

Meeting Minutes
September 13, 2021



Certified Professional Guardianship Board

Monday, September 13, 2021

Zoom Meeting

8:00 a.m. – 9:00 a.m.

DRAFT Meeting Minutes

Members Present

Judge Rachelle Anderson, Chair
Judge Grant Blinn
Judge Diana Kiesel
Judge Robert Lewis
Ms. Rosslyn Bethmann
Ms. Amanda Froh
Ms. Lisa Malpass
Dr. K. Penney Sanders
Mr. Dan Smerken
Ms. Susan Starrfield
Ms. Amanda Withhauer
Dr. Rachel Wrenn

Members Absent

Ms. Rita Forster

Staff Present

Ms. Amber Collins
Mr. Christopher Fournier
Ms. Thai Kien
Ms. Rhonda Scott
Ms. Eileen Schock
Ms. Kathy Bowman
Ms. Heather Lucas

Guests: see list on last page

1. Meeting Called to Order

Judge Rachelle Anderson noted that this is Ms. Bethmann's, Ms. Forster's, and her final meeting as Board members, as their terms end on September 30 2021.

Judge Anderson called the September 13, 2021 CPG Board meeting to order at 8:12 a.m.

2. Welcome, Roll Call and Approval of Minutes

Hearing no suggested additions or corrections, a motion was made and seconded to approve the August 9, 2021 meeting minutes as written. The motion passed.

Motion: A motion was made and seconded to approve the August 9, 2021 Certified Professional Guardianship Board meeting minutes as written. The motion passed.

3. Chair's Report

Judge Anderson announced there will be a Guardian ad Litem training held in Spokane County in December. This training will be mandatory in Spokane County, and will include Court Visitors. King County's curriculum has been adopted as the official training of the state.

On behalf of the Board and Staff, Eileen Schock thanked Judge Anderson for her many years of service to the Board.

4. Grievance Report

Staff provided a grievance status update. A total of Sixty-seven (67) grievances have been received in 2021, and Forty-two (42) have been resolved. During the month of August, there

were nine (9) new grievances received, and Seventeen (17) grievances resolved. Twelve (12) grievances were dismissed for No Actionable Conduct, Four (4) were administratively dismissed due to the administrative decertification of the CPG, and One (1) grievance was dismissed as insufficient. Of the Thirty-eight (38) total remaining open grievances, Twenty-nine (29) grievances concern 8 agencies or CPGs with two or more grievances.

5. Regulations Committee Report

Judge Kiesel reported the Regulations Committee met three times this past week for a total of 5 hours. Public comments received in response to posted amended regulations have been carefully reviewed. The committee surveyed CPGs and Stakeholders and has decided to include statutory language of the UGA with the Regulations. Standards of Practice Regulations 400-408 have been revised. Regulation 401.6 has been reworded, taking out mandatory language from the Regulation by changing shall develop a plan to should develop a plan, addressing both the concerns of stakeholders and the needs of the Board and the Court on who to contact in an emergency. The new language was posted separately for review as additional materials. Judge Lewis asked if the preamble will be kept, and he was answered yes, making it clear the Court is the final arbitrator.

On behalf of the Regulations Committee, Judge Kiese called for a motion to approve for publication for public comment amended Regulations 400, 401, 402, 403, 404, 405, 406, 407, and 408 The Regulations Committee abstained.

Motion: A motion was made and seconded to approve for publication for public comment amended Regulations 400, 401, 402, 403, 404, 405, 406, 407, and 408. The motion passed.

Judge Kiesel requested that the regular November Board meeting be extended to two hours and to also hold a one hour Board meeting in December in order to discuss regulations. Judge Anderson responded the request does not require a vote and can be determined as Board chair.

6. Vaccine Discussion

Eileen presented a question from CPGs requesting direction regarding the state mandate by Governor Inslee requiring COVID vaccinations for contractors, volunteers and other positions that have any onsite presence at health care sites or working with the state. Washington State Department of Health has developed a Q&A response to many questions that have been received. Judge Anderson felt this is appropriate information to share. The Board cannot give legal advice, or make determinations about COVID vaccination issues. The court will deal with this question on an individual basis.

7. Executive Session (Closed to Public)

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

Oh behalf of the Applications Committee, Judge Lewis presented the following applications for Certified Professional Guardian. The Applications Committee abstained.

Motion: A motion was made and seconded to conditionally approve Drurea Keithahn's application for certification upon completion of the UW Certification Program, with transferrable skills in financial and social services. The motion passed.

- Motion: A motion was made and seconded to conditionally approve Nicole Kittersong's application for certification upon completion of the UW Certification Program, with transferrable skills in financial. The motion passed.
- Motion: A motion was made and seconded to conditionally approve Kristine Kolbeck's application for certification upon completion of the UW Certification Program, with transferrable skills in social services. The motion passed.
- Motion: A motion was made and seconded to conditionally approve Matthew Macklin's application for certification upon completion of the UW Certification Program, with transferrable skills in social services. The motion passed.
- Motion: A motion was made and seconded to approve Lillian Mello's application for certification, with transferrable skills in financial. The motion passed.
- Motion: A motion was made and seconded to conditionally approve Jeanette Sale's application for certification upon completion of the UW Certification Program, with transferrable skills in social services. The motion passed.
- Motion: A motion was made and seconded to extend the alternate training deadline and approve Meera Shin's request to allow alternate training to be completed by the end of September. There were no abstentions. The motion passed.

Conversation regarding the Administrative Decertification process was tabled due to lack of time remaining. This topic will be prioritized during executive session at the October 11, 2021 Board meeting.

9. Wrap Up/Adjourn

Judge Anderson said her goodbyes to the Board. The next meeting will be held on October 11, 2021 at 9:00 a.m. The September 13, 2021 CPG Board meeting adjourned at 9:06 a.m.

Motion Summary		Status
Motion:	A motion was made and seconded to approve the August 9, 2021 Certified Professional Guardianship Board meeting minutes as written.	Passed
Motion:	A motion was made and seconded to approve for publication for public comment Regulations 400, 401, 402, 403, 404, 405, 406, 407, and 408.	Passed
Motion:	A motion was made and seconded to conditionally approve Drurea Keithahn's application for certification upon completion of the UW Certification Program, with transferrable skills in financial and social services.	Passed
Motion:	A motion was made and seconded to conditionally approve Nicole Kittersong's application for certification upon completion of the UW Certification Program, with transferrable skills in financial.	Passed
Motion:	A motion was made and seconded to conditionally approve Kristine Kolbeck's application for certification upon completion of the UW Certification Program, with transferrable skills in social services.	Passed

Motion:	A motion was made and seconded to conditionally approve Matthew Macklin's application for certification upon completion of the UW Certification Program, with transferrable skills in social services.	Passed
Motion:	A motion was made and seconded to approve Lillian Mello's application for certification, with transferrable skills in financial.	Passed
Motion:	A motion was made and seconded to conditionally approve Jeanette Sale's application for certification upon completion of the UW Certification Program, with transferrable skills in social services. The motion passed.	Passed
Motion:	A motion was made and seconded to extend the alternate training deadline and approve Meera Shin's request to allow alternate training to be completed by the end of September. The motion passed.	Passed

Guests:

Denise Meador – Private Client Fiduciary
Neil and Neil – Chris Neil
Elizabeth Stone
Katlyn Balsam
Erik Eggertsen
Jan Low
Glenda Voller
Deana K
Sarah Tremblay
Dan Jackson
Puget Sound Guardians
Will Reeves
Ben Miller
Alexis Carter
Mark Vohr
Brenda Morales
Deborah Jameson
DK
Michael Whipple
Marci Perkins
Lily Mello
Corinne

Certified Professional Guardianship
and Conservatorship Board
Meeting Calendar 2022

Certified Professional Guardianship and Conservatorship Board 2022 Meeting Calendar

Monday, January 10, 2022	To be determined	9:00 am – 2:00 pm
<i>February, 2022</i>	<i>No Meeting</i>	
Monday, March 14, 2022	Zoom Meeting	8:00 am – 9:00 am
Monday, April 11, 2022 <i>Annual Planning Meeting</i>	To be determined	9:00 am – 2:00 pm
Monday, May 9, 2022	Zoom Meeting	8:00 am – 9:00 am
Monday, June 13, 2022	To be determined	9:00 am – 2:00 pm
<i>July, 2022</i>	<i>No Meeting</i>	
Monday, August 8, 2022	Zoom Meeting	8:00 am – 9:00 am
Monday, September 12, 2022	Zoom Meeting	8:00 am – 9:00 am
Monday, October 10, 2022	To be determined	9:00 am – 2:00 pm
Monday, November 14, 2022	Zoom Meeting	8:00 am – 9:00 am
<i>December, 2022</i>	<i>No Meeting</i>	

CPG Board in-person meetings are open to the public.

For information regarding teleconference meetings, please contact Kathy Bowman at 360.704.5543 or email Kathy.Bowman@courts.wa.gov

Board Materials



2021 - 2022
CERTIFIED PROFESSIONAL GUARDIANSHIP BOARD
CONFIDENTIALITY AGREEMENT

As a member of the Certified Professional Guardianship Board, I understand that I may participate in confidential discussions and have access to confidential information and records in files and databases such as application files and disciplinary records. By signing this statement, I affirm my understanding of my responsibilities to maintain confidentiality and agree to the following:

- 1. I understand that court case files and automated databases contain confidential, as well as public, information.
2. I understand that I may access, read or handle confidential records to the extent required in, and for the purpose of performing my assigned duties as a member of the Certified Professional Guardianship Board.
3. I agree not to divulge, publish, or otherwise make known to unauthorized persons or to the public any confidential information obtained in the course of my term as a Board member.
a. I may divulge confidential information to Board members, AOC staff, Board counsel, Board disciplinary counsel and hearing officers as necessary to perform my Board member duties.
b. I may divulge confidential information to others only if specifically authorized to do so by statute, court rule, judicial policy, or court order.
c. Maintaining confidentiality includes not discussing confidential information outside of the general Board, executive and committee meetings.
d. After I am no longer a member of the Board, I may not divulge confidential information obtained during the course of my service on the Board.
4. I agree to consult the Board chair or staff of the Administrative Office of the Courts on any questions I may have concerning whether particular information may be disclosed.
5. I understand that a breach of confidentiality may be grounds for disciplinary or legal action.
6. I agree to notify my supervisor immediately should I become aware of an actual breach of confidentiality or a situation which could potentially result in a breach, whether this be on my part or on the part of another person.

Signature Date Printed Name

is authorized access to confidential information.

Authorizing Signature Date Printed Name

Certified Professional Guardianship Board

BYLAWS

ARTICLE I: Certified Professional Guardianship Board (Board)

ARTICLE II: Purpose

January 25, 2000, the Supreme Court created the Certified Professional Guardianship Board (Board) with the adoption of General Rule (GR) 23. The Board was created to regulate professional guardians. According to GR 23, the Board's regulation shall include (1) processing applications for certification; (2) adopting and implementing policies or regulations setting forth minimum standards of practice for professional guardians; (3) adopting and implementing regulations establishing a professional guardian training program; and (4) adopting and implementing procedures to review any allegation that a professional guardian violated an applicable statute, fiduciary duty, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians.

According to GR 23, regulation of professional guardians may include (1) adopting and implementing regulations governing the preparation and administration of certification examinations; (2) adopting and implementing regulations for continuing education; (3) investigating to determine whether an applicant for certification meets the certification requirements or to determine whether a professional guardian violated any statute, duty, standard of practice, rule, regulation or other requirement governing the conduct of professional guardians; and (4) adopting regulations pertaining to the orderly conduct of a hearing.

ARTICLE III: Governing Body

The Washington State Supreme Court will govern the activities of the Certified Professional Guardianship Board. The Supreme Court shall appoint 12 or more members to the Board.

ARTICLE IV: Membership

Section 1: Members

Members of the Certified Professional Guardianship Board shall include representatives from the following areas of expertise: professional guardians; attorneys; advocates for incapacitated persons; courts; state agencies; and those employed in medical, social,

health, financial, or other fields pertinent to guardianships. No more than one-third of the Board membership shall be practicing professional guardians.

Section 2: Terms of Appointment

The term for a member of the Board shall be three years. No member may serve more than three consecutive full three-year terms, not to exceed nine consecutive years, including any unfilled term. Terms shall be established such that one-third shall end each year. All terms of office begin October 1 or when a successor has been appointed, whichever occurs later, and end September 30.

Section 3: Vacancies

Any vacancy occurring in the terms of office of Board members shall be filled for the remaining time of an unexpired term.

Section 4: General Duties

Duty of Care:

A board member has the obligation to exercise reasonable care when he or she makes a decision for the Board. Reasonable care is what an "ordinarily prudent" person in a similar situation would do.

Duty of Loyalty:

A board member must never use information gained through his/her position for personal gain and must always act in the best interests of the Board and the public. Determining public interest in a particular situation can be complex, but on a practical level, a Board member's public duty can best be fulfilled by focusing on the Board's duty to protect the public by ensuring that guardianship services are provided by certified professional guardians in a competent and ethical manner.

Duty of Obedience:

A board member must be faithful to the Board's purpose. He or she cannot act in a way that is inconsistent with the Board's goals. The public trusts the board to make sure the Board abides by the rules, regulations, and laws governing its actions.

Duty of Confidentiality:

A board member shall respect and maintain the confidentiality of any and all information relating to discussions at board and committee meetings, including any and all materials, e.g. correspondence, reports, etc., unless compelled by legal process to disclose such information, or as otherwise agreed by the Board. While Board members are free to discuss actions adopted by the Board, disclosing or distributing any information concerning any confidential discussion of such items during the Board meeting is prohibited. Annually in October, each board member will sign a confidentiality agreement in which he or she acknowledges a duty of confidentiality.

Article V: Officers

Section 1: Chair and Vice Chair

Appointment: The Supreme Court shall appoint the Board Chair. By a majority vote, the Board shall elect a Vice Chair from its members.

Removal: The Board may petition the Supreme Court to remove a chair for failure to comply with any statute, duty, standard of practice, rule, regulation bylaw or other requirement governing his or her conduct.

Leave of Absence: Any Board member who is the subject of a disciplinary investigation by the Board may be asked to take a leave of absence from the Board. The Board Chair shall have the sole discretion to decide whether the Board member should take a leave of absence from the Board and when the Board member may return to the Board. A Board member may not continue to serve as a member of the Board if the Supreme Court has imposed a final disciplinary sanction on the Board member.

Section 2: Specific Duties of Chair and Vice Chair

The Chair shall set the agenda for and preside at all meetings of the Board, performing the duties usually incident to such office, and shall be the official spokesperson for the Board. The chair shall appoint the chairs of all committees. The vice chair shall perform the duties of the chair in the absence or incapacity of the Chair or at the Chair's request.

The Chair of the Board shall have the power to issue subpoenas and may make pre-hearing or other orders as are necessary for the orderly conduct of any hearing.

Article VI: Members

Section 1:

Appointment: The Board will solicit members and shall nominate all members with two exceptions, one member of the Board will be a representative of the Department of Social and Health Service (DSHS) nominated by DSHS; two members of the Board will be members of the Washington Bar Association (WSBA) nominated by WSBA. The Board shall review the qualifications of potential representatives from DSHS and WSBA and make a recommendation to DSHS and WSBA before a nomination is submitted to the Supreme Court. The Supreme Court shall appoint all board members.

Removal: The Board Chair may petition the Supreme Court to remove a board member, including the vice chair, for failure to comply with any statute, duty, standard of practice, rule, regulation bylaw or other requirement governing his or her conduct.

Section 2: Specific Duties of Members

Each member shall serve on one or more committees.

Article VII: Committees

Standing committees, as well as ad hoc committees and task forces of the Board, shall be established by majority vote. Each committee shall have such authority as the Board deems appropriate. The Chair will appoint the chair of all committees created by the Board. The terms of ad hoc and task force committee members will have terms as determined by their charge.

Article VIII: Meeting

The Board shall hold meetings as determined to be necessary by the chair.

Section 1: Regular Meeting

Regular meetings will be open to the public.

Section 2: Special Meeting

Executive session, review panel, or disciplinary meetings before the filing of a disciplinary complaint will be closed to the public.

Section 3: Quorum

A majority of the board is required for a quorum. A quorum must be present on the phone, online or in person for voting to occur. When a quorum is established, a motion will be approved by a majority of those present.

Section 4: Attendance

Board members are required to participate in a minimum of 80% [to be rounded down] of full Board meetings held during the calendar year. A board member may not have more than two unexcused absences during a calendar year and continue to serve on the Board. An absence resulting due to an emergency will be excused. Absences will also be considered excused if a board member informs the chair or AOC staff via phone or e-mail of his or her expected absence at least 24 hours before the meeting start time.

Section 5: Votes

Committee action will be taken by voting. Whenever a vote is not unanimous, the Chair may call for a show of hands. Members participating, in-person, online or on the phone may vote. No member will be allowed to cast a vote by proxy.

Article IX: Public Input

Section 1: Public Comment

Each regularly scheduled in-person meeting shall include a public comment period. The public comment period shall be the first item on the agenda after the chair's report. The comment period shall not exceed thirty minutes total and will be subject to the following general guidelines:

1. Speakers must sign in to speak and must list name and topic.

2. Only one speaker at a time.
3. Only the Chair may interrupt a speaker.
4. No personal attacks or accusations.
5. Comments will be limited to three minutes per speaker.
6. No repetition of comments from previous meetings.
7. Written comments may be submitted in lieu of, or in addition to public comments.

A written copy of public comments provided to AOC staff during or immediately following the meeting staff will be attached to meeting minutes.

Regulation 600, the procedure for adoption, amendment and repeal of regulation also provides an opportunity to provide written comments.

Section 2: Public Meeting

Annually, the Board holds a planning meeting to discuss emerging issues in guardianship practice and long-term projects. Before the planning meeting, the public is invited to a moderated discussion with the Board.

Section 3: Communication

To effectively and efficiently perform its regulatory mission, the Board uses a Communications Plan¹, adopted to facilitate the consideration of diverse perspectives in an environment that supports and respects differences and commitment to group initiatives.

Article X: Conflict of Interest²

To address conflicts of interest board members should:

- a) Fully disclose their relationships with any and all individuals and organizations when matters involving those entities come before the board;
- b) Avoid participating in quasi-legislative matters involving their own specific, substantial, and readily identifiable financial interests, except where the financial interest is shared equally by other Board members;

¹ For additional guidance regarding the Communications Plan see <http://www.courts.wa.gov/guardianportal/index.cfm?fa=guardianportal.cpg&content=rules>

² For additional guidance review the memo dated August 1, 2014, RE: Conflicts Review/Recusal Process <http://www.courts.wa.gov/guardianportal/index.cfm?fa=guardianportal.cpg&content=rules>

- c) Not participate in rulemaking when the organization in which they have a personal interest is the petitioner for the rule in question; and
- d) Not participate in grievances and complaints or other quasi-judicial proceedings involving individuals and organizations with which they are personally interested or where their impartiality might reasonably be questioned as a result of their association with those entities.

Article XI: Amendments and Repeal of Bylaws

Bylaws may be amended or modified by majority vote at any regular meeting of the Board.

Article XII: Board Member Expenses

Board members shall not be compensated for their services. Consistent with the Office of Financial Management rules, Board members may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

Article XIII: Address of the Board

Administrative Office of the Courts
ATTN: Certified Professional Guardianship Board
PO Box 41170
Olympia, WA 98504

Certified Professional Guardianship Board Conflict of Interest Policy

Approved January 12, 2015

A. Introduction

The Certified Professional Guardianship Board is committed to providing a fair, ethical and accountable environment for the conduct of its internal operations, and the management of its regulatory functions.

Being aware of and managing conflicts of interest are essential for good governance and the integrity of decision-making. It is essential that members understand that their role on the Board and its committees is to represent the interests of the Board and to act in the public interest.

A conflict of interest exists when it is likely that a Board member could be influenced or perceived to be influenced, by a personal interest when carrying out their public duty. Conflicts of interest can be actual, perceived or potential.

A conflict of interest is defined as having any interest, financial or otherwise, direct or indirect, or engaging in any business or transaction or professional activity or incurring any obligation of any nature, which is in substantial conflict with the proper discharge of a Board member's duties to protect the public by ensuring that guardianship services are provided by certified professional guardians in a competent and ethical manner.

An actual conflict of interest involves a direct conflict between a member's Board duties and responsibilities and existing private interests. A perceived or apparent conflict of interest can exist where a reasonable person could perceive that a member's private interest could improperly influence the performance of his or her duties, whether or not this is in fact the case. A potential conflict of interest arises where a member has private interests that could conflict with his or her public duties in the future.

Board members must make public (and recuse themselves from) any actual, perceived and potential conflict of interest to ensure the integrity of the Board and all of its decisions.

Disclosure and recusal are important tools to avoid actual, perceived or potential conflict of interest. Board members must not overuse recusal as an excuse to avoid conflict in exercising their full responsibilities. The appointment of Board members who will likely need to consistently recuse should be avoided.

B. Types of Conflict of Interest

A private or personal interest may be either pecuniary or non-pecuniary, and includes the personal, professional and business interests of the person and the individuals with whom he or she associates (relative, partner, friend, associate or colleague).

Personal conflicts are those actions that may ultimately have a personal or professional consequence that is a direct or indirect effect of a decision or action. No decisions should be made solely to advance the personal benefit of Board members.

Some examples of personal conflict include:

- 1) **Personal gain:** Will this decision affect the Board member's personal life in any direct way?
- 2) **Sexual favors:** Will this behavior affect the Board member's position unfairly?
- 3) **Influence:** Will this behavior affect the Board member's position unfairly? Will it result in unwarranted privileges or exemptions?
- 4) **Effects on personal relationship:** Will there be an effect on the Board member's current, past or future personal and professional relationship(s), including memberships and or status in associations or professional organizations.
- 5) **Benefits to those who have a relationship with the Board member:** No decision should be made solely to effect the personal or financial gain of anyone with whom the Board member has a personal or professional relationship.
- 6) **Gift received:** Acceptance of any gift should be perceived as a bribe to influence present or future considerations.

Financial conflicts are those in which a Board member or those with whom he or she has a personal or professional relationship, may benefit financially, or be perceived as benefitting financially, from decisions by or the influence of the Board member. Money does not have to change hands for an interest to be financial. A financial interest includes tangible and intangible assets and benefits. Some examples of financial conflicts include:

- 1) **Employment Gain:** These may include opportunities for consulting, speaking, teaching, etc. Employment during and subsequent to Board membership should not appear to be relating to any Board matters.
- 2) **Financial Gain: Effects on the Board member's business.** Decisions and actions must not affect the future financial position of the Board member's business. Contractual and creditor relationships also apply here.
- 3) **Outside Activities:** These may include present employment, investment, and/or business opportunities.
- 4) **Recruitment of other professionals or clients into business opportunities:** Extreme care must be exercised to be certain no actual or perceived leverage of authority with the Board position is used in this area.

C. Public Duty

All Board members have a duty to always put the public interest above their own personal or private interests when carrying out official Board duties. Determining public interest in a particular situation can be complex, but on a practical level a Board member's public duty can best be fulfilled by focusing on the Board's duty to protect the public by ensuring that guardianship services are provided by certified professional guardians in a competent and ethical manner; and identifying any form of conflict of interest that arises and ensuring that it is managed effectively.

D. Competing Interests

At times, members may have multiple roles: in addition to their role with the Board, they may have a principal job in which they are employed by a government agency or a private sector organization. They may be self-employed. They may serve in another public sector or community-based role, such as being a member of a committee or statutory body. They may also serve in a professional organization or association.

In their role as Board member they may have access to confidential information that may be useful or of benefit to their work in one or more of their other roles. The risk in this situation is that there may be a temptation to use the information improperly, or to give advantage to the second organization, or create bias or prejudicial treatment of another group or person.

These conflicts are described as **competing interests** or a **conflict of duty**. These situations should be treated in the same way as potential conflicts of interest, that is, to ensure that decisions are made, and are seen to be made, on proper grounds, for the legitimate reason of protecting the public.

E. Participating in Proceedings

There are generally two main categories of proceedings in which Board members commonly face issues of conflict of interest and bias — quasi-judicial proceedings and quasi-legislative proceedings.

Generally, in quasi-judicial proceedings (grievances and complaints) impartiality due to financial conflict of interest or personal interest is impermissible because an unbiased, impartial decision-maker is essential to due process. However, in quasi-legislative proceedings (rulemaking) ethical guidelines for personal or even financial bias may be less strict depending upon the particular facts and circumstances involved.

“Quasi-Judicial Proceedings”

Examples of quasi-judicial proceedings include certification decisions, disciplinary hearings, individual appeals from administrative decisions, and most grant awards. In such cases, no "legal bias" or personal, financial or familial interest is allowed. To avoid these types of conflicts, generally a Board member must refrain from participating in the discussion or voting on the matter.

What constitutes "legal bias" is a matter of law and is more appropriately determined on a fact-specific, case-by-case basis by the Board. According to court decisions, however, legal bias may include preconceptions about facts, policy, law, or a person, group or object.

“Quasi-Legislative Proceedings”

In quasi-legislative matters, (like most rulemaking) Board members should not participate in voting or discussion of matters that involve their own specific, substantial, and readily identifiable financial interests, except where the financial interest is shared equally by Board members. Moreover, they should recuse themselves when their impartiality might reasonably be questioned due to their personal relationship with a participant in the proceeding. In such circumstances, general personal affiliations with organizations or groups will normally not preclude a Board member from participating in discussion or voting unless the organization itself is petitioning the Board directly regarding the matter. Depending upon the particular facts of (1) the relationship between the organization and the Board member and (2) the role the

organization is playing in relation to issues before the Board, ethical requirements may vary greatly — from requiring that the Board member need only disclose his relationship to the full Board, to requiring that the Board remove himself entirely from the proceeding.

F. Managing Conflicts of Interest

What is recusal?

Generally, recusal involves disassociation with the matter at hand. The Board member would not participate in the discussion or the deliberations, make recommendations, give advice, consider findings, or in any other way assume responsibility for or attempt to influence the decision-making process. This is different from abstaining, where one participates fully in the matter, but does not vote.

What should a Board member do to properly recuse?

In order to instill confidence in the process, recusal should occur in public and on the record. In some situations, the Board member may choose to leave the room, but generally recusal followed by appropriate inaction is sufficient.

Rule #1

(1) When a Board member is beneficially interested, directly or indirectly, in a contract or grant that may be made by, through or is under the supervision of the Board, in whole or in part, or when the member accepts, directly or indirectly, any compensation, gratuity, or reward from any other person beneficially interested in such contract or grant, the member shall:

(a) Recuse him or herself from the Board discussion regarding the specific contract or grant;

(b) Recuse him or herself from the Board vote on the specific contract or grant; and

(c) Refrain from attempting to influence the remaining Board members in their discussion and vote regarding the specific contract or grant.

(2) The prohibition against discussion set forth in sections (a) and (c) shall not prohibit the member of the Board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3) Under subsection (1), "any other person" has a beneficial interest in a contract or grant when the other person bids or otherwise seeks to be awarded the contract or grant.

EXAMPLE:

The Certified Professional Guardian Board includes representatives from the following areas of expertise: professional guardians; attorneys; advocates for incapacitated persons; court staff including judicial officers; state agencies; and those employed in medical, social, health, financial, or other fields pertinent to guardianships. A Board member is employed by a company that performs surveys. The Board is in the process of selecting a contractor to survey professional guardians. The company that employs a member of the Board is interested in the contract.

The Board member may use his or her general expertise regarding the performance of surveys, but the member is prohibited from participating in the Board's discussion and analysis

implementing the criteria for selecting a contractor, and is prohibited from participating in the Board's vote to select a contractor.

EXAMPLE:

The Certified Professional Guardianship Board contracts with King Software to provide computer systems for tracking disciplinary cases. King Software's contract with the Board is almost expired and the Board plans to seek bids from software companies for the next contract period. The Board issues a request for bids to various software companies who offer suitable software, including Medsoft, Inc.

Approximately nine months ago, one Board member worked for Medsoft, Inc. and received compensation from that company. The Board member subsequently left Medsoft, Inc. and went to work for the state. The Board member is not required to recuse herself from selecting a contractor for the Board's disciplinary tracking system because Medsoft did not have a beneficial interest in the Board's contract until it bid on the contract.

Therefore, Medsoft was not a person beneficially interested in the contract when the Board member received the compensation, but the Board member should disclose his or her former relationship with Medsoft. However, if the Board member received delayed compensation from Medsoft after it bid on the contract, that he or she had already earned, this is probably not a conflict of interest, but still should be disclosed. If the Board member continues to work for Medsoft the Board member would be required to disclose the relationship and to recuse himself or herself from the Board's specific discussion and the vote awarding the contract.

Rule #2

(1) When a member of the Board, either owns a beneficial interest in or is an officer, agent, employee or member of an entity or individual which is engaged in a transaction involving the board, the member shall:

- (a) Recuse him or herself from the Board discussion regarding the specific transaction;
- (b) Recuse him or herself from the Board vote on the specific transaction; and
- (c) Refrain from attempting to influence the remaining Board members in their discussion and vote regarding the specific transaction.

(2) The prohibition against discussion and voting set forth in sections (a) and (c) shall not prohibit the member of the Board from using his or her general expertise to educate and provide general information on the subject area to the other members.

(3)(a) "Transaction involving the Board" means a proceeding, application, submission, request for a ruling or other determination, contract, claim, case, grievance or other similar matter that the member in question believes, or has reason to believe:

- (i) Is, or will be, the subject of Board action; or
- (ii) Is one to which the Board is or will be a party; or
- (iii) Is one in which the Board has a direct and substantial proprietary interest.

(b) "Transaction involving the Board" does not include the following: Preparation, consideration, or enactment of legislation, including appropriation of moneys in a budget, or the performance of legislative duties by a member; or a claim, case, lawsuit, or similar matter if the member did not participate in the underlying transaction involving the Board that is the basis for the claim, case, or lawsuit. Rulemaking is not a "transaction involving the Board."

(4) "Board action" means any action on the part of the Board including, but not limited to:

(a) A decision, determination, finding, ruling, or order; and

(b) A certification, grant, payment, award, contract, transaction, sanction, or approval, or the denial thereof, or failure to act with respect to a decision, determination, finding, ruling, or order.

EXAMPLE:

The Certified Professional Guardianship Board disciplines certified professional guardians in Washington State. The Board is conducting an investigation involving the guardianship services provided by a guardianship agency. One of the members of the Board sits on the board of directors for that agency or represents the agency in other matters. The member must recuse him or herself from any Board investigation, discussion, deliberation and vote with respect to disciplinary actions arising from the agency's guardianship services.

The Certified Professional Guardian Board certifies professional guardians in Washington State. The Board is reviewing an application for certification of an individual who is a relative, partner, friend, associate, or colleague of a member of the Board. The member must recuse him or herself from any review, discussion or deliberation regarding the application for certification.

Rule #3

If recusal occurs pursuant to model rule #1 or #2, the member of the Board shall disclose to the public the reasons for his or her recusal from any Board action whenever recusal occurs. The Board staff shall record each recusal and the basis for the recusal.

G. Summary

Considering the guidance provided above, Board members should:

a. Fully disclose their relationships with any and all individuals and organizations when matters involving those entities come before the board;

b. Avoid participating in quasi-legislative matters involving their own specific, substantial, and readily identifiable financial interests, except where the financial interest is shared equally by other Board members;

c. Not participate in rulemaking when the organization in which they have a personal interest is the petitioner for the rule in question; and

d. Not participate in grievances and complaints or other quasi-judicial proceedings involving individuals and organizations with which they are personally interested or where their impartiality might reasonably be questioned as a result of their association with those entities.

Grievance Status Update

Certified Professional Guardians Grievance Status

Month-End

September 30, 2021

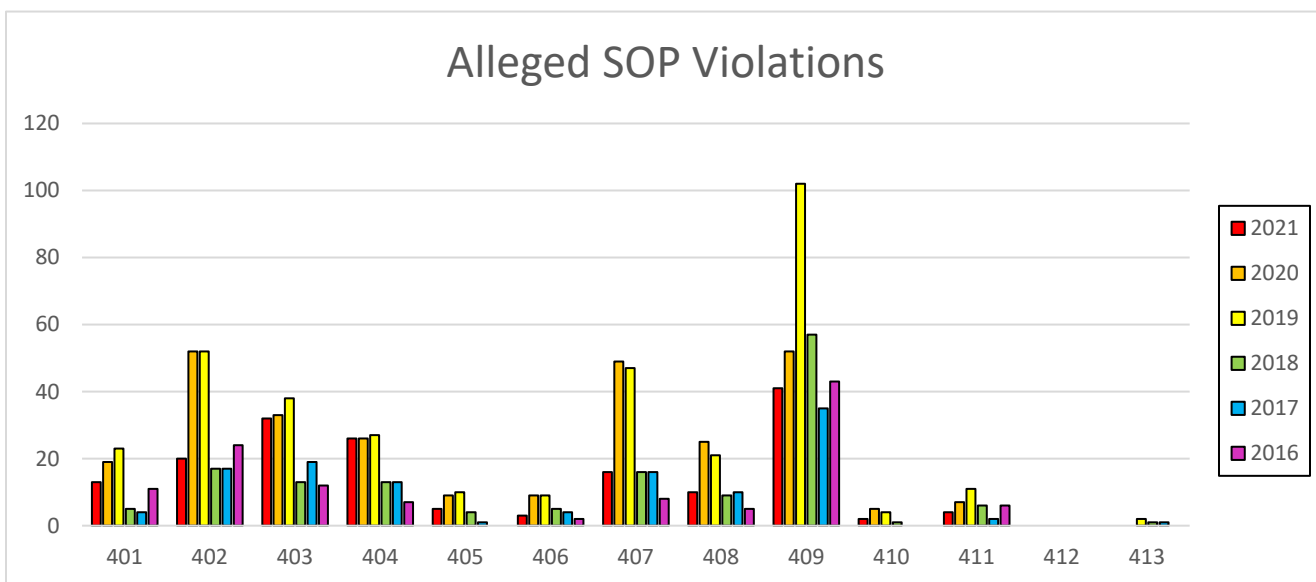
Grievance Status – September 30, 2021	2021	2020	2019	2018	2017	2016	Total
New Grievances Received:	5	0	0	0	0	0	5
Grievances Resolved this Month:	[5]						[5]
Grievances Remaining Requiring Investigation*:	26	7	4	1	0	0	38

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 – September 30, 2021	2021	2020	2019	2018	2017	2016	Total
Dismissal – No Jurisdiction	1						1
Dismissal – No Actionable Conduct	4						4
Dismissal - Administrative							
Dismissal – Insufficient Grievance							
Mediated – Dismissed							
Advisory Letter 507.1							
ARD - Admonishment							
ARD - Reprimand							
ARD - Suspension							
Terminated – Voluntary Surrender							
Terminated – Administrative Decertification							
Terminated – Decertification							
Total Resolved Grievances: September 30, 2021	5						5

Grievance Resolutions	2021	2020	2019	2018	2017	2016	Total
Total Grievances Received	72	80	77	85	104	104	513
Dismissal – No Jurisdiction	6	21	15	22	30	20	114
Dismissal – No Actionable Conduct	33	41	38	51	60	55	278
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: September 30, 2021	47	72	72	84	104	103	482



400 Standards of Practice Regulations

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

ID	Year Cert.	Open	Year(s) Grievances Received	Status
A	2015	2	2021 (2)	
B	2016	7	2021 (7)	
C	2014	4	2019 (1), 2020 (2), 2021 (1)	
D	2007	4	2019 (1), 2020 (1), 2021 (2)	
E	2002	2	2021 (2)	
F	2001	6	2018 (1), 2019 (1), 2020 (4)	
G	2018	2	2021 (2)	
		27		

Of 38 currently open grievances requiring investigation, 27 concern 7 Agencies/CPGs with 2 or more open grievances.

Regulations Committee
Regulations 409, 410, 411, 412,
413, 414, 415

Guardianship and Conservatorship Program Rules Regulations

409 Financial Management

409.1 A guardian or conservator may only exercise authority over the property and finances of an individual as ordered by the court.

409.12 The guardian and conservator shall assure competent management of the property, ~~and income-~~ finances and estate of the ~~estate~~individual. In the discharge of this duty, the guardian and conservator shall exercise the highest level of fiduciary responsibility, intelligence, prudence, and diligence and avoid any self-interest. The management of the estate, property and finances shall be documented by means of accurate and complete records of all transactions.

409.12.1 The guardian and conservator shall meet with the ~~incapacitated person~~ individual and gather information from family, friends and other collateral sources, as soon as practicable after appointment, to determine the current wishes of the ~~incapacitated person-~~ individual and to obtain historical information about the ~~incapacitated person's-~~ individual's prior management of financial affairs.

409.12.2 The guardian and conservator shall, subject to court direction, allow the ~~incapacitated person-~~ individual to manage funds to his or her ability when appropriate.

409.2.3 A conservator that has special skills or expertise, or is named conservator in reliance on the conservator's representation of special skills or expertise, has a duty to use the special skills or expertise in carrying out the duties as conservator.

RCW 11.130.505 (8)

409.23 The guardian and conservator shall know and obey the law related to managing an individual's ~~incapacitated person's~~ estate, property and finances. Such knowledge shall include statutes relating to the investment of assets, restrictions imposed on investing and expenditures by RCW ~~11.88 and 11.92~~ 11.130, and laws relating to employment, income, and taxes. The guardian and conservator shall hire competent professionals as appropriate and financially feasible to assure compliance with all statutes and regulations relating to the management of funds.

409.4 A guardian shall conserve any funds and other property of the individual not expended for the individual's current needs for support, care, education, health and welfare for the individual's future needs, but if any conservator has been appointed for the individual, pay the funds and other property at least quarterly to the conservator to be conserved for the individual's future needs.

RCW 11.130.325 (3) (b) (c)

~~409.3-6~~The guardian and conservator shall maintain all bonding, blocking, and insurance requirements as may be required by the court.

~~409.47~~ The guardian and conservator shall manage the estate, property and finances of the individual with the primary goal of providing for the needs of the ~~incapacitated person~~ individual.

~~409.58~~-In certain cases, the guardian or-conservator shall consider the needs of the ~~incapacitated person's~~ individual's dependents for support, ~~or maintenance, care, education, health, or welfare.~~ provided appropriate authority for such support is obtained in advance. The wishes of the ~~incapacitated person~~ individual as well as past behavior can be considered, bearing in mind both foreseeable financial requirements of the ~~incapacitated person~~ individual and the advantages and disadvantages to the ~~incapacitated person~~ individual of such support or maintenance.

~~409.6-9~~ When the available estate, property and finances of the ~~incapacitated person~~ individual are sufficient, the guardian and conservator may petition the court for authority to make such gifts as are consistent with the wishes or past behavior of the ~~incapacitated person~~ individual, bearing in mind both foreseeable requirements of the ~~incapacitated person~~ individual and the advantages and disadvantages to the ~~incapacitated person~~ individual of such gifts, including tax consequences. If appropriate with decision making standards, the conservator may petition the court to structure the finances of the individual to establish eligibility for a public benefit including by making gifts consistent with the individual's preferences, values, and prior directions, if the conservator's action does not jeopardize the individual's welfare and otherwise is consistent with the conservator's duties.

RCW 11.130.435 (o)

~~409.710~~-The guardian and conservator shall ~~should~~ apply for all public and insurance benefits for which the ~~incapacitated person~~ individual is eligible, taking into account the net benefit to the individual's finances and estate and taking into account the preferences of the individual. When implementing necessary changes in the ~~incapacity person's~~ individual's lifestyle, the guardian and conservator shall seek to minimize the stress of any transition.

~~409.8-11~~ Except when inconsistent with the conservator's duties under RCW 11.130.505 (1) through (4) addressing fiduciary duties, self-determination and the individual's retained decision making, the substituted judgment standard, and the best interest standard, a conservator shall invest and manage the conservatorship estate as a prudent investor. The guardian- conservator shall exercise prudence in investment, shall periodically review the incapacitated person's individual's situation and assets, and make recommendations regarding appropriate investments. In the exercise of prudence ~~†The guardian- conservator shall invest and manage the conservatorship estate as a prudent investor by considering:~~

~~409.8.1 Not allow assets to sit idle except for good reasons.~~

~~409.8.2 Consider the tax consequences of decisions.~~

~~409.8.3 Consider the incapacitated person's long term ability to sustain costs of arrangements made by the guardian.~~

~~409.8.4 Consider the incapacitated person's ability to gain the benefits of specific decisions.~~

~~409.8.5 Consider the costs incurred in managing investments, including the costs of the guardian, those specialists hired by the guardian, and the costs of the investment vehicles.~~

~~409.8.6 Consider the incapacitated person's historical investment pattern and tolerance for risk, lifestyle needs, care and medical needs, estate considerations, tax consequences, and life expectancy.~~

409.11.1 The circumstances of the individual subject to conservatorship and the conservatorship estate;

409.11.2 General economic conditions;

409.11.3 The possible effect of inflation or deflation;

409.11.4 The expected tax consequences of an investment decision or strategy;

409.11.5 The role of each investment or course of action in relation to the conservatorship estate as a whole;

409.11.6 The expected total return from income and appreciation of capital;

409.11.7 The need for liquidity, regularity of income, and preservation or appreciation of capital; and

409.11.8 The special relationship or value, if any, of specific property to the individual.

RCW 11.130.505 (5)

409.13 A conservator shall make a reasonable effort to verify facts relevant to the investment and management of the conservatorship estate.

RCW 11.130.505 (7)

409.14 In investing, selecting specific property for distribution, and invoking a power of revocation or withdrawal for the use or benefit of the individual, a conservator shall consider any estate plan of the individual known or reasonably ascertainable to the conservator.

RCW 11.130.505 (9)

409.15 A conservator shall keep records of the administration of the conservatorship estate and make them available for examination on reasonable request of the individual subject to conservatorship, a guardian for the individual, or any other person the conservator or the court determines.

RCW 11.130.515 (3)

409.916 A guardian and conservator shall not commingle the funds of an ~~incapacitated person~~individual with funds of the guardian and conservator or the funds of staff. A guardian and conservator may consolidate client accounts, using appropriate accounting software and procedures, including pro-rata assignment of interest earned and fees paid and accurate individual accounting for each client's funds, provided the guardian and conservator has received specific authority from the court to do so. Each payment from a consolidated account shall be from funds held in the account on behalf of the individual for whom the payment is made.

409.10-17 The guardian and conservator shall not borrow from an ~~incapacitated person individual~~. A guardian- and conservator shall not lend funds at interest to an ~~incapacitated person_ individual~~.

409.4418 The responsibility to protect and preserve the guardianship estate, property and finances of an individual rests with the guardian and/or conservator appointed by the court and in accordance with the authority granted by the court to the guardian or conservator respectively. When the guardian or conservator is an agency, this responsibility is that of the agency and the guardian and/or conservators identified with the Certified Professional Guardianship and Conservatorship Board as the responsible guardian and/or conservators for the agency. While it may be appropriate and necessary to retain and reasonably rely upon the services of knowledgeable individuals or entities to assist in the performance of duties, it is the responsibility of the guardian and/or conservator to provide appropriate oversight and review, in order to ~~preserve the guardianship estate~~ discharge the guardian and/or conservator's duties.

409.12-19 At the death of the ~~incapacitated person individual~~, the ~~guardian conservator~~ shall comply with RCW ~~11.88.150~~ 11.130.550 and RCW 11.130.570.

RCW 11.130.550

RCW 11.130.570

409.1320 The ~~guardian conservator~~ shall obtain if necessary and insurance coverage, as appropriate and feasible, for guardianship property maintain insurance on the insurable real and personal property of the individual, unless the conservatorship estate lacks sufficient funds to pay for insurance or the court finds: (a) The property lacks sufficient equity; or (b) Insuring the property would unreasonably dissipate the conservatorship estate or otherwise not be in the best interest of the individual. A guardian shall obtain and maintain insurance only to the extent the guardian has been granted authority over property of the individual, there are sufficient funds and it's in the best interests of the individual.

RCW 11.130.505 (10)

Guardianship and Conservatorship Program Rules Regulations

410 Guardian and Conservator Fees and Expenses

410.1 The guardian and/or conservator is entitled to reasonable compensation for services rendered on behalf of the ~~incapacitated person individual subject to guardianship and/or conservatorship.~~ The guardian or conservator has a duty to conserve the estate, property and finances of the ~~incapacitated person individual.~~ Accordingly, decisions to provide services and incur fees shall be made in such a way as to reflect this duty. ~~Services requiring a minimal degree of training, skill and experience should be billed accordingly.~~

410.2 All compensation for the services and expenses of the guardian and/or conservator shall be documented, reasonable in amount, and incurred for the ~~incapacitated person's welfare of the individual. welfare.~~ ~~The guardian shall not pay or advance himself/herself fees or expenses from any source except as approved by the court.~~ Billing for services shall not exceed the typical amounts paid for comparable services in the community, at a rate for which the service can be performed in the most efficient and cost-effective manner. The guardian or conservator shall review each of the following factors in determining the reasonableness of ~~his/her their~~ fee: ~~(a) the necessity of the service, (b) the time required, (c) the degree of skill and experience required to perform the service, and (d) the cost of any reasonable alternative~~

410.2.1 The necessity and quality of the services provided;

410.2.2 The experience, training, professional standing, and skills of the guardian or conservator;

410.2.3 The difficulty of the services performed, including the degree of skill and care required;

410.2.4 The conditions and circumstances under which a service was performed, including whether the service was provided outside regular business hours or under dangerous or extraordinary conditions;

410.2.5 The effect of the services on the individual;

410.2.6 The extent to which the services provided were or were not consistent with the guardian's plan or conservator's plan; and

410.2.7 The fees customarily paid to a person that performs a like service in the community.

RCW 11.130.105 (3)

410.3 A guardian and conservator shall not pay or advance to themselves fees or expenses from any source except as approved by the court. When requesting court approval, the guardian and conservator shall disclose all compensation, fees and expenses requested, charged, or received in a guardianship and/or conservatorship case to the court and ~~parties entitled to notice~~ to notice parties. ~~The guardian shall maintain contemporaneous time and billings records for services which shall state: (a) date and time spent, (b) service performed, (c) the identity and job classification of the person performing the service, (d) expenses incurred, and (e) subject matter of conferences, staffing, or telephone calls of significant duration.~~

410.4 The guardian and conservator shall maintain contemporaneous time and billings records for services which shall state: (a) date and time spent, (b) service performed, (c) the identity and job classification of the person performing the service, (d) expenses incurred, and (e) subject matter of conferences, staffing, or telephone calls of significant duration.

410.45 The duties of a guardian and conservator to an ~~incapacitated person~~ individual subject to guardianship and/or conservatorship are not conditioned upon the person's ability to compensate the guardian and conservator.

~~410.56 If the guardian is also an attorney, billings shall be in accordance with RCW 11.92.180. The guardian and conservator may charge fees for time spent opposing a modification, termination, or removal sought by an individual subject to guardianship and/or conservatorship only to the extent the court determines the opposition was reasonably necessary to protect the interests of the individual.~~

RCW 11.130.105 (7)

Guardianship and Conservatorship Program Rules Regulations

411 Changes of Circumstances/~~Limitation~~Modification/Termination

411.1 The guardian and conservator has an affirmative obligation to be alert to changes in the ~~incapacitated person's-~~ individual subject to guardianship and/or conservatorship's condition or circumstances, to seek out information that will provide a basis for termination or modification, and report to the court when ~~an increase or reduction~~ a modification or termination in the authority of the guardian and/or conservator should be considered.

411.1.1 A guardian or conservator shall immediately (but not later than thirty days) notify the court if the condition of the individual has changed so that the individual is capable of exercising rights previously removed.

411.1.2 A guardian shall file with the court within thirty days of any substantial change in the condition of the individual under guardianship or any changes in the residence of the individual and shall provide a copy of the notice to the individual and any notice parties.

411.1.3 A conservator shall notify the court within thirty days of any substantial change in the value of the property of the individual subject to conservatorship and shall provide a copy of the notice to the individual, any notice parties, and schedule a hearing for the court to review the adequacy of the bond or other verified receipt.

RCW 11.130.325 (6) (7)

RCW 11.130.505 (13) (14)

~~411.2 The guardian and conservator shall seek out information that will provide a basis for termination or limitation~~ modification of the guardianship and/or conservatorship.

~~411.3 Upon indication that termination or limitation~~ modification of the guardianship and/or conservatorship order is warranted, the guardian and conservator shall request court action.

411.42 The guardian and conservator shall assist the ~~incapacitated person-~~ individual to terminate or ~~limit-~~ modify the- a guardianship and/or conservatorship and arrange for independent representation for the ~~incapacitated person-~~ individual when necessary.

411.2.1 If an individual seeks to modify or terminate a guardianship and/or conservatorship, or remove the guardian or conservator, the guardian or conservator shall inform the individual of their right to counsel of their choice. The guardian or conservator shall obtain independent counsel if feasible, or request court appointed counsel for the individual.

RCW 11.130.315 (2) (a)

RCW 11.130.355 (7)

RCW 11.130. 425 (2) (a)

RCW 11.130.570 (9)

411.5 If the guardianship and/or conservatorship is a limited guardianship and/or limited conservatorship, the guardian or conservator shall report to the court when there are circumstances in which the ~~incapacitated person-~~ individual subject to guardianship and/or conservatorship appears to require assistance which exceeds the authority of the guardian or conservator.

411.6 If ~~the guardianship is of the person only~~ a guardianship has been established, the guardian shall ~~report to the court when protection of the incapacitated person's estate may be necessary~~ bring a proceeding for a conservatorship or protective arrangement instead of conservatorship if necessary to protect the individual's property.

RCW 11.130.325 (3) (a)

411.7 If ~~the guardianship is of the estate only~~ a conservatorship has been established, the ~~guardian-conservator~~ shall report to the court when protection of the ~~person~~ individual through a guardianship or protective arrangement instead of guardianship may be necessary.

Guardianship and Conservatorship Program Rules Regulations

412 Sale or Purchase of Guardianship- and/or Conservatorship Practice

412.1 A certified professional guardian and conservator may choose to sell all or substantially all of a guardianship and/or conservatorship practice to another certified professional guardian and conservator, including goodwill, subject to the following guideline: to the extent that the sale of the practice contemplates a substitution of guardian and/or conservator for any of the guardian and conservator's current clients, court approval, with notice to all ~~incapacitated persons- individuals~~ subject to guardianship and/or conservatorship and all notice parties, shall be obtained at least 60 days before completing the sale. Regardless of whether any sale or transfer occurs, a guardian and conservator remains subject to all of these standards with respect to any ~~incapacitated persons- individuals~~ the guardian and conservator is appointed for, including the duty to ensure continuity of care, until the guardian and conservator is discharged by the court.

Guardianship and Conservatorship Program Rules Regulations

413 Responsibilities of Certified Professional Guardian and Conservator Agencies

413.1 The designated Certified Professional Guardian and Conservator (CPGC) is responsible for the actions of the agency for which they serve as designated CPGC.

413.2 A CPGC is bound by the Standards of Practice notwithstanding that the professional guardian and conservator acted at the direction of another person.

413.3 A designated CPGC shall make reasonable efforts to ensure that the conduct of non-guardian and conservator agency employees is compatible with the professional obligations of the professional guardian and conservator.

Guardianship and Conservatorship Program Rules Regulations

414 Delegation

414.1 If a Certified Professional Guardian and Conservator (CPGC) delegates a power to an agent, the CPGC shall exercise reasonable care, skill, and caution in:

414.1.1 Selecting the agent

414.1.2 Establishing the scope and terms of the agent's work in accordance with the guardian's plan or the conservator's plan;

414.1.3 Monitoring the agent's performance and compliance with the delegation

414.1.4 Redressing an act or omission of the agent which would constitute a breach of the guardian's or conservator's duties if done by the guardian or conservator

414.1.5 Ensuring a background check is conducted on the agent, or conducted on persons employed by the agent when those persons are providing services to the individual subject to a guardianship or conservatorship

RCW 11.130.125 Use of Agent by Guardian or Conservator

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

415 Record Keeping

415.1 Professional guardian and conservators shall maintain complete and accurate records of all guardianship and/or conservatorship cases for which they are appointed. The records shall be retained for a minimum period of seven (7) years from the earlier of the time the guardianship and/or conservatorship case is closed, or the guardian and conservator's removal from the case has been approved by the court.

415.2 The designated Professional Guardian and Conservator shall manage the CPGC Agency record keeping so that complete and accurate records are maintained for all guardianship and/or conservatorship cases of the agency. The records shall be retained for a minimum period of seven (7) years from the earlier of the time the guardianship and/or conservatorship case is closed, or the CPGC Agency's removal from the case has been approved by the court