

**CERTIFIED PROFESSIONAL GUARDIAN BOARD**  
**MEETING MINUTES**

November 9, 2009

SeaTac Conference Center, 18000 International Blvd., SeaTac, WA

**Chair**

Judge Kimberley Prochnau

**Members Present**

Robin Balsam  
Gary Beagle  
Ree Ah Bloedow  
Dr. Ruth Craven  
Nancy Dapper  
John Jardine  
Judge James Lawler  
Chris Neil  
Prof. Winsor Schmidt  
Judge Robert Swisher  
Comm. Joseph Valente  
Judge Chris Wickham

**Members Absent**

Sharon York

**Visitors**

Shirley Bondon, Office of Public Guardianship (OPG)  
Leesa Camerota  
Ken Curry  
Sylvia Curry  
Thomas Goldsmith  
Tiffany Gorton  
David Lord  
Carol Sloan  
Luke Thomas

**Staff**

Deborah Jameson  
Kim Rood

**1. Call to Order**

Judge Prochnau called the meeting to order and asked the attending guests to introduce themselves.

**2. Board Business**

- a. **Approval of Minutes.** A motion was made and seconded to approve the minutes as presented for the Board meeting held on October 19, 2009. The motion passed.<sup>1</sup>

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<sup>1</sup> Except in the event of a tie vote, the Chair does not vote on any motions before the Board.

- b. Chair Report.** Judge Prochnau said that she did not have anything specific to report. She asked Shirley Bondon to update the Board on the status of the personnel changes at AOC. Ms. Bondon said that AOC will be advertising a Court Assistant Position and that the Guardian Program Coordinator position will be a combination of the Grievance Investigator position and the Guardian Program Coordinator.
  - c. Progress towards 2010 Goals.** Judge Prochnau spoke about the reason for re-visiting the goals each meeting—to ensure that they would be met. The goal of having Board members attend the UWEO in-person classes was discussed and Chris Neil affirmed his intention of attending the February classes in Toppenish. Robin Balsam offered to review online material.
  - d. Review of 2010 Board Meetings.** Judge Prochnau canvassed the Board to determine how many Board members would be able to attend a Board meeting in Spokane the weekend of April 2-3 and twelve Board members indicated that would be able to attend.
- 3. Uniform Power of Attorney Act.** Luke Thomas from the WSBA Real Estate & Probate Section discussed the Uniform Power of Attorney Act and consideration of adoption of the Act. Mr. Thomas said that the WSBA Bar Task Force that considered the Act is still in the process of soliciting comments and has not reported back to the Real Estate & Probate Section or the Elder Law Section of the Bar. Mr. Thomas mentioned that he will be speaking at the Guardianship and Probate Committee of the SCJA at its December meeting.

Mr. Thomas said that the Task Force considered the Act from the perspective of curbing abuse of powers of attorney documents. The proposed Act is a positive change because it codifies what is currently the law, though not necessarily in statute. He said that the Task Force will recommend adoption of the Act with some significant changes.

Mr. Thomas discussed some of the particular changes that the Task Force will recommend, including a requirement that the term “power of attorney” be used in the writing to be effective as a power of attorney, that it be durable only if that is specifically stated, that a power of attorney terminate with the establishment of a guardianship, and that a third party may sign on behalf of the principal if witnesses are present. The Board recommended that powers of attorney should be durable by default and that according to statute; powers of attorney are terminated when a guardianship is established.

The Board had concern about allowing a third party to sign because of the potential for abuse and discussed perhaps having a mini-evidentiary hearing or having similar formalities for witnesses as in wills. A concern was also raised about not barring those who are physically unable to sign from creating powers of attorney.

The Board discussed the concept of registration of powers of attorney—either with a formal process that would require notice or something more like the will registry. There was a suggestion that the agent be required to accept in writing his or her appointment, both to ensure that the agent is aware of the appointment and that the agent is willing to accept the duties.

- 4. Report on Council on Accreditation.** Gary Beagle reported that the Council on Accreditation (COA) is a non-profit group that audits and establishes credentials for programs like Catholic Charities, Lutheran Family Services, and Jewish Family Services. COA found that non-profits were providing guardianship services, but COA was unable to give the non-profit accreditation because COA lacked authority. Standards were developed for COA to use in accrediting non-profit agencies.

Winsor Schmidt was on the Advisory Committee that developed the evidence-based COA Adult Guardianship Service Standards for organization guardian accreditation. He suggested that it might be helpful to compare the COA standards and the Board's standards and that, perhaps, COA accreditation created a presumption of competence.

Judge Prochnau noted that one of the Regulation Committee's tasks is to update the Board's Standards of Practice and that the Committee could review the COA standards and National Guardianship Association standards for additional insight.

**5. Committee Reports.**

**a. Standards of Practice Committee**

- i. Commissioner Valente and Deborah Jameson reported that as of October 27, 146 guardians have been selected for audit and 105 guardians have completed the process. Those guardians are appointed as guardians in 1539 cases of which 632 cases were reviewed. The number of reviewed cases that had some report due within the audit period was 258 cases. The 105 completed audits were closed without any further action. There have been 3 inquiries opened (when a guardian has cases not currently in compliance). One of those inquiries resulted in a grievance and settlement agreement. Of the completed audits, 10 guardian agencies and 9 individual guardians filed reports late. The average number of days late was 49 days and the median number of days late was 19. The most common late filings are the inventory, personal care plan, and annual report.

Commissioner Valente noted that compliance appeared to be the norm and that the process was running smoothly and faster than expected. There was a discussion about whether the Board could be of any assistance with helping counties establish monitoring programs and support judicial officers in their monitoring of cases and whether this might be a topic for the Board's long-term planning meeting. A comment was made about whether the Board should expand the scope of the audit beyond timeliness and look at the content and completeness of the reports.

**6. Request for Clarification re Standby Guardians and Self-Representation.**

Leesa Camerota requested clarification on two issues—standby guardians and self-representation because these issues have come up in her role as a UWEO instructor and WAPG instructor. Ms. Camerota asked when a certified professional guardian goes on vacation, can that CPG call his/her standby and tell them that they are in charge without further formality. She also asked about under what circumstances, if any, an agency CPG can prepare and complete reports and represent him or herself in court. Ms. Camerota noted that some guardians are appointed in their name and the agency name.

The Board discussed that Letters of Guardianship should accurately reflect who has been appointed—the guardian or the agency and that if the agency is appointed, case law requires an attorney to represent the agency. It was noted that the Standards of Practice require a guardian to seek legal advice as necessary and to acknowledge personal limits. Others on the Board noted that this was a common problem and that it may be a training issue and that the Board may need to clarify the distinction between agency and individual guardians.

One comment about standby guardians that received wide support was that guardians may delegate their authority to standby guardians when the guardian is unavailable for any reason, but that the process for that delegation is not clear and perhaps warrants a regulation. Judge Prochnau requested the Regulations Committee to look into the issue further.

## 7. Committee Reports continued.

a. **Ethics Committee.** Judge Wickham reported that the Committee has been unable to meet and would report back at the January meeting.

### b. Education Committee

- i. Regulation 202.2. Gary Beagle reported that the Education Committee recommended that the Board adopt the technical change to Continuing Education Regulation 202.2, changing “except as exempted by Regulation 213” to “except as exempted by Regulation 214. A motion was made and seconded and approved.
- ii. Regulation 205.1. Gary Beagle reported that the Education Committee recommended that the Board approve for posting for comment Continuing Education Regulation 205.1. An active Guardian or sponsoring agency desiring approval of a continuing education activity shall submit to the Committee all information called for by Form 1 at least 30 days prior to the date scheduled for the class, along with an application fee of \$25.00 for each occurrence. If filed less than 30 days before the activity, the application fee is \$50 for each occurrence. Applications for retroactive approval will be considered if submitted with all the information required by Form 1 within 30 days of the continuing education activity.

A motion was made and seconded to amend regulation 205.1. The Board discussed whether there should be a higher fee for retroactive approval or no fee at all because it could encourage guardians to seek out new areas of education. There was a comment about whether sponsoring agencies should be allowed retroactive approval or only guardians. Another comment questioned whether if one guardian received retroactive approval would other guardians who attended be given automatic approval and whether the amendment subverted the process of having agency sponsors apply for credit.

After discussion, the motion to post the amended regulation for comment passed.

- iii. Gary Beagle reported that the UWEO has requested to amend the contract regarding the CPG Manual to allow the UWEO to create a CPG Handbook for existing guardians and textbook for the UW students. He said that the Government Benefits section will

be the model for the Handbook and that the Developer would be by Jamie Shirley with input from professionals.

The Board discussed what kind of authority that it wanted to have over the material in the Handbook and whether multiple authors or a single author was advisable. The discussion also looked at the term “textbook” and clarified that an expanded syllabus is what was meant. The Board requested that the proposed amendment to the contract be reviewed by AOC’s contract officer as to its necessity and terms.

The Board agreed to begin the process of updating the current manual through the creation of two sets of material. The process will require clarification over the number of authors of the Handbook, whether the Board will be able to approve the subject matter of the “textbook” and what kind of documentation of agreement between the Board and UWEO will be necessary.

- iv. TPCBA 8<sup>th</sup> Annual Seminar. Gary Beagle reported that he spoke at the Tacoma Pierce County Bar Association’s 8<sup>th</sup> Annual Seminar on the topic of “View from the Certified Professional Guardian Board.” Mr. Beagle spoke about the history of the Board, the current composition of the Board, the goals of the Board, the UWEO program, and the DR 520 audit process.
- c. **Regulations Committee.** Chris Neil reported that he planned to have the Committee’s first meeting in late November or early October and was creating an agenda for the meeting.
- d. **Flood Preparedness Ad Hoc Committee.** Deborah Jameson reported that she posted flood preparedness resource links on the CPG Web site under Guardian News and sent out an email to the Board and all CPGs with the link. The resources include the Washington Emergency Management Division, King County and Seattle Public Health, King County, and Aging and Disability Services Administration.

Judge Prochnau noted that she would like to have a broader discussion regarding emergency preparedness for guardians. It is the topic of one of the WAPG training sessions being held on November 10 and Judge Prochnau asked that John Jardine or Chris Neil, who will be at the training, report back at the January meeting.

- 8. **Office of Public Guardianship.** Shirley Bondon reported that there were 3 trainings this past spring for judicial officers, court administrators, and court clerks to look at best practices in guardianship case management and there were 8 recommendations that came out of the trainings. The decision was made to focus on one recommendation at this time—to improve the quality of data provided to judicial officers.  
Ms. Bondon noted that SCOMIS has the capability to track data, but it is very code intensive. The Guardianship and Probate Committee of the SCJA has approved the creation of new SCOMIS codes which would allow policy makers to gather data, understand caseloads, and allow more monitoring. The new Court Program Assistant position would allow more assistance to courts with setting up calendars, creating BOXI queries etc.

**9. CPG Practice Experience.** Gary Beagle reported on a case in which the guardianship was a beneficial tool that helped bring the vulnerable person's life back into stability. The vulnerable adult's friends became concerned about her and one of them hired an attorney to petition for guardianship. A full guardianship of the estate was established over the vulnerable adult (Ms. L) and Beagle, Burke & Associates was appointed.

The guardians discovered that Ms. L had given over \$1million to a man, Mr. A, for various jobs around the house, for example replacing the deck twice for over \$130,000. Ms. L's house was in foreclosure and she had \$25.00 in her bank account.

The guardian helped to develop the case against Mr. A, requesting bank records, establishing that the money was not used for what Mr. A said he used it for, and hiring inspectors to examine the work done by Mr. A and estimate the true costs. Mr. A was convicted of theft and jailed.

Ms. L looked at Mr. A like a grandson and had lost more than her money due to his exploitation of the relationship. The guardian helped Ms. L reconnect with her community—singing in the choir and helping at the local grade school.

**10. Presentation of Disciplinary Matter, CPGB No. 2009-009.** Commissioner Valente reported that this disciplinary matter was opened as a result of the DR 520 Audit. The guardian had 9 cases in which there were substantially late filings. The sanction that was recommended by the SOPC was for a re-audit of all the guardian's cases in 6 months, probation for 6 months, a letter of admonishment, and for the guardian to demonstrate that she has a case management system.

**11. Executive Session.** The Board adjourned to executive session to consider the disciplinary matter, application(s), voluntary surrender(s), and decertification(s). Robin Balsam, Commissioner Valente, and John Jardine recused themselves from participating in executive session for deliberation on the disciplinary matter.

**12. Open Session.** The Board reconvened in open session and took the following action:  
**a. Action on Disciplinary Matter CPGB 2009-009:** A motion was made and seconded to adopt the Agreement Regarding Discipline. Robin Balsam, Commissioner Valente, Gary Beagle, and John Jardine abstained. The motion passed.

**b. Action on Applications:**

- i. Individual motion for denial of the following application for certification passed:
  1. Keri Beth Hoffman
- ii. Motion to approve the requests for voluntary surrender of the following certifications passed:
  1. David Laidman, CPG #5015
  2. Linda C. Caldwell, CPG #10773
  3. Heaven Sent Guardianship Services, CPGS #10961

iii. The Board decided to pend the request for voluntary surrender of the following certification

1. Donna Hulme-Chadwick, CPG #5939

iv. Motion to approve decertification of the following certification for non-compliance with dues and annual disclosure passed:

1. Helen R. Reed, CPG 10768

### **Adjourn**

Judge Prochnau adjourned the meeting at approximately 12:50 pm

Respectfully submitted,

Judge Kimberley Prochnau  
Deborah Jameson

Board Approved: January 11, 2010