

Meeting Minutes
October 14, 2024



Certified Professional Guardianship and Conservatorship Board

Monday, October 14, 2024
9:00 a.m. – 1:00 p.m.

MEETING MINUTES

Members Present

Judge Cadine Ferguson-Brown, Chair
Commissioner Soloman Kim, Vice Chair
Judge Jeremy Schmidt¹
Commissioner Lynn Fleischbein
Ms. Kristina Hammond
Ms. Camille Minogue
Dr. K. Penney Sanders
Mr. Daniel Smerken
Dr. Anita Souza
Ms. Suzanne Thompson Wininger²

Staff Present

Ms. Stacey Johnson
Ms. Kathy Bowman
Ms. Cynthia Kennedy
Ms. Thai Kien
Ms. Kay King
Ms. Collette Mason
Ms. Maureen Roberts
Ms. Rhonda Scott
Ms. Sherri White

Members Absent

Judge Nancy Retsinas

Guests – See last page

1. Meeting Called to Order

Judge Ferguson-Brown called the October 14, 2024 Certified Professional Guardianship and Conservatorship (CPGC) Board meeting to order at 9:00 a.m.

2. Welcome, Roll Call & Approval of Minutes

Judge Ferguson-Brown welcomed all present and called for approval of the minutes.

Motion: Mr. Smerken moved to approve the September 9, 2024 minutes as written. Dr. Sanders seconded. The motion passed.

3. Chair's Report

Judge Ferguson-Brown reminded the group that the November meeting will be held on the 18th to accommodate the observation of Veterans' Day. The meeting will begin at 7:30 am. She thanked and welcomed the new Board members. Committee Co-Chairs were announced. Commissioner Soloman Kim was nominated as Vice Chair of the Board.

Motion: Dr. Sanders moved to appoint Commissioner Soloman Kim as Vice Chair of the Board. Mr. Smerken seconded. The motion passed.

4. Public Comment Period

The Board heard from Deborah Jameson, on behalf of WAPG, regarding the CPGC application process. She observed that applicants often need more experience in

¹ Judge Schmidt joined at 10:10 am.

² Ms. Thompson Wininger left at 11:29 am.

decision-making or the use of independent judgement for the benefit of others. She suggested that the tentative mentor program is insufficient to meet this need, as the mentors would not give this responsibility to apprentices/new hires.

Discussion around OPG mentorship.

The Board heard from CPGC Christopher Fast, regarding the CPGC searchable database. He was unable to research a past CPGC using the Guardian/Conservator Directory. He noted that other licensed professions such as attorneys, nurses, etc., have permanent searchable databases. Showing information on inactive and decertified CPGCs would be useful for two main reasons:

1. Prevents decertified from starting over.
2. Ability to locate CPGCs for legal proceedings.

It would also recognize honorable retirees and past CPGCs.

Ms. Johnson noted that AOC IT has looked into this previously, and could revisit the issue.

5. Application Committee Report

Ms. White presented on the annual recertification process. She covered Regulation 700, administrative reminders, and hearings. Slides available in meeting materials.

6. Regulations Committee

Mr. Smerken proposed that the board approve a technical correction to Regulation 508.3 Resolution with Complaint, Notice to Answer, The correction would remove two redundant paragraphs. Mr. Smerken also proposed changes to Regulation 509.5 Interim Suspension for Conviction of a Crime. If approved, the proposed changes will be posted for Public comment. To be voted on with other action items.

7. Grievance Report

Ms. Scott presented the October grievance report, which is available in the meeting packet. Last month, the Board received nine (9) new grievances. There are a total of twenty-nine (29) unresolved grievances. Currently, there are two hundred sixty (260) active CPGCs.

8. Break

9. Executive Session (Closed to Public)

10. Reconvene (Open to Public)

11. Vote on Executive Session Discussion

On behalf of the Regulations Committee, Mr. Smerken presented proposed regulation amendments for Board action:

Motion: Mr. Smerken moved to amend Regulation 508.3 with a technical correction, effective immediately. Commissioner Kim seconded. None opposed. Judge Schmidt abstained.

Motion: Mr. Smerken moved to amend Regulation 509.5 and publish the proposed change for public comment. Commissioner Kim seconded. None opposed. Judge Schmidt abstained.

On behalf of the Application Committee, Ms. Minogue presented the following application for Board action:

Motion: Ms. Minogue moved to conditionally approve Katie Stoner's application for certification, with transferrable skills in social services and financial, conditioned on the successful completion of the UW program. Dr. Sanders seconded. None opposed. Ms. Thompson Winger abstained. The motion carries.

On behalf of the Standards of Practice Committee, Dr. Sanders presented the following grievances for Board action:

Motion: Dr. Sanders moved to forward grievance 2024-050 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained. The motion carries.

Motion: Dr. Sanders moved to forward grievance 2024-051 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained. The motion carries.

Motion: Dr. Sanders moved to forward grievance 2024-052 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt abstained. Ms. Thompson Winger recused. The motion carries.

Motion: Dr. Sanders moved to dismiss grievance 2024-053 as an incomplete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained. The motion carries.

Motion: Dr. Sanders moved to dismiss grievance 2024-054 for no jurisdiction. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained. The motion carries.

Motion: Dr. Sanders moved to forward grievance 2024-055 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained. The motion carries.

Motion: Dr. Sanders moved to have staff investigate grievance 2024-056. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained. The motion carries.

Motion: Dr. Sanders moved to forward grievance 2024-057 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained. The motion carries.

Motion: Dr. Sanders moved to forward grievance 2024-058 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None

opposed. Judge Schmidt and Ms. Thompson Wininger abstained. The motion carries.

Motion: Dr. Sanders moved to dismiss grievance 2024-009 as it has been adjudicated by court. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Wininger abstained. The motion carries.

Motion: Dr. Sanders moved to defer grievance 2023-035 pending additional information. Commissioner Fleischbein seconded. None opposed. Judge Schmidt abstained. Ms. Thompson Wininger recused. The motion carries.

Motion: Dr. Sanders moved to have staff investigate grievance 2024-037. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Wininger abstained. The motion carries.

Motion: Dr. Sanders moved to dismiss grievance 2024-038 following review of court actions. Commissioner Fleischbein seconded. None opposed, Judge Schmidt abstained. Ms. Thompson Wininger recused. The motion carries.

Motion: Dr. Sanders moved for the Board to resolve grievance 2024-005. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Wininger abstained. The motion carries.

Motion: Dr. Sanders moved to proceed to a hearing on November 7, 2024 regarding grievance 2022-059. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Wininger abstained. The motion carries.

12. Wrap Up/Adjourn

Judge Ferguson-Brown expressed her appreciation for the members of the Board. With no other business to discuss, Judge Ferguson-Brown adjourned the October 14, 2024 CPGC Board meeting at 12:05 p.m. The next Board meeting will take place via Zoom on November 18, 2024 beginning at 7:30 a.m.

Recap of Motions:

MOTION SUMMARY		STATUS
Motion	Mr. Smerken moved to approve the September 9, 2024 minutes as written. Dr. Sanders seconded.	Passed
Motion	Dr. Sanders moved to appoint Commissioner Soloman Kim as Vice Chair of the Board. Mr. Smerken seconded.	Passed
Motion	Mr. Smerken moved to amend Regulation 508.3 for a technical correction. Commissioner Kim seconded. None opposed. Judge Schmidt abstained.	Passed
Motion	Mr. Smerken moved to amend Regulation 509.5 and publish the proposed change for public comment.	Passed
Motion	Ms. Minogue moved to conditionally approve Katie Stoner's application for certification with transferrable skills in social services and financial. Dr. Sanders seconded. None opposed. Ms. Thompson Winger abstained.	Passed
Motion	Dr. Sanders moved to forward grievance 2024-050 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained.	Passed
Motion	Dr. Sanders moved to forward grievance 2024-051 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained.	Passed
Motion	Dr. Sanders moved to forward grievance 2024-052 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt abstained. Ms. Thompson Winger recused.	Passed
Motion	Dr. Sanders moved to dismiss grievance 2024-053 as an incomplete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained.	Passed
Motion	Dr. Sanders moved to dismiss grievance 2024-054 for no jurisdiction. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained.	Passed
Motion	Dr. Sanders moved to forward grievance 2024-055 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained.	Passed
Motion	Dr. Sanders moved to have staff investigate grievance 2024-056. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained.	Passed
Motion	Dr. Sanders moved to forward grievance 2024-057 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winger abstained.	Passed

Motion	Dr. Sanders moved to forward grievance 2024-058 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winingar abstained.	Passed
Motion	Dr. Sanders moved to dismiss grievance 2024-009 as it has been adjudicated by court. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winingar abstained.	Passed
Motion	Dr. Sanders moved to defer grievance 2023-035 pending additional information. Commissioner Fleischbein seconded. None opposed. Judge Schmidt abstained. Ms. Thompson Winingar recused.	Passed
Motion	Dr. Sanders moved to have staff investigate grievance 2024-037. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winingar abstained.	Passed
Motion	Dr. Sanders moved to dismiss grievance 2024-038 following review of court actions. Commissioner Fleischbein seconded. None opposed, Judge Schmidt abstained. Ms. Thompson Winingar recused.	Passed
Motion	Dr. Sanders moved for the Board to resolve grievance 2024-005. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winingar abstained.	Passed
Motion	Dr. Sanders moved to proceed to a hearing on November 7, 2024 regarding grievance 2022-059. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winingar abstained.	Passed
Motion	Dr. Sanders moved to forward grievance 2024-050 to Superior Court as a complete grievance. Commissioner Fleischbein seconded. None opposed. Judge Schmidt and Ms. Thompson Winingar abstained.	Passed

Guests:

Samantha Hellwig, general counsel (AAG)

Christopher Stanley, AOC

Melissa McDermott

Brenda Morales

Christopher Fast

Deborah Jameson

Glenda Voller

Dan Young

Grievance Report

October, 2024

November, 2024

**Certified Professional Guardian and Conservator
Grievance Status
October 2024**

Activity during October 2024	
New Grievances Received in October 2024:	6
Grievances Dismissed by Board:	3
Grievances Forwarded to Superior Court:	6
Grievances Determined for Investigation:	1

Grievance Resolutions (UGA)	2022	2023	2024
Total Grievances Received	75	69	62
Dismissed: No Jurisdiction, Insufficient Grievance	30	22	18
Forwarded to Superior Court	45	47	40
Dismissed Following Court Review	39	37	15
Dismissed Following Investigation	5	7	3
Open Pending Investigation, CRC Review or Other Disciplinary Process	1	2	4

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: 260

Grievances Pre-UGA

Pre-UGA Grievance Status	2021
Grievances Resolved this Month:	0
Total Grievances Requiring Investigation:	1

Resolution of Pre-UGA Grievances	2021
Total Grievances Received by Year	95
Dismissal No Jurisdiction	9
Dismissal No Actionable Conduct	70
Dismissal Insufficient Grievance	7
Dismissal Administrative	1
Advisory Letter	3
Termination – Administrative Decertification	4
Total 2021 Grievances Resolved:	94

Guardians and Conservators, or Agencies with Multiple Open Grievances

ID	Year Certified	2024	2023	2021	Total OPEN
A	2002	1	0	1	2
B	2009	2	0	0	2
C	2011	3	0	0	3
D	2012	2	2	0	4
E	2014	2	0	0	2
F	2016	2	0	0	2
G	2017	5	0	0	5
H	2022	1	1	0	2
					22

At the time of this report, 22 of the 31 unresolved grievances involve 8 Certified Professional Guardians/Conservators or Agencies with two or more grievances.

Certified Professional Guardian and Conservator
Grievance Status
November 2024

Activity during November 2024	
New Grievances Received in November 2024:	2
Grievances Dismissed by Board:	2
Grievances Forwarded to Superior Court:	0
Grievances Determined for Investigation:	0

Grievance Resolutions (UGA)	2022	2023	2024
Total Grievances Received	75	69	68
Dismissed: No Jurisdiction, Insufficient Grievance	30	22	20
Forwarded to Superior Court	45	47	40
Dismissed Following Court Review	39	37	15
Dismissed Following Investigation	5	7	3
Open Pending Investigation, CRC Review or Other Disciplinary Process	1	2	4

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: 261

Grievances Pre-UGA

Pre-UGA Grievance Status	2021
Grievances Resolved this Month:	0
Total Grievances Requiring Investigation:	1

Resolution of Pre-UGA Grievances	2021
Total Grievances Received by Year	95
Dismissal No Jurisdiction	9
Dismissal No Actionable Conduct	70
Dismissal Insufficient Grievance	7
Dismissal Administrative	1
Advisory Letter	3
Termination – Administrative Decertification	4
Total 2021 Grievances Resolved:	94

Guardians and Conservators, or Agencies with Multiple Open Grievances

ID	Year Certified	2024	2023	2021	Total OPEN
A	2002	1	0	0	2
B	2009	2	0	0	2
C	2011	3	0	0	3
D	2012	2	2	0	4
E	2014	2	0	0	2
F	2015	2	0	0	2
G	2016	2	0	0	2
H	2017	5	0	0	5
I	2022	2	1	0	3
					25

At the time of this report, 25 of the 31 unresolved grievances involve 9 Certified Professional Guardians/Conservators or Agencies with two or more grievances.

Standards of Practice Committee
Ethics Advisory Review

Ethics Advisory Opinions

Opinion 2005-001 Professional Guardian Petitioning for Appointment Rev. Jan 2010

CERTIFIED PROFESSIONAL GUARDIAN BOARD ETHICS ADVISORY OPINION

Professional Guardian Petitioning for Appointment

OPINION #: 2005-001

Date March 13, 2006, Revised January 11, 2010

Brief restatement of question(s) posed:

When may a Certified Professional Guardian petition for appointment of oneself as guardian?

Directly applicable SOP's, statutes and other law or standards:

- 403.1 The guardian shall avoid self-dealing, conflict of interest, and the appearance of a conflict of interest. Self-dealing or conflicts of interest arise when the guardian has some personal, family, or agency interest from which a personal benefit would be derived. Any potential conflict shall be disclosed to the court immediately.
- RCW 11.88.030 (1) Any person or entity may petition for the appointment of a qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 as the guardian or limited guardian of an incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis.
- The facts alleged in a petition for guardianship are ordinarily verified under penalty of perjury by the petitioner.
- GR 24 (a)(1) Practice of law defined as "Giving advice or counsel to others as to their legal rights or the legal rights or responsibilities of others for fees or other consideration."

Analogous standards and values (e.g. legal, medical):

The practice of nominating oneself as guardian automatically raises the appearance of self-dealing.

Comments:

The Certification Board recognizes that there are two public policy objectives underlying this opinion. The first is the public policy need to assure that individuals in need of a guardian have access to that service. The second public policy objective is to assure that the practice of the profession by certified professional guardians results in conduct which is not self-dealing and does not involve the actual or appearance of a conflict of interest. This ethical opinion is intended to recognize the inherent tension between these two public policy objectives and to reconcile those tensions in a manner that provides for the highest ethical practices while making available guardian services to those who need them.

The intent of this opinion is not to discourage the filing of the petitions in good faith. It is the intent of this opinion however, to assure the transparency of the proceedings to the extent that any conflicts or appearances of conflict which a certified professional guardian may have are disclosed and that steps are taken to negate both the real and appearance of self-serving.

Professional guardians have a clear and immediate conflict of interest in nominating themselves to be appointed guardian and to be paid from the estate of the Incapacitated Person. A certified professional guardian should avoid whenever possible initiating a petition for appointment of oneself as guardian.

Ordinarily the facts necessary to complete a petition for guardianship are not available at first hand to a certified professional guardian but are provided by professionals interested in having a guardian appointed.

In many situations, and in particular in the case of alleged incapacitated persons who have limited or no estate, there is no other person with sufficient expertise and interest in the alleged incapacitated person to file a petition for guardianship. Referral sources such as facility staff or government employees who are able to identify the need for guardianship may have institutional limitations on their ability to become formally involved as a petitioner for the guardianship.

There are circumstances in which a care provider or other entity with whom the certified professional guardian has a close personal or professional relationship files a petition for guardianship using an attorney provided by the certified professional guardian, or files a petition for guardianship with

the active assistance of the certified professional guardian, with the intention that the certified professional guardian will become guardian at the conclusion of the proceeding. In such circumstances, the certified professional guardian has an obligation to disclose to the Court by Affidavit or Declaration the nature of that relationship.

This opinion acknowledges that the Court with local jurisdiction is the final arbiter as to the need for a guardianship and the appointment of the guardian. The petitioning certified professional guardian should be aware of the Court's ability to require the petitioner to pay any or all fees and costs of proceedings at the Court's discretion, including the fees of the guardian ad litem.

Opinion: The following are considered to be best practices for Certified Professional Guardians:

The certified professional guardian should inform referral sources as to how guardianships are processed and should offer to refer interested parties to counsel if necessary. However, petitioners for individuals with no close family or friends, limited assets, living in long term care environments, and/or with complicated care needs are often not available. As a result, the practical reality of the care environment is such that the availability of petitioners for those in need of a guardian is limited or non-existent. Therefore, the limited and qualified initiation of a guardianship petition by a certified professional guardian is acceptable under certain circumstances.

Specifically, if the certified professional guardian determines (a) a guardianship is in the interests of the Alleged Incapacitated Person; (b) there are no less restrictive alternatives; and (c) there is no other person willing to act as petitioner; then the certified professional guardian may act as petitioner in a guardianship.

In initiating such petition the certified professional guardian shall,

- 1. Consistent with state statute, engage in an investigation and document that investigation in an Affidavit or Declaration to the court the following pre-filing efforts:**
 - a.** identifying any alternative nominees and providing information as to why alternate nominees who are available are not suitable or able to serve;
 - b.** providing a written request from the party requesting the guardianship which identifies the basis for the request and the basis for the decision by that party not to petition;

c. providing documentation from third parties of the facts set out in the petition. Such documentation can include statements from care providers, family members, friends, or others with knowledge of the circumstances of the incapacitated person.

d. providing documentation that the certified professional guardian has met with the alleged incapacitated person, the results of that meeting, and an opinion by the certified professional guardian of the capacity issues faced by the alleged incapacitated person.

2. Disclose in the Affidavit or Declaration to the court any relationship the certified professional guardian may have with a care facility and any practice the care facility may have involving the referral of residents to the certified professional guardian.

Education Committee
Regulation 205
Procedure for Approval of Continuing Education

Guardianship and Conservatorship Program Regulations

205 Procedure for Approval of Continuing Education Activities

205.1 An active Guardian and Conservator or sponsoring agency desiring approval of a continuing education activity shall submit to the Committee all information called for by the Continuing Education Activity Credit Approval Form at least 30 days prior to the date scheduled for the class, along with a credit approval fee. **Such continuing education activities may include: courses sponsored by courts, agencies for guardians and conservators, and licensing agencies for other related professions such as the WSBA, Department of Health, etc.; and pertinent non-sponsored courses approved by the Board.** If filed less than 30 days before the activity, the applicant must pay a late credit approval fee. Applications for retroactive approval will be considered if submitted with all the information required by the Continuing Education Activity Credit Approval Form within 30 days of the continuing education activity and with the late credit approval fee. The credit approval fee may be waived, upon request, for court-sponsored training that is designed specifically for guardian or conservators, **or for an individual guardian or conservator attendee of a non-sponsored course.** All fees shall be published annually by the Certified Professional Guardianship and Conservatorship Board no later than September 1 of the preceding year.

205.2 Approval shall be granted or denied in accordance with the provisions of Regulation 207 herein. Upon approval of the activity, a list of Guardian and Conservators will be provided to the class sponsor if requested in the initial application, along with written acknowledgment of approval.

205.3 As to a course that has been approved, the sponsoring agency may announce, in informational brochures and/or registration materials: "This course has been approved by the Continuing Education Committee of the Professional Guardianship and Conservatorship Certification Board for hours of credit." Sponsors may also delineate as between general, ethics and emerging issues credits in their promotional materials.

205.4 On the date of the continuing education activity, the sponsoring agency shall give a copy of the Guardian and Conservator course approval form to each Guardian and Conservator attending.

205.5 No later than 30 days following the activity, the sponsoring agency must send the attendance list to the AOC, along with a copy of the completed evaluation. Materials distributed at the activity shall be available to the AOC upon request.

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

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

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