Committee for additional discussion in light of the comments received. Judge Lewis seconded the motion, withdrawing his earlier motion to approve. The motion passed.

Motion: A motion was made withdraw the earlier motion to approve proposed amendments to Regulations 402, 403, 404, 405, 406, 407, 408 and 409, and remand to the Regulations Committee. The motion passed.

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

Motion: A motion was made and seconded to conditionally approve Whitney Betancourt's application for certification, upon completion of the UW program, with transferrable skills in Social Services. The motion passed.

Motion: A motion was made and seconded to conditionally approve Jessica Bran's application for certification, upon completion of the UW program, with transferrable skills in Legal. The motion passed.

Motion: A motion was made and seconded to conditionally approve Andrew Brazil's application for certification, upon completion of the UW program, with transferrable skills in Social Services. The motion passed.

Motion: A motion was made and seconded to deny Zoe Cornell's application for certification, for lack of transferable experience. Lisa Malpass opposed. The motion passed.

Motion: A motion was made and seconded to deny Erin Gibbon's application for certification, for lack of transferable experience. Lisa Malpass opposed. The motion passed.

Motion: A motion was made and seconded to conditionally approve Kathryn Gillespie's application for certification, upon completion of the UW program and WSP/FBI background checks, with transferrable skills in Social Services and Health Care. The motion passed.

Motion: A motion was made and seconded to remand Kristine Kolbeck's application for certification to the Application Committee, additional information has been requested. The motion passed.

Motion: A motion was made and seconded to conditionally approve Drew Lievense's application for certification, upon completion of the UW program, with transferrable skills in Legal. The motion passed.

Motion: A motion was made and seconded to conditionally approve Kala McMillan's application for certification, upon completion of the UW program and WSP/FBI background checks, with transferrable skills in Social Services. The motion passed.

Motion: A motion was made and seconded to conditionally approve Linda Moody's application for certification, upon completion of the UW program, with transferrable skills in Financial. The motion passed.

Motion: A motion was made and seconded to conditionally approve Libby Olson's application for certification, upon completion of the UW program, with transferrable skills in Legal and Financial. The motion passed.

Motion: A motion was made and seconded to conditionally approve Lynn Smith's application for certification, upon completion of the UW program, with transferrable skills in Financial. The motion passed.

On behalf of the Education Committee, Rosslyn Bethmann made the following motion:

Motion: A motion was made and seconded to administratively decertify Ronda Hill for failure to submit the required affidavit for CEUs and for failure to respond to a 10-day letter sent by Committee. The motion passed.

10. Wrap Up/Adjourn

The next CPG Board meeting will take place via Zoom Conference on Monday, September 13, at 8:00 a.m. With no other business to discuss, the August 9, 2021 meeting was adjourned at 9:00 a.m.

Motion Summary	Status
Motion: <i>A motion was made and seconded to approve the June 14, 2021 Certified Professional Guardianship Board meeting minutes as written. The motion passed..</i>	Passed
Motion: <i>A motion was made and seconded to approve posting the Standards of Practice Regulations 401, 410, 411, 412, 413 and 414 for public comment. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to accept the proposed amendments to Standards of Practice Regulations 400, 402, 403, 404, 405, 406, 407, 408 and 409 as written. The motion passed.</i>	Passed
Motion: <i>A motion was made to withdraw the earlier motion to approve proposed amendments to Regulations 402, 403, 404, 405, 406, 407, 408 and 409, and remand to the Regulation Committee for additional discussion in light of the number of public comments received. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Whitney Betancourt's application for certification, upon completion of the UW program, with transferrable skills in Social Services. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Jessica Bran's application for certification, upon completion of the UW program, with transferrable skills in Legal. The motion passed.</i>	Passed
Motion: <i>A motion was made and seconded to conditionally approve Andrew Brazil's application for certification, upon completion of the UW program, with transferrable skills in Social Services. The motion passed.</i>	Passed

Motion:	<i>A motion was made and seconded to deny Zoe Cornell's application for certification, for lack of transferable experience. Lisa Malpass opposed. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to deny Erin Gibbon's application for certification, for lack of transferable experience. Lisa Malpass opposed. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to conditionally approve Kathryn Gillespie's application for certification, upon completion of the UW program and WSP/FBI background checks, with transferrable skills in Social Services and Health Care. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to remand Kristine Kolbeck's application for certification to the Application Committee, additional information has been requested. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to conditionally approve Drew Lievense's application for certification, upon completion of the UW program, with transferrable skills in Legal. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to conditionally approve Kala McMillan's application for certification, upon completion of the UW program and WSP/FBI background checks, with transferrable skills in Social Services. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to conditionally approve Linda Moody's application for certification, upon completion of the UW program, with transferrable skills in Financial. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to conditionally approve Libby Olson's application for certification, upon completion of the UW program, with transferrable skills in Legal and Financial. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to conditionally approve Lynn Smith's application for certification, upon completion of the UW program, with transferrable skills in Financial. The motion passed.</i>	Passed
Motion:	<i>A motion was made and seconded to administratively decertify Ronda Hill for failure to submit the required affidavit for CEUs and for failure to respond to a 10-day letter sent by Committee. The motion passed.</i>	Passed

Guests Present

Mindi Blanchard
Zoe Cornell
Puget Sound Guardians/Karen Newland
Neil and Neil/Chris Neil
Deborah Jameson
Tamara Beltz
Glenda Voller
Susan Dougherty-Guild
Brenda Morales
Lilly Mello³

³ Ms. Mello joined the Zoom conference during Executive Session at 8:40 a.m. and was not admitted.

Grievance Status Update

Certified Professional Guardians Grievance Status

Month-End

August 31, 2021

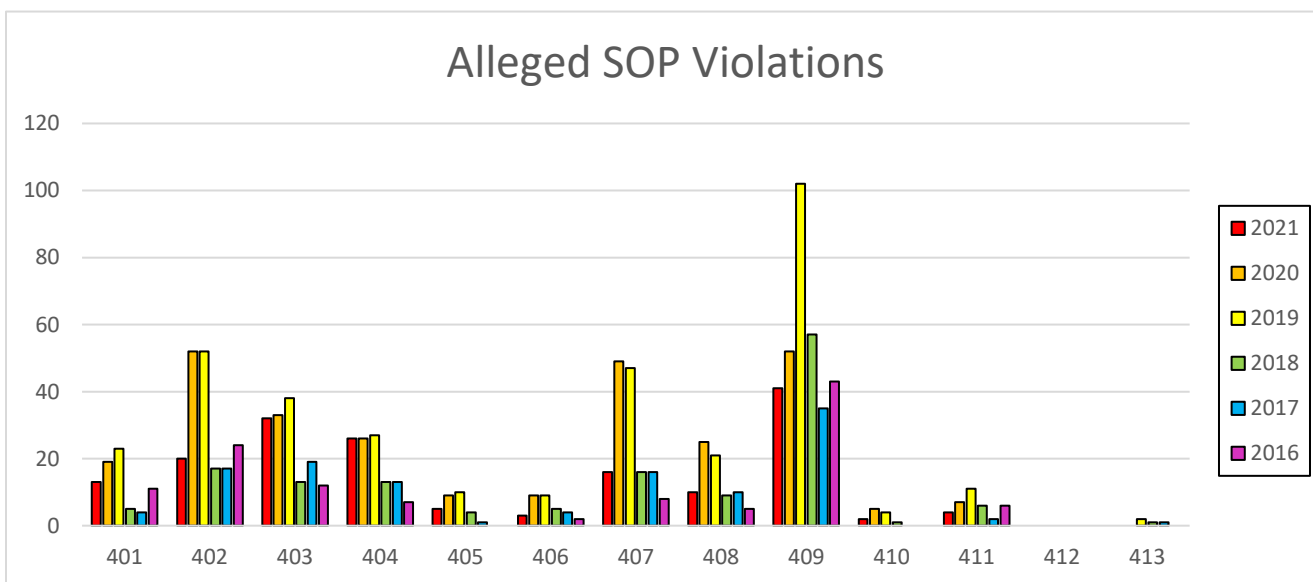
Grievance Status – August 31, 2021	2021	2020	2019	2018	2017	2016	Total
New Grievances Received:	9	0	0	0	0	0	9
Grievances Resolved this Month:	[16]	[1]					[17]
Grievances Remaining Requiring Investigation*:	26	7	4	1	0	0	38

Grievances Pending*	2021	2020	2019	2018	2017	2016	Total
Voluntary Surrender/Litigation:							
Conflicts Review Committee:	1		1				2
ARD:						1	1
Complaint/Hearing:							
Administrative Decertification:							
Total Pending:	1		1			1	3

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

Resolution of Grievances – August 31, 2021	2021	2020	2019	2018	2017	2016	Total
Dismissal – No Jurisdiction							
Dismissal – No Actionable Conduct	12						12
Dismissal - Administrative	3	1					4
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							
Total Resolved Grievances: August 31, 2021	16	1					17

Grievance Resolutions	2021	2020	2019	2018	2017	2016	Total
Total Grievances Received	67	80	77	85	104	104	508
Dismissal – No Jurisdiction	5	21	15	22	30	20	113
Dismissal – No Actionable Conduct	29	41	38	51	60	55	274
Dismissal - Miscellaneous							
Dismissal – Insufficient Grievance	5	6	5	3	1	2	22
Mediated – Dismissed							
Advisory Letter 507.1		2	5	3	2	4	16
ARD - Admonishment							
ARD – Reprimand		1		1	1	4	7
ARD - Suspension							
Termination – CPG Death							
Termination – Administrative Decertification	3	1	3	1	1	3	12
Termination – Voluntary Surrender			1	2	8	15	26
Termination – Decertification			5	1	1		7
Grievances Resolved To Date: August 31, 2021	42	72	72	84	104	103	477



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
August 31, 2021

ID	Year Cert.	Open	Year(s) Grievances Received	Status
A	2011	2	2021 (2)	
B	2016	7	2021 (7)	
C	2014	4	2019 (1), 2020 (2), 2021 (1)	
D	2007	2	2021 (2)	
E	2007	4	2019 (2), 2020 (1), 2021 (1)	
F	2013	2	2021 (2)	
G	2001	6	2018 (1), 2019 (1), 2020 (4)	
H	2018	2	2021 (2)	
		29		

Of 38 currently open grievances requiring investigation, 29 concern 8 Agencies/CPGs with 2 or more open grievances.

Regulations Committee
Regulations 400, 401, 402, 403,
404, 405, 406, 407, 408

Guardianship and Conservatorship Program Rules Regulations

Preamble: These standards of practice incorporate language from the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act. References and links to statutory provisions are included in the sections. As a general matter, the authority to act as a guardian and/or conservator in every case is limited to the authority that the court has granted. These standards apply except as modified by court order. If a standard of practice and a court order appear to conflict, the guardian and conservator should bring the matter to the attention of the superior court. The superior court would be the final arbiter. The link to full text of the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act is below.

RCW 11.130 Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act

400 General

400.1 The following standards apply to all Certified Professional Guardian and Conservators and Certified Professional Guardian and Conservator agencies. These standards apply only to the degree that the court has granted a guardian and conservator the authority contemplated in a given standard.

400.2 Whenever the term “guardian and conservator” is used in these Standards, it is meant to refer to a certified professional guardian and conservator or to a certified professional guardian and conservator agency. If the term “guardian” is used alone, it refers to a certified professional guardian and conservator when acting as a guardian, unless otherwise noted. If the term “conservator” is used alone, it refers to a certified professional guardian and conservator when acting as a conservator, unless otherwise noted.

400.3 Whenever the term “court” is used is in these Standards, it is meant to refer to the Superior Court which has authority over the guardianship and/or conservatorship in which the guardian and conservator has been appointed.

400.4 Whenever the terms “incapacitated person” (IP), “individual subject to guardianship” or “individual subject to conservatorship” is-are used, it-they is-are meant to refer to the incapacitated person/individual for whom the guardian and conservator has been appointed under RCW 11.8811.130.

400.5 Whenever the term “notice parties” is used, it is meant to refer to those people who ~~have requested special~~ are entitled to notice of proceedings or events under RCW ~~41.92.150~~11.130.

400.6 A guardian is a fiduciary and owes the highest duty of good faith and care to the individual subject to a guardianship. ~~-RCW 11.130.325 (1)~~ A conservator has fiduciary duties of prudence and loyalty to the individual subject to conservatorship. ~~-RCW 11.130.505 (1)~~ A fiduciary has the duty to act primarily for another's benefit. The ~~G~~guardian and conservator shall carry out his or her duties carefully and honestly. The ~~G~~guardian and conservator shall act selflessly, prudently, and with undivided loyalty to the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship.

~~A guardian cannot delegate his or her decision-making authority to another person or agency. This does not preclude employing others to carry out the guardian's decision.~~

400.7 To ensure consistency in the way the standards are applied, the following constructions are used: "shall" imposes a duty, "may" creates discretionary authority or grants permission or a power, "must" creates or recognizes a condition precedent, and “should” creates a duty or obligation, but is not absolute, "is entitled to" creates or recognizes a right, and "may not" imposes a prohibition and is synonymous with “shall not”:¹

¹ The Certified Professional Guardianship and Conservatorship Board acknowledges that these Standards of Practice draw from the National Guardianship Association (NGA) Standards of Practice and that the NGA has granted the Board permission to use them.

Guardianship and Conservatorship Program Rules Regulations

401 Guardian and Conservator's Duty to Court

401.1 The guardian and conservator shall perform duties and discharge obligations in accordance with applicable Washington and federal law and the requirements of the court.

401.2 The guardian and conservator shall not act outside of the authority granted by the court and shall seek direction from the court as necessary. If the guardian and conservator is aware of a court order that may be in conflict with these standards, the guardian and conservator shall bring the conflict to the attention of the court and seek the court's direction.

401.3 The guardian and conservator shall at all times be thoroughly familiar with RCW ~~11.88~~11.130, ~~RCW 11.92~~, GR 23, these standards, and, any other regulations or laws which govern the conduct of the guardian and conservator in the management of the affairs of an ~~incapacitated person~~ individual subject to guardianship and/or conservatorship.

401.4 The guardian and conservator shall seek legal advice as necessary to know how the law applies to specific decisions.

401.5 The guardian and conservator shall provide reports, notices, and financial accountings that are timely, complete, accurate, understandable, in a form acceptable to the court, and consistent with the statutory requirements. The financial accounting shall include information as to the sustainability of the current budget when expenditures exceed income during the reporting period.

~~401.6 All certified professional guardians and guardian agencies have a duty by statute to appoint a standby guardian.~~

~~401.6.1 All certified professional guardians shall appoint a standby guardian who is a certified professional guardian who accepts the appointment and has the skills, experience and availability to assume responsibility as court appointed guardian per statutory requirements.~~

~~401.6.2 The certified professional guardian will make available to the standby guardian those records and information needed to address the needs of the incapacitated person in the event of a planned or unplanned absence.~~

401.6 A guardian and conservator shall identify a responsible party (staff member, attorney, other outside professional, an attorney in fact, or a guardian and conservator) to act on their behalf for planned absences or when unavailable for decision-making, and delegate the authority needed to that agent. Identification of a responsible party shall be in any periodic reports to the court. RCW 11.130.345 (i)

[Link to Related Statutory Section](#)

[RCW 11.130.125 Use of agent by guardian or conservator](#)

Guardianship and Conservatorship Program Rules Regulations

402 Guardian and conservator's Relationship to Family and Friends of ~~Incapacitated Person~~ Individual Subject to Guardianship and/or Conservatorship and to Other Professionals

402.1 When the guardian and conservator has limited authority the guardian and conservator shall work cooperatively with the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship and/or with others who have authority in other areas for the benefit of the ~~incapacitated person~~ individual.

402.1.1 If a power of attorney for health care or finances is in effect, unless there is a court order to the contrary, the decision of the agent takes precedence over the guardian or conservator, and a guardian or conservator shall cooperate with the agent to the extent feasible.

RCW 11.130.330 (6)

RCW 11.130.335 (1)

RCW 11.130.435 (4)

RCW 11.130.505 (11)

402.2 The guardian and conservator, where appropriate, shall consider the views and opinions of professionals, relatives, and friends who are knowledgeable about the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship. In determining the best interest of the individual, the guardian and conservator shall consider information received from professionals and persons who demonstrate sufficient interest in the welfare of the individual.

RCW 11.130.325 (5) (a)

402.3 The guardian and conservator shall seek independent professional evaluations, assessments, and opinions when necessary to identify the ~~incapacitated person's~~ individual's needs, functional and cognitive abilities, and best interests.

402.4 The guardian and conservator shall recognize that ~~his or her~~ their decisions are open to the scrutiny, criticism, and challenge of others. Subject to orders of the court, the guardian and conservator alone is ultimately responsible for decisions made by the guardian and conservator on behalf of the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship.

402.5 A guardian and conservator shall not disclose personal or other sensitive information about the ~~incapacitated person~~ individual to third parties except: (a) when necessary and relevant to the needs of the ~~incapacitated person~~ individual or (b) as required by these standards or other applicable laws or when directed by the court or the CPGC Board.

402.6 The guardian and conservator must know and acknowledge personal limits of knowledge and expertise and shall engage appropriate professionals to provide services to the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship to the extent reasonable and necessary.

402.7 The guardian and conservator shall develop and maintain a working knowledge of the services, providers, and facilities available in the community. The guardian and conservator shall act to coordinate and monitor services needed by the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship to ensure that the ~~incapacitated person~~ individual is receiving the appropriate care and treatment.

Guardianship and Conservatorship Program Rules Regulations

403 Self-Determination of ~~Incapacitated Person~~ Individual Subject to Guardianship and/or Conservatorship

403.1 The civil rights and liberties of the ~~incapacitated person~~individual subject to guardianship and/or conservatorship shall be protected. The independence, ~~and~~ self-reliance and self-determination of the ~~incapacitated person- individual~~ shall be promoted and maximized to the greatest extent consistent with their protection and safety. The guardian and conservator shall protect the personal and economic interests of the ~~incapacitated person~~individual subject to guardianship and/or conservatorship and foster growth, independence, ~~and~~ self-reliance, and self-determination to the extent reasonably feasible.

403.2 To the extent reasonably feasible, the guardian and conservator shall encourage the individual to participate in decisions, act on their own behalf, and develop or regain the capacity to manage their own personal affairs.

RCW 11.130.325 (2)

RCW 11.130.505 (2)

~~403.2-3~~ Whenever appropriate a guardian and conservator shall consult with the ~~incapacitated person~~individual subject to guardianship and/or conservatorship, and shall treat with respect, the feelings, values, and opinions of the ~~incapacitated person individual.~~ The guardian shall acknowledge the residual capacity and preferences of the incapacitated person. The guardian shall, to the extent reasonably feasible, involve the individual in decisions affecting the individual, including, but not limited to, decisions about the individual's care, dwelling, activities, or social interactions.

RCW 11.130.325 (2) (b)

403.~~34~~ When making decisions on behalf of the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship, the guardian and conservator shall evaluate the alternatives that are available and choose the one that best meets the needs of the ~~incapacitated person~~individual while placing the least restrictions on the ~~incapacitated person's~~ individual's freedom, rights, and ability to control ~~his or her~~ their environment.

403.~~45~~ When appropriate, the guardian and conservator will defer to an ~~incapacitated person's~~ individual's ~~residual~~ capacity to make decisions.

403.56 Unless otherwise directed by the court, the guardian and conservator shall provide copies of all material filed with the court and notice of all hearings in the guardianship and/or conservatorship to the ~~incapacitated person~~individual.

403.67 The guardian and conservator shall, whenever appropriate or required by law, provide other requested information to the ~~incapacitated person~~individual subject to guardianship and/or conservatorship unless the guardian and conservator is reasonably certain that substantial harm will result from providing such information. This information shall include, but not be limited to, regular reports on: (a) the status of investments and operating accounts, (b) the costs and disbursements necessary to manage the ~~incapacitated person's~~individual's estate, property and finances, and (c) medical and other personal information related to the care of the ~~incapacitated person~~individual.

403.78 The guardian and conservator shall determine the extent to which the ~~incapacitated person~~individual subject to guardianship and/or conservatorship identifies with particular ethnic, religious, and cultural values and shall consider those values in the guardian and conservator's decision-making to the extent appropriate. The guardian and conservator shall not substitute their moral or religious values, opinions, or philosophical beliefs for those of the individual.

RCW 11.130.325 (1)

403.8-9 Sexual and Gender Expression:

403.89.1 The guardian and conservator shall acknowledge the ~~incapacitated person's~~rights of the individual subject to guardianship and/or conservatorship to interpersonal relationships, ~~and~~sexual expression, and gender expression. The guardian and conservator shall take reasonable steps to ensure that a private environment conducive to this expression is provided. The guardian and conservator shall take reasonable steps to protect the ~~incapacitated person~~individual from victimization.

403.89.2 The guardian shall ensure that the ~~incapacitated person~~individual subject to guardianship is informed of birth control methods and other sexual health information when appropriate.

403.89.3 The guardian shall take reasonable steps to protect the rights of the ~~incapacitated person~~individual subject to guardianship with regard to sexual expression and gender expression~~and preference~~. A review of ethnic, religious, and cultural values may be necessary to uphold the ~~incapacitated person's~~individual's values and customs.

Guardianship and Conservatorship Program Rules Regulations

404 Contact with the ~~Incapacitated Person~~ Individual Subject to Guardianship and/or Conservatorship

404.1 Guardians ~~of the Person~~ shall have meaningful in-person contact with their clients as needed, generally no less than monthly. If contact is not made monthly, the reasons for less frequent contact shall be documented and included in the periodic reporting to the court. Living in a staffed residential facility or at home with a paid caregiver is not sufficient justification for reducing the frequency of in-person contact.

404.1.1 The guardian should, when appropriate, assess the ~~incapacitated person's- individual's~~ physical appearance and condition (taking into account the ~~incapacitated person's- individual's~~ privacy and dignity) and assess the appropriateness of the ~~incapacitated person's- individual's~~ current living situation and the continuation of existing services, taking into consideration all aspects of social, psychological, educational, direct services, health and personal care needs, as well as the need for any additional services.

404.1.2 The guardian shall maintain regular communication with the individual, service providers, caregivers, and others attending to the ~~incapacitated person individual~~.

404.1.3 The guardian shall participate in care or planning decisions concerning the residential, educational, vocational, or rehabilitation program of the ~~incapacitated person individual~~.

404.1.4 The guardian shall request that each residential care professional service provider develop an appropriate service plan for the ~~incapacitated person individual~~ and take appropriate action to ensure that the service plans are being implemented.

404.1.5 The guardian shall ensure that the ~~personal care guardian's~~ plan is being properly followed by examining charts, notes, logs, evaluations, and other documents regarding the ~~incapacitated person individual~~ at the place of residence and at any program site.

404.2 ~~Guardians of the Estate Conservators only~~ shall maintain meaningful in-person contact with their clients generally no less than quarterly absent court order, but in any event, at a frequency as appropriate and as necessary to verify the individual's condition and status and the appropriateness of financial arrangements.

404.3 A certified professional guardian ~~of the person~~, as a sole practitioner or agency, must ensure that the initial in-person visit and then one visit every three months is made by a certified professional guardian, unless otherwise approved by the court. A certified professional conservator, as a sole practitioner or agency, must ensure that the initial in-person visit and then one visit every six months is made by a certified professional conservator unless otherwise approved by the court For other meaningful in-person

visits, a certified professional guardian or conservator, as a sole practitioner or agency, may delegate the responsibility for in-person visits with a client to: (a) a non-guardian/conservator-employee of the certified professional guardian or conservator, sole practitioner or agency, (b) an independent contractor or (c) any individual who has been specifically approved by the court. In all cases, before the delegation, a certified professional guardian or conservator with final decision making authority on the case must document the suitability of the delegation, having considered: (a) the needs of the client, and (b) the education, training and experience of the delegate. ~~(Adopted 10-14-2013).~~ Delegation of a power to an agent must be consistent with the guardian and conservator's fiduciary duties and guardian and conservator's plan(s) and other requirements of delegation under RCW 11.130.125 and Regulation 414¹.

RCW 11.130.125

¹Regulation 414 will address delegation requirements specified in the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act at RCW 11.130.125.

404.4. Each certified professional guardian and conservator or certified professional guardian and conservator agency shall ~~conduct a criminal history check on any guardian or agency employees who come into contact with the person or estate of an incapacitated person prior to any contact. No guardian or agency shall knowingly allow an employee who has been convicted of a felony or has been adjudicated by any court or administrative agency of a having engaged in abuse, neglect or financial exploitation of a vulnerable adult or child to have contact with the person or estate of an incapacitated person.~~ exercise reasonable care, skill, and caution in ensuring a background check is conducted on their own employees, other agents, and any employees of those agents, to the extent the guardian or conservator has delegated a power to such employee or other agent.

RCW 11.130.125 (2) (e)

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..

Guardianship and Conservatorship Program Rules Regulations

405 General Decision Standards

All decisions and activities of the guardian and conservator shall be made according to the applicable decision standard.

405.1 The primary standard for decision-making is the Substituted Judgment Standard based upon the guardian and conservator's determination of the incapacitated person's individual's competent preferences, ~~i.e. what the incapacitated person individual would have decided when he or she had capacity the ability to receive and evaluate information or make and communicate decisions.~~ To determine the decision the individual subject would make if able, the guardian and conservator shall consider the individual's previous or current directions, preferences, opinions, values, and actions, to the extent actually known or reasonably ascertainable by the guardian and conservator. A guardian and conservator shall make reasonable efforts to ascertain the individual's historic preferences and shall give significant weight to such preferences. Such preferences may be inferred from past statements or action of the individual when the individual had the ability to receive and evaluate information or make and communicate decisions.

405.1.1 In making a decision for an individual subject to guardianship, the guardian shall make the decision the guardian reasonably believes the individual would make if the individual were able unless doing so would unreasonably harm or endanger the welfare or personal or financial interests of the individual.
RCW 11.130.325 (4)

405.1.2 In making a decision for an individual subject to conservatorship, the conservator shall make the decision the conservator reasonably believes the individual would make if able, unless doing so would fail to preserve the resources needed to maintain the individual's well-being and lifestyle or otherwise unreasonably harm or endanger the welfare or personal or financial interests of the individual.
RCW 11.130.505 (3)

405.2 When a decision cannot be made under the Substituted Judgment Standard, ~~the competent preferences of an incapacitated person cannot be ascertained,~~ the guardian and conservator is responsible for making decisions which are in the best interests of the ~~incapacitated person individual.~~ A determination of the best interests of the incapacitated person shall include consideration of the stated preferences of the incapacitated person and defer to an incapacitated person's residual capacity to make decisions.

405.2.1 In determining the best interests of the individual, the guardian and conservator shall consider:

(a) Information received from professionals and persons who demonstrate sufficient interest in the welfare of the individual-;

(b) Other information the guardian and conservator believes the individual would have considered if the individual were able to act; and

(c) Other factors a reasonable person in the circumstances of the individual would consider, including consequences for others.

RCW 11.130.325 (5)

RCW 11.130.505 (4)/

Guardianship and Conservatorship Program Rules Regulations

406 Conflicts of Interest

406.1 The guardian and conservator shall exhibit the highest degree of trust, loyalty, and attentiveness in relation to the ~~incapacitated person individual~~ and the ~~incapacitated person's individual's~~ estate, property and finances.

406.2 There shall be no self-interest in the management of the estate, property and finances or the management of the person al affairs of the individual by the guardian and conservator; ~~†~~The guardian and conservator shall exercise caution to avoid even the appearance of self-interest or conflict of interest. An appearance of conflict of interest is a situation that a reasonable person might perceive as self-serving or adverse to the interest of the ~~incapacitated person individual subject to guardianship and/or conservatorship~~.

406.3 A conflict of interest arises when the guardian and conservator has some personal, family or agency interest that is self-serving or adverse to the interest of the ~~incapacitated person individual~~. If the guardian and conservator intends to proceed in the face of a conflict of interest, a guardian and conservator shall disclose the conflict of interest to the court and seek prior court approval in accordance with the steps outlined in 406.4. ~~(Revised 1-9-12)~~

406.4 The role of a guardian and conservator is primarily that of a decision-maker and coordinator of services. The guardian and conservator or agency (or an entity in which a guardian and conservator has a financial interest) shall not directly provide services such as housing, medical, personal care, or therapeutic services to the ~~incapacitated person individual~~ or profit from any transaction made on behalf of the ~~incapacitated person's individual's~~ estate, property or finances. In exceptional circumstances some direct services may be approved by the court provided written permission of the court is given in advance of the service being provided. When requesting court approval, the guardian and conservator must demonstrate in writing and with prior notice to notice parties that all alternatives have been identified and considered and that no alternative is available that is reasonable or practical. ~~(Revised 1-9-12)~~

406.5 A guardian or conservator who is also an attorney may represent themselves or their agency with respect to the administration of a guardianship or conservatorship. The guardian/conservator and the attorney must submit separate statements to the court for approval of fees and costs.

406.56 A guardian and conservator who is an attorney may provide legal services to the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship only when doing so best meets the needs of the ~~incapacitated person~~ individual and is approved by the court following full disclosure of the conflict of interest. (~~Adopted 1-9-12~~)

406.67 A guardian and conservator shall not accept a gift from an ~~incapacitated person~~ individual subject to guardianship and/or conservatorship or from their estate, property or finances, other than ordinary social hospitality.

406.78 Payment of fees or other compensation for guardianship and/or conservatorship services by a party other than the ~~incapacitated person~~ individual subject to guardianship and/or conservatorship is a potential conflict of interest which shall be fully disclosed to the court.

406.89 The guardian and conservator shall protect the ~~incapacitated person's~~ individual subject to guardianship and/or conservatorship's rights and best interests against infringement by third parties.

406.10 A guardian and conservator shall not petition, nor request or cause counsel to petition, to be appointed as a guardian and/or conservator unless the guardian and conservator follows the guidelines set out in Ethics Advisory Opinion No. 2005-001. Ethics Advisory Opinion No. 2005-001

406.10.1 If a guardian and conservator has already been appointed to serve as guardian or conservator, and has good cause to believe appointment to the other fiduciary role is necessary to protect the person, or their estate, the guardian or conservator may petition for appointment to the other role.

Guardianship and Conservatorship Program Rules Regulations

407 Residential Decisions

407.1 The guardian shall take reasonable measures to implement the residential preferences of the individual subject to guardianship.

407.2 The guardian shall select a residential setting the guardian believes the individual would select if the individual were able, in accordance with the decision-making standards in RCW 11.130.325 (4) and (5) and Regulation 405. If the guardian does not know and cannot reasonably determine what setting the individual probably would choose if able, or the guardian reasonably believes the decision the individual would make would unreasonably harm or endanger the welfare or personal or financial interests of the individual, the guardian shall choose in accordance with RCW 11.130.325(5) and Regulation 405 a residential setting that is consistent with the individual's best interest.

RCW 11.130.330 (5)

~~407.13~~ The guardian shall ensure that the incapacitated person resides in the least restrictive environment that is appropriate and available give priority to a residential setting in a location that will allow the individual to interact with persons important to the individual and meet the individual's needs in the least restrictive manner reasonably feasible unless to do so would be inconsistent with the decision-making standard in RCW 11.130.325 (4) and (5) and Regulation 405 .

RCW 11.130.330 (5) (b)

~~407.24~~ The guardian shall acknowledge the need to allow all ~~persons~~ individuals the opportunity to engage in activities and live in conditions which are culturally and socially acceptable within the context of the ~~incapacitated person's~~ individual's cultural and life values.

~~407.3~~ The guardian shall take reasonable measures to effectuate the incapacitated person's residential preferences.

~~407.45~~ The guardian shall know the current state of the law regarding limits on the guardian's authority as to residential decisions, including:

407.5.1 Absent a court order issued in accordance with the involuntary treatment provisions of chapters 10.77, 71.05, and 72.23 RCW, a guardian may not

consent on behalf of an individual to involuntary detention of the individual in a care setting which provides nursing or other care against the individual's will.
RCW 11.130.330 (7)

407.5.2 A guardian may establish or move the permanent place of dwelling of the individual to a care setting that places restrictions on the individual's ability to leave or have visitors only if:

- (i) The establishment or move is in the guardian's plan under RCW 11.130.340;
- (ii) The court authorizes the establishment or move; or
- (iii) The guardian gives notice of the establishment or move at least fourteen days before the establishment or move to the individual and all persons entitled to notice under RCW 11.130.310(5)(b) or a subsequent order, and no objection is filed.

RCW 11.130.330 (5) (d)

407.5.3 A guardian may take action that would result in the sale of or surrender of the lease to the primary dwelling of the individual only if:

- (i) The action is specifically included in the guardian's plan under RCW 11.130.340;
- (ii) The court authorizes the action by specific order; or
- (iii) Notice of the action was given at least fourteen days before the action to the individual and all persons entitled to the notice under RCW 11.130.310(5)(b) or a subsequent order and no objection has been filed

RCW 11.130.330 (5) (f)

407.5.4 The guardian may not establish or move the individual's dwelling outside the state unless consistent with the guardian's plan and specifically authorized by the court.

RCW 11.130.330 (5) (e)

407.~~56~~ The guardian shall not remove the ~~incapacitated person individual~~ from his or her home or separate the ~~incapacitated person individual~~ from family and friends unless such removal is necessary to prevent significant harm or because of financial constraints. The guardian shall make reasonable efforts to ensure the ~~incapacitated person individual~~ resides at the ~~incapacitated person's individual's~~ home or in a community setting.

407.~~67~~ The guardian shall, to the extent possible, select residential placements which enhance the quality of life of the ~~incapacitated person individual~~, provide the opportunity to maximize the independence of the ~~incapacitated person individual~~, and provide for physical comfort and safety.

407.78 Before relocating the ~~incapacitated person~~ individual to a new residence, the guardian shall consult with, and give timely notices as required by law, to the ~~incapacitated person~~ individual, and should consult with, and give timely notices as required by law, to professionals, notice parties, and other third parties ~~involved with~~ who demonstrate sufficient interest in the welfare of ~~the incapacitated person's~~ individual ~~care~~ to the extent doing so does not put the ~~incapacitated person~~ individual, ~~the~~ guardian, or ~~the~~ guardian's staff at risk of personal harm. Emergency residential decisions to protect the ~~incapacitated person~~ individual may be made without prior consultation.

407.89 The guardian shall, as necessary, thoroughly research and evaluate the ~~incapacitated person's~~ individual's residential alternatives.

407.910 Should the only available residential placement not be the most appropriate or least restrictive, the guardian shall regularly review alternatives to that placement and shall make reasonable efforts to arrange an appropriate and least restrictive residential alternative.

407.4011 The guardian shall regularly monitor the ~~incapacitated person's~~ individual's residential placement to ensure that it is appropriate and that such placement is the least restrictive alternative. The guardian should consent to changes, as they become necessary, advantageous, or otherwise in the ~~incapacitated person's~~ individual's best interests. The guardian should consider that even changes within an existing residential facility may have an impact on the quality of life of the ~~incapacitated person~~ individual.

Guardianship and Conservatorship Program Rules Regulations

408 Medical Decisions

408.1 Unless a power of attorney for health care is in effect, ~~the~~ guardian shall provide informed consent on behalf of the ~~incapacitated person~~ individual subject to guardianship for the provision of care, treatment and services and shall ensure that such care, treatment and services represents the least invasive form of intervention that is appropriate and available. The components of informed consent include, but are not necessarily limited to, an understanding by the guardian of: (1) the reason for, and nature of, the treatment (2) the benefits of and necessity for the treatment; (3) the possible risks, side effects and other consequences of the treatment and (4) alternative treatments or measures that are available and their respective risks, side effects, and benefits.

408.1.1 The guardian shall involve the individual subject to guardianship in health care decision making to the extent reasonably feasible and support the individual in understanding the risks and benefits of health care options to the extent reasonably feasible. RCW 11.130.330 (6) (a)

408.2 Unless authorized by the court within the past thirty days, after notice and hearing with counsel for the individual subject to guardianship as required by statute, a guardian may not consent to any of the following procedures for the individual: (a) Therapy or other procedure to induce convulsion; (b) Surgery solely for the purpose of psychosurgery; or (c) Other psychiatric or mental health procedures that restrict physical freedom of movement or the rights set forth in RCW 71.05.217

RCW 11.130.335 (3)

408.3 A guardian shall be familiar with laws limiting the authority to consent to health care decisions, including reproductive decision making.

~~408.24 The duty to provide informed consent does not prevent a guardian from electing to make code status decisions in advance of need.~~

408.~~354~~ The guardian shall be familiar with the law regarding the withholding or withdrawal of life-sustaining treatment and other end of life decisions.

408.~~465~~ The guardian shall actively promote the health of the ~~incapacitated person~~ individual by arranging for regular preventative care including but not limited to dental

care, diagnostic testing, and routine medical examinations to the extent preventative care and resources are available and to the extent the individual is willing to comply.

408.~~576~~ The guardian shall be available to respond to urgent need for medical decisions. The guardian shall provide instructions regarding treatment or non-treatment to be followed by medical staff in emergencies.

Discussion - State Mandate for Vaccination

Bowman, Kathy

From: Charlene H <CharleneH@shareandcarehouse.org>
Sent: Tuesday, August 10, 2021 10:12 AM
To: Bowman, Kathy
Subject: State Vaccination Mandate and impact on CPGs

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Hi Kathy,

I hope this email finds you doing well during these challenging times for everyone.

In keeping up with the impacts of COVID-19 we need direction regarding the state mandate by Governor Inslee yesterday. Please let me know whether this means that all CPGs and staff working with them who may go to the facilities listed below are mandated to be vaccinated.

"The proclamation affects nursing homes, adult family homes, assisted living, enhanced services facilities, residential treatment facilities and other treatment facilities. Beyond full-time workers, it also covers contractors, volunteers and other positions that have any onsite presence at the health care sites or working with the state."

Let me know if I should pose this question to someone else and feel free to send this email to them with cc to me, if that is the easiest method to receive instructions.

Thank you,

*Charlene Hamblen, CPG
Share & Care House, Executive Director
Precision Accountability / **Exact-GPS**, Chief Financial Officer
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SCH Equity Team Goal: ***Walk boldly towards overcoming biases and conquering our fears.***

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