Meeting Minutes September 12,2022



Certified Professional Guardianship and Conservatorship Board

Monday, September 12, 2022 Zoom Meeting 7:30 a.m. – 9:00 a.m.

MEETING	MEETING MINUTES						
Members Present	Members Absent						
Judge Diana Kiesel, Chair	Ms. Amanda Witthauer						
Judge Grant Blinn ¹	Ms. Melanie Maxwell						
Judge Robert Lewis	Ms. Susie Starrfield						
Judge Ferguson-Brown							
Dr. K. Penney Sanders	Staff Present						
Mr. William Reeves	Ms. Stacey Johnson						
Ms. Lisa Malpass	Ms. Kathy Bowman						
Mr. Dan Smerken	Ms. Thai Kien						
Dr. Anita Souza	Mr. Samar Malik						
Ms. Kristina Hammond	Ms. Sherri White						
	Ms. Kay King						
	Ms. Rhonda Scott						
	Ms. Linda Vass						
	Ms. Maureen Roberts						

Guests - See last page

1. Meeting Called to Order

Judge Diana Kiesel called the September 12, 2022 Certified Professional Guardianship and Conservatorship Board meeting to order at 7:33 a.m.

2. Welcome, Roll Call

Judge Kiesel welcomed all present and thanked the public for their patience as we adjust to new agenda.

Motion: A motion was made and seconded to approve the August 8, 2022 Board meeting minutes. The motion passed.

3. Executive Session (Closed to Public)

4. Reconvene (Open to Public)

¹ Judge Blinn joined at 7:57 a.m.

5. Chair's Report

Judge Kiesel announced that all CPGC's in attendance for the October Board meeting will be eligible to receive 1 CEU. Two guest speakers, experienced in the field of mental health and disabilities, will be presenting on how CPGC's can better support persons with disabilities.

6. Grievance Report

Staff reported that seven new (7) grievances were received during the month of August and sixty-two (62) for the year. To date, the Board has dismissed twenty-one (21) grievances received in 2022 as incomplete or for no jurisdiction. At this time, there are 265 active CPGCs, an increase of 8 over last month.

7. Vote on Executive Session Discussion

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

Motion: A motion was made and seconded to deny Shelley Cooke's application for

certification for insufficient transferable experience. The motion passed.

Motion: A motion was made to approve Jacob Dennis' application for certification with

transferable skills in social services. The motion passed.

Motion: A motion was made to deny Katie Osgood's application for certification for

insufficient transferable experience. The motion passed.

Motion: A motion was made to defer Dawn Powers' application for certification and

request additional detail. The motion passed.

Motion: A motion was made to conditionally approve Heather Suiter's application for

certification, conditioned on the completion of mandatory training, with

transferable skills in financial. The motion passed.

On behalf of the Standards of Practice Committee, Judge Blinn presented the following grievances for Board action. Members of the Standards of Practice Committee abstained.

Motion: A motion was made to forward complete grievance 2022-058 to the Superior

Court. The motion passed.

Motion: A motion was made to dismiss grievance 2022-060 for no jurisdiction. The

motion passed.

Motion: A motion was made to dismiss grievance 2022-061 as incomplete. The motion

passed.

Motion: A motion was made to forward complete grievance 2022-062 to the Superior

Court. The motion passed.

Motion: A motion was made to dismiss grievance 2022-014 following court review. The

motion passed.

Motion: A motion was made to dismiss grievance 2022-016 following court review. The

motion passed.

Motion: A motion was made to dismiss grievance 2022-039 following court review. The

motion passed.

Motion: A motion was made to dismiss grievance 2022-042 following court review. The

motion passed.

Motion: A motion was made to dismiss grievance 2022-023 for no actionable conduct.

The motion passed.

8. Wrap Up/Adjourn

Dan Smerken noted that the long October meeting will include a 30-minute discussion on the new GR 23 language, including time for public comment. With no other business to discuss, the September 12, 2022 CPGC Board meeting was adjourned at 8:51 a.m. A special Board meeting will take place Wednesday, September 14, at 8:00 a.m. via Zoom teleconference.

Recap of Motions:

	MOTION SUMMARY	STATUS
Motion:	A motion was made to approve the minutes of the August 8, 2022 Board meeting.	Passed
Motion:	A motion was made to forward complete grievance 2022-058 to the Superior Court. The motion passed.	Passed
Motion:	A motion was made to dismiss grievance 2022-060 for no jurisdiction. The motion passed.	Passed
Motion:	A motion was made to dismiss grievance 2022-061 as incomplete. The motion passed.	Passed
Motion:	A motion was made to forward complete grievance 2022-062 to the Superior Court. The motion passed.	Passed
Motion:	A motion was made to dismiss grievance 2022-014 following court review. The motion passed.	Passed
Motion:	A motion was made to dismiss grievance 2022-016 following court review. The motion passed.	Passed
Motion:	A motion was made to dismiss grievance 2022-039 following court review. The motion passed.	Passed
Motion:	A motion was made to dismiss grievance 2022-042 following court review. The motion passed.	Passed
Motion:	A motion was made to dismiss grievance 2022-023 for no actionable conduct. The motion passed.	Passed

Guests:

Stephen Manning Samantha Hellwig Michele Penberthy Sarah Tremblay Kecia Hedgeman Scott Wolfrom Beth Peoples Karen Klem Newman Deborah Jameson

Meeting Minutes September 14,2022



Certified Professional Guardianship and Conservatorship Board

Monday, September 14, 2022 Zoom Meeting 8:00 a.m. – 9:00 a.m.

MEETING	MEETING MINUTES						
Members Present	Members Absent						
Judge Diana Kiesel, Chair	Ms. Amanda Witthauer						
Judge Grant Blinn	Ms. Melanie Maxwell						
Judge Robert Lewis	Ms. Susie Starrfield						
Judge Ferguson-Brown ¹							
Dr. K. Penney Sanders	Staff Present						
Mr. William Reeves	Ms. Stacey Johnson						
Ms. Lisa Malpass ²	Ms. Kathy Bowman						
Mr. Dan Smerken	Ms. Thai Kien						
Dr. Anita Souza	Mr. Samar Malik						
Ms. Kristina Hammond	Ms. Sherri White						
	Ms. Kay King						
	Ms. Rhonda Scott						
	Ms. Linda Vass						
	Ms. Maureen Roberts						

Guests - See last page

1. Meeting Called to Order

Judge Diana Kiesel called the September 14, 2022 Certified Professional Guardianship and Conservatorship Board meeting to order at 8:00 a.m.

2. Welcome, Roll Call

Judge Kiesel welcomed all present.

3. Executive Session (Closed to Public)

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

Motion:

Judge Blinn moved that the Board, in response to a motion to dismiss grievance 2016-087 in superior court, should file a response that sets out the correct procedural history of the grievance for court, sets out options, and states that the Board takes no position on the matter. Seconded. Passed. Judge Lewis dissents on the matter of taking no position.

¹ Joined at 8:13 a.m.

² Joined at 8:00 a.m.

5. Wrap Up/Adjourn

The September 14, 2022 CPGC Board meeting was adjourned at 8:39 a.m. The next Board meeting will take place Monday, October 10 at 9:00 a.m. via Zoom teleconference.

Recap of Motions:

•	MOTION SUMMARY	STATUS
Motion:	A motion was made and seconded that the Board should file a response that sets out the correct procedural history of the grievance for court, sets out options, and states that the Board takes no position on the matter.	Passed

Guests:

AAG Stephen Manning Coya Kirby

Stephen Trower Deborah Jameson

Elizabeth Gilpin Chris Neil

Rhonda Bowens

Public Comments



September 23, 2022

Certified Professional Guardianship & Conservatorship Board

Re: GR 23 & Board Member Confidentiality

Dear Board Members,

Thank you for reviewing GR 23 and expressing an interest in making the Board more transparent. I suggest, in the interest of transparency and public trust, the Board review and edit its bylaws, particularly Article IV section 4, <u>Duty of Confidentiality</u> – which require board members to sign confidentiality agreements each October. ¹

The current bylaws² state board members must maintain the confidentiality of "all information" relating to discussions at board and committee meetings. Making all board and committee meetings confidential means board members are prohibited from sharing those discussions and materials. Board members are only allowed to freely discusses actions after "adopted" by the Board. This confidentially is overly restrictive, inconsistent with GR 23 and contrary to the Board's stated goal of transparency.

The members of the Board are intentionally selected from various fields of expertise. Any rule prohibiting board members from discussing matters under consideration with stakeholders makes it impossible for the Board to share and receive feedback about work in progress. Barring board members from discussing or soliciting feedback about discussions at board and committee meetings is inconsistent with the public nature and transparent goals of the Board.

The Board should correct the bylaws to make clear that board members are free to discuss and share all information relating to all discussion at board and committee meetings; and prohibit discussion of only those few matters conducted in Executive Session, namely deliberations on disciplinary matters and the details of CPGC applications (see GR 23(c)(3)(xii).

Thank you for your consideration of this idea.

Very truly yours,

CHRISTOPHER E. NEIL

PGS, Director CPGC Board member 2008-2012

Enc: Current Confidentiality Bylaw Suggested Edits to Bylaws

¹ The confidentiality requirement was first discussed at the January 9, 2017, Board meeting (see minutes at page 2, paragraph 1). The first Confidentiality Agreement was circulated in the October 2017 meeting packet, see Confidentiality Agreements page 9 and 10 of the October 16, 2017, meeting packet

² https://www.courts.wa.gov/court_rules/pdf/GR/GA_GR_23_00_00.pdf

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.

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Suggested CPGC Board Bylaw Edits

Section 4: General Duties

Duty of Confidentiality:

While Board members are free to discuss <u>any and all information relating</u> to discussions at board and committee meetings, including any and all materials, e.g. correspondence, reports, etc., actions adopted by the Board, disclosing or distributing any information concerning any confidential discussion of such items during the Board meeting is prohibited.

However, aA board member shall respect and maintain the confidentiality of any and all information discussed during Executive Session including any and all materials, e.g. correspondence, reports, etc., 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. Annually in October, each board member will sign a confidentiality agreement in which he or she acknowledges a duty of confidentiality regarding Executive Session matters.

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

NEIL & NEIL, P.S.

ATTORNEYS AT LAW 5302 PACIFIC AVENUE TACOMA, WASHINGTON 98408 (253) 475-8600 (253) 473-5746 FAX

October 6, 2022

CPGC Board c/o Administrative Office of the Courts PO Box 41170 Olympia WA 98504-1170

Sent by email to avoid delay

Re: Executive Session

Dear Board Members:

The issue of the topics that can be discussed in executive session was the subject of a recent amendment to GR 23. After agreeing to require the Board to follow the Open Public Meetings Act, the Supreme Court changed its position after receiving a request by the AOC (see attached). The Supreme Court, through Judge Yu, suggested the Board either propose an amendment to GR 23 or create a Board regulation. The Board has not informed the public if it has chosen one of the options, but the Board has clearly and repeatedly stated it wants to follow the spirit of the Open Public Meetings Act.

I would recommend a short, simple change to GR 23 because the current language in GR 23 is unclear and any Board regulation will not clear up the confusion. GR 23 now says:

The Board shall hold meetings as determined to be necessary by the Chair. Meetings of the Board will be open to the public except for executive session, review panel, or disciplinary meetings prior to filing of a disciplinary complaint.

This language is unclear because it appears there are 3 instances when the Board can meet privately: (1) executive session (for an undefined purpose); (2) for review panels (perhaps this means conflict review panels); or (3) for disciplinary meetings prior to the filing of a complaint (but not after a complaint is filed).

Looking at the definitions in the Board's Administrative Regulations provides no assistance. Executive session is defined as "a meeting of a quorum of the Board, declared by the Board as an executive session, which meeting is not open to the public". That might imply the Board can declare any session to be an executive session, which cannot be correct since it runs contrary to the transparency required by GR 23.

I would recommend the following change to GR 23:

The Board shall hold meetings as determined to be necessary by the Chair. Meetings of the Board will be open to the public except for executive session. Executive session includes discussion of disciplinary matters, applications, application appeals, and current litigation or litigation that is reasonably anticipated to occur with the next six months involving the Board or Board members in their role as Board members. The presence of an attorney for the Board, whether in person or through an opinion letter, does not justify an executive session.

I believe this change captures the spirit of the Open Public Meetings Act by limiting executive sessions to those matters that must remain confidential or privileged. I made the exception for attorney advice narrow because I see no reason why the public should not be informed of legal advice given to the Board by the Attorney General's Office. The public trust is enhanced by as much access as possible to the Board's process.

I would like to address two other executive session issues: disciplinary matters and applications.

Disciplinary Matters: I do not know who is present in the "room" during disciplinary matters executive sessions now that meetings are on Zoom. When the Board still had in-person meetings at the AOC conference room at SeaTac, and I was present, I did not see staff and members of the Standards of Practice Committee leave the room. That is directly contrary to the policy that was followed when I staffed the Board and Linda Moran, AAG advised the Board.

AAG Moran's position was that the Board is functioning as a deliberative body (like a jury) when in executive session and you cannot have the prosecutor (the Standard of Practice Committee) in the room during those deliberations. Staff was also excluded because staff had conducted much of the investigation upon which the SOPC made its recommendation. On rare occasions, the AAG, with members of the SOPC, and the guardian who was being investigated made presentations in executive session to the Board and then left to allow the Board to deliberate privately.

The Board should have the SOPC and all staff members who conduct investigations leave the Executive Session, so the deliberative process with the trier of fact (analogous to a jury) is not clouded by unnecessary individuals in the room. The names of the participants in executive session should be announced in the public session. Again, this is for ensuring transparency and accountability.

Letter to Board re GR 23 October 6, 2022 Page 3

Applications: I have also previously proposed the Board consider making the application process anonymous. This could easily be done by assigning a number to applicants and by removing identifying information. This would allow the discussion to be in public session and not in executive session. The only information the Board needs in its application deliberations is education level and relevant experience. Other identifying characteristics, which could lead to bias, should be removed.

For example, my application could have been reduced to the following:

Applicant is a practicing attorney with a juris doctor degree. They have practiced in the area of guardianship representing lay and professional guardians for more than 10 years. They have served as a guardian ad litem (now court visitor) for more than 20 years.

Thank you for your consideration. I know this has been a thoughtful process for the Board. The advent of online meetings has made it easier than ever for the state-wide Board to meet and transparently conduct its business. It is much appreciated by the stakeholders. The online meeting platform must, however, maintain the formalities of in-person meetings to project the Board's commitment to openness and transparency.

I hope that at the October Board meeting, the Board will engage in a dialog with members of the public on this topic. I think brainstorming this issue will produce the best result. It will also demonstrate the Board's commitment to the process of transparency.

Very truly yours,

DEBORAH JAMESON





Dawn Marie Rubio, J.D. State Court Administrator

April 14, 2022

TO: Justices of the Supreme Court

FROM: Christopher Stanley, Director, Management Services Division, AOC

RE: Recent Changes to General Rule 23

General Rule 23 establishes the standards and criteria for the certification of professional guardians and conservators. Section (c)(1) establishes the Certified Professional Guardianship and Conservatorship Board (the "Board"), and Section (c)(3)(xii) regulates meetings of the Board. The staff that support the Board reside within the Management Services Division of the Administrative Office of the Courts.

The Court recently amended GR 23(c)(3)(xii) to provide that Board meetings are subject to the *Open Public Meetings Act* (OPMA), Chapter 42.30 RCW. For the reasons stated below, this is causing grave concerns. Therefore, I am respectfully asking the Court to reconsider the recent amendment that subjects the Board to OPMA.

The Court adopted proponent Deborah Jameson's proposed rule change in its entirety. However, Ms. Jameson did not accurately represent the facts. For example, Ms. Jameson incorrectly stated in her cover letter that the Board was established by an act of the legislature, but that is incorrect. The Board was established by the Supreme Court in GR 23(c). I reference this incorrect statement because it is the basis for the request that the Board be subject to OPMA.

OPMA does not apply to the Judicial Branch as it is an independent and co-equal branch of government which includes the boards, commissions, and task forces established by the Supreme Court. This is not to say that judicial agencies do not make their meetings public; in fact, GR 23(c)(3)(xii) requires Board meetings to be open to the public. However, specifically stating that a board of the Court is subject to OPMA makes it more likely that other judicial agency boards, commissions, and task forces will be subject to OPMA. Additionally, it opens the door to these same entities being subject to other "good government" laws, such as the Public Records Act, Chapter 42.56 RCW.

The petitioner claims that the Board is improperly using executive sessions to shield the public from their deliberations. If the Court is concerned about the transparency of meetings held by the Board, a better approach would be to be more explicit about what matters may be discussed in executive session. The Court could also advise the Board to more closely adhere to the spirit of the rule as written. These approaches could at least be attempted before subjecting a judicial agency Board to the entire OPMA.

As a related matter, this issue presents the opportunity for the Court to address open meetings in a General Rule, as it has with public court records through GR 31 and GR 31.1. We encourage the Court to convene a task force or stakeholder meeting to address open public meetings for judicial agencies prior to enacting this problematic amendment.

Grievance Report September, 2022

Certified Professional Guardians and Conservators Grievance Status September 30, 2022

New Grievances Received in September 2022:	5
2022 Grievances Dismissed by Board on September 12, 2022:	7
2022 Grievances Forwarded to Superior Court on September 12, 2022:	2

Total 2022 Grievances Received:	67
Total 2022 Grievances Forwarded to Superior Court:	20
Total 2022 Grievances Pending CRC Review	1
Total 2022 Grievances Pending Staff Investigation	1
Total 2022 Grievances Dismissed:	40
(No Jurisdiction, Insufficient Grievance, or Following Court Review)	

Please note that the numbers reported in this section will not necessarily be equal to the total number of grievances received; this is due to the timing of when new grievances are received and in process of review by the Board.

Active CPGCs: 265

Pre-2022 Grievance Status – September 2022	2021	2020	2019	2018	2017	2016	Total
Grievances Resolved this Month:	1	2					3
Grievances Remaining Requiring Investigation*:	21	1	1	0	0	0	23
		1	1	1		11	
Pre-2022 Grievances Pending*	2021	2020	2019	2018	2017	2016	Total
Voluntary Surrender/Litigation:		1	2				3
· · · · · · · · · · · · · · · · · ·							
Conflicts Review Committee:		_					

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

Forward to Court: Complaint/Hearing:

Administrative Decertification:

["Grievances in Pending Status are not counted as Grievances Requiring investigation.]							
Resolution of Pre-2022 Grievances – September 2022	2021	2020	2019	2018	2017	2016	Total
Dismissal – No Jurisdiction							
Dismissal – No Actionable Conduct	1	2					3
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 PRE-2022 GRIEVANCES RESOLVED IN SEPTEMBER	1	2					3

2

1

	2021	2020	2019	2018	2017	2016	Total
Total Grievances Received by Year	95	80	77	85	104	104	545
Dismissal – No Jurisdiction	9	21	15	22	30	20	117
Dismissal – No Actionable Conduct	54	43	40	52	60	55	300
Dismissal – Miscellaneous		1					1
Dismissal – Insufficient Grievance	7	6	5	3	1	2	24
Dismissal – UGA Court Referral		3					3
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		1	3	1	1	3	13
Termination – Voluntary Surrender			1	2	8	15	26
Termination – Decertification			5	1	1		7
Total Pre-2022 Grievances Resolved:	74	78	76	85	104	103	511

Guardians/Agencies with Multiple Grievances

September 2022

ID	Year Cert.	Unresolved Grievances	Year(s) Grievances Received
Α	2015	3	2021 (1), 2022 (2)
В	2009	2	2021 (2)
С	2016	11	2021 (4), 2022 (7)
D	2014	2	2021 (2)
Е	2011	3	2021 (3)
F	2002	2	2021 (2)
G	2001	2	2019 (1), 2020 (1)
Н	2011	2	2021 (1), 2022 (1)
I	2001	3	2022 (3)
J	2006	2	2021 (2)
K	2011	4	2022 (4)
		36	

Of the 48 currently unresolved grievances, 36 involve 11 Certified Professional Guardians and Conservators or Agencies with 2 or more grievances.

Diversity, Equity and Inclusion Committee Panel Presentation:

Disability in Diversity, Equity and Inclusion

Disability in Diversity, Equity, and Inclusion Presentation Biographies

Anji Jorstad

Anji Jorstad is a Licensed Advanced Social Worker and is employed by Snohomish County Human Services as the direct service Behavioral Health Supervisor. Anji oversees programs designed to provide outreach to youth and adults with behavioral health issues and help them overcome barriers and connect to community services. Prior to her county employment, Anji spent 20 years working in Snohomish County in the community mental health field, first as a clinician and later as a supervisor and director, providing direct services to and developing housing resources for adults with severe mental illness and co-occurring substance use disorders. Anji and her husband Jesse and their two amazing boys live in Lake Stevens, where Anji serves as a City Councilwoman. In her free time, Anji enjoys spending time with her family, traveling, and trying new things.

Cathy Knight

Cathy Knight is a long-time advocate for building communities that value and support people of all ages and abilities. In 2021, Cathy returned to her work on state-level policy issues with the Washington Association of Area Agencies on Aging (W4A), the collective voice for the thirteen local Area Agencies on Aging (AAAs) in Washington State. For over 10 years, Cathy was W4A's State Director before leaving in 2017 to become the Director of the Division of Aging and Disability Services (ADS) in the City of Seattle Human Services Department. ADS is also the Area Agency on Aging (or AAA) for Seattle-King County through a partnership between the City of Seattle and King County. Cathy has a Ph.D. in Behavioral Disabilities from the University of Wisconsin-Madison and over 40 years of combined experience in the fields of aging and developmental disabilities, having worked in university settings, state and local government and consumer-based advocacy organizations in Ohio and Wisconsin before moving to Washington State in 1989.

Sponsori										
Title of A	ctivity:	Disability in Diversity, Equity, and	Disability in Diversity, Equity, and Inclusion							
Contact:		Linda Vass, Linda.Vass@courts	<u>.wa.gov</u> , (360)	584-40	095					
Location		Zoom								
Date(s):		Monday, October 10, 2022	Begin Time:	10:00) AM	End Time:	11:00 AM			
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In accordance with Cont Education Units (CEUs)	tinuing Education <u>Regulation</u>	1 207, AOC Staff has APPI	ROVED this request for	Continuing
Stacey Johnson	Office of Guardianship an (360) 705-5302 Stacey.Johnson@courts.v			
copy of this form. The materials to the Admin	rofessional Guardianship sponsor shall verify attend sistrative Office of the Cou courts.wa.gov within 30 o	dance by providing a cor rts, PO Box 41170, Olym	npleted attendance fo pia WA 98504-1170 or	
Please ret	urn this form to the	sponsor PRIOR to	leaving today's p	rogram
	<u>Attestation</u>	of Program Complet	<u>ion</u>	
	v, I attest that I have attende stand that if I do not return tl			
Print Nan	ne	Signature	CPGC#	Date