



Certified Professional Guardian Board Meeting

Monday, January 9, 2012 (9:00 am – 3:00 pm)

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

Meeting Minutes

Chair

Judge James Lawler

Members Absent

Dr. Barbara Cochran

Nancy Dapper

Members Present

Robin Balsam

Gary Beagle

William Jaback

Chris Neil

Judge Sally Olsen

Emily Rogers

Prof. Winsor Schmidt

Carol Sloan

Judge Robert Swisher

Comm. Joseph Valente

Staff

Shirley Bondon

Katrin Johnson

Kim Rood

1. Call to Order

Judge Lawler called the meeting to order at 9:00 am.

2. Board Business

Approval of Minutes

Motion: A motion was made and seconded to approve the November 14, 2011 meeting minutes as presented. The motion passed.

Chair Report

Funding Update

Funding was approved to hire a .5 FTE to replace Deborah Jameson. The budget remains the same; there were no cuts during the special session.

2012 Board Meeting Dates

Meeting dates were sent out to the Board and agreed upon. In person meetings will be held April 9; June 11 and October 8, 2012. The April meeting will be the Board's long range planning meeting.

Action Item: Shirley Bondon will determine if Myra Downing is available to moderate the long range planning meeting.

General Rule 31A and Comments

In earlier communication to the GR 31 Taskforce the Board asked to be exempt from GR 31A, stating that it had developed its own public disclosure rules which addressed the unique needs of guardianship regulation. November 2011, the State Court Administrator penned a letter to the Supreme Court Rules Committee asking the committee to consider including the various exemptions and restrictions on Board records, within the list of exemptions contained in GR 31A (e) (1) (B). All public comments posted on the Court Rules website regarding GR 31A and the Board's request for exemption from GR 31A were opposed to the request. The only significant difference between the Board's disclosure rule and GR 31A is the Board's requirement that a request for dismissed grievances shall cover a specified time period of not less than 12 months.

A public hearing to address GR 31A is scheduled for February 6, 2012. The Board decided to send a letter to the Supreme Court Rules Committee stating that the Board prefers exemption from the rule, but if the committee decides against exemption, the Board supports inclusion of its exemptions and restrictions in GR31A.

The Board received a request for a member to answer questions about guardianship on Public Radio 113. Gary Beagle agreed to represent the Board.

Judge Lawler will speak at Bridge Builders Annual Conference on March 12

Public Meeting—Next Steps

A question was raised about what the board can take from comments to improve the function as a board. It was noted that the meeting was not highly attended and there was a discussion of what could be done to get the word out about meeting times and places. The suggestions were allowing members of the public to speak for 15-20 minutes; welcome public comment at the beginning of meetings, while maintaining the 2-3 minute rule.

Action Item: Develop rules to discuss at the next meeting.

3. Staff Recommendations

In November, staff was asked to provide recommendations to each committee to improve efficiency and reduce cost. Each committee was asked to consider who should make decisions, the full board, committee members, or staff and what level of review is needed. The following discussion includes member reaction to recommendations received:

Applications Committee Report

Recommendations:

- Delegate certain functions to AOC staff;

- Authorize the committee to approve and deny applications for certification; several board members objected to giving the Applications Committee full discretion in approving/denying individual and agency applications;
- Committee should not see application until it's complete;
- If an application is denied, applicant may appeal to an Appeals Panel of members who were not members of the Applications Committee. An appeal will be based on the original application packet, no additional information will be accepted. If an applicant wishes to submit additional information, he or she must reapply.
- The committee recommends establishing an application deadline. Having a deadline does not preclude a person from submitting an application at any time, but complying with a deadline will ensure a final decision on the application prior to registration for the UW class. If the application is denied, it can be resubmitted.
- The board agreed with the recommendation of a \$225 application fee and a renewal fee within the \$250 - \$350 range. The recommendation for renewal fees is based on a two-tiered structure similar to the Errors and Omissions Insurance requirement structure. For guardians who have less than 25 guardianship appointments the fee would be \$250; for guardians with 25 or more guardianship appointments, the fee would be \$350. Members discussed the possibility of charging an additional fee for a re-submission of an application.
- It was recommended that application reviews be allowed to happen via telephonic conference and discussion followed. The recommendation was accepted by consensus.

Regarding which recommendations could be enacted by the committee unilaterally, it was decided that any modifications to procedure that require a change of regulations will be brought before the board for a vote. Changes that don't need a change of regulation may be made by the committee.

Proposed Changes to the Applications Regulation

Application Regulations 103.2.7 and 103.2.8 were posted the required timeframe and the committee recommends adoption.

103.2.7 All individual applicants must provide a personal credit report.

103.2.8 If an applicant has declared bankruptcy in the seven years prior to his or her application, the applicant must provide copies of the following documents: bankruptcy petition, discharge order, and a copy of the bankruptcy case docket.*

Motion: *A motion was made and seconded to approve 103.2.7. The motion passed.*

Motion: *A motion was made and seconded to approve 103.2.8. The motion passed.*

Application Regulations 102 and 103 were posted the required timeframe and the committee recommends adoption.

102 Definitions

102.1 "Applicant" means any individual or agency that submits an application to become a CPG or a Certified Professional Guardian Agency.

102.2 "Agency" means any legal entity in the State of Washington authorized by its formation documents to act as a fiduciary, guardian, or limited guardian.

102.3 "Designated CPG" means the certified professional guardians working for an agency who have the final decision-making authority for incapacitated persons or their estate on behalf of the agency. The designated CPG is responsible for the actions of the agency(ies) for which they serve as designated CPG.

~~102.43~~ "Experience working in a discipline pertinent to the provision of guardianship services" in GR 23(d)(1)(iv) includes volunteer work experience that is supervised, verifiable and based on actual hours worked, except as otherwise set forth in these regulations.

~~102.54~~ "Experience working in a discipline pertinent to the provision of guardianship services" in GR 23(d)(1)(iv) does not include providing services for a family member.

~~102.65~~ "Experience working in a discipline pertinent to the provision of guardianship services" in GR 23(d)(1)(iv) includes experience in which the applicant has developed skills that are transferable to the provision of guardianship services.

~~102.76~~ "Decision-making or the use of independent judgment on behalf of others" in GR 23(d)(1)(v) is not limited to incapacitated persons.

~~102.87~~ "On behalf of others" in GR 23(d)(1)(v) means for the benefit of others.

103 Qualifications

103.3 An agency applicant must also:

103.3.1 Submit a copy of the formation documents of the legal entity.

103.3.2 Submit declaration under penalty of perjury, that it will take steps to ensure its employees, agents, board members, or anyone formally associated with the agency entity who may come into contact with the person or estate of an incapacitated person has passed a criminal history check prior to having contact with the incapacitated person or their estate, and that all officers and directors meet the qualifications of Chapter 11.88 RCW for guardians.

103.3.3 Submit the names of the agency's board of directors, members, managers, owners, and/or its officers.

103.3.4 Identify all CPGs at the agency (a minimum of two are required), and submit a copy of either meeting minutes or a board resolution identifying the designated CPGs.. The designated CPGs shall submit the Acceptance of Designated CPG form.

Motion: *A motion was made and seconded to approve 102.3. The motion passed.*

Motion: *A motion was made and seconded to approve 103.3.4. The motion passed.*

Motion: *A motion was made and seconded to approve 102 and 103 with re-numbering. The motion passed.*

Motion: *A motion was made and seconded to approve change title. The motion passed.*

Application Regulations 119.2 was posted the required timeframe and the committee recommends adoption.

~~119 Agencies With Fewer Than Two~~ Changes in Designated Guardians

119.2 If the agency adds an additional designated CPG, the agency must provide the AOC with a an Acceptance of Designated CPG form within 30 days of the addition. Failure to do so may result in disciplinary action. (Adopted 1-9-12)

~~119.32~~ If a change in circumstances results in an agency having only one designated guardian, the agency shall notify the Board within five (5) calendar days of the change of circumstances. The agency shall have sixty (60) calendar days from the date the agency is no longer in compliance with GR 23 to add a designated guardian to the agency. During that sixty-day period, the agency must file a copy of its board minutes or a board resolution designating an additional guardian as a person with decision-making authority for incapacitated persons or their estates with the Certified Professional Guardian Board. If the agency fails to meet the requirements of GR 23 and these regulations regarding the required number of designated guardians, the Board may decertify the agency. The Board shall send the agency written notice that the Board intends to decertify the agency at least fifteen (15) calendar days before the Board takes action.

~~119.43~~ If a change in circumstances results in an agency no longer having any designated guardians, the agency shall notify the Board within five (5) calendar days of the change of circumstances. The AOC shall send the agency a notice of noncompliance by mail. The notice shall state that the Board will decertify the agency unless within fifteen (15) calendar days the agency files proof with the Board that the agency has at least one designated guardian. Said proof shall be in the form of board minutes or a board resolution designating a certified professional guardian with decision-making authority for incapacitated persons or their estates. If the agency files proof with the Board that it has one designated guardian, then Regulation 119.2 shall apply. The sixty-day period referenced in Regulation 119.2 shall be deemed to have commenced on the same date as the fifteen-day period in this regulation. If the agency does not file

proof within the fifteen-day period in this regulation that the agency has at least one designated guardian, then the Board may decertify the agency.

119.54 If a change in circumstances results in an agency having no designated guardians, the agency shall within ten (10) calendar days notify any Superior Court that has appointed the agency as guardian in a case that is still an active guardianship case. The agency shall file a notice in each active guardianship case stating that the agency has no designated certified professional guardian with final decision-making authority for incapacitated persons or their estates. In the notice, the agency shall describe a plan to correct this situation or to transition the guardianships to qualified guardians or agencies. The agency shall file a copy of this notice with the Board.

If the agency fails to file this notice with the court or the Board, the Board may decertify the agency.

119.65 The Board may decertify an agency for its failure to file any notice required under Regulation 119. The Board shall send the agency notice at least fifteen (15) calendar days before the Board intends to take such action.

119.76 When an agency is decertified, the Board shall notify the superior courts of the state.

Motion: *A motion was made and seconded to accept 119.2. The motion passed.*

Motion: *A motion was made and seconded to approve change re-numbering. The motion passed.*

Education Committee Report

Recommendations

- Ask guardians to use online application to report continuing education.
- Restructure continuing education credit categories to 1) ethics, 2) general, and 3) emerging issues for two year reporting period.
- Modify current late reporting of continuing education credits. All credits to be completed by December 31. Reporting to occur by January 30. Any reporting between February 1 and April 1 will be subject to a late fee. Anyone who hasn't reported by April 1 will be decertified. A board member asked that rather than decertify anyone who hasn't reported by April 1, allow payment of \$500 to continue certification.
 - The question was raised about whether there would be a hardship clause (i.e. for military service). It was agreed that it should be sent back to the committee for a language change.

Standards of Practice Committee

Recommendations

- To collect and evaluate grievance data
 - Look for possible software for the SOPC to work with
 - This may save money and staff time
 - Consider asking board members to investigate grievances. After some discussion this was determined not to be a good idea, as this would probably slow down the grievance process even more.

- Recommendations regarding the process itself:
 - Use volunteer hearing officers
 - Develop a default process
 - Consider mediating grievances
 - Simple documents to make it possible for the general public to understand outcome

 - Have bright line rule – The Board reviews grievances for violations of the standards of practice. The Board does not review court decisions.

Regulations Committee Report

Standard of Practice 406 was posted the required timeframe and the committee recommends adoption.

406.3 A conflict of interest arises when the guardian has some personal, family or agency interest that is self-serving or adverse to the interest of the incapacitated person. If the guardian intends to proceed in the face of a conflict of interest, a guardian shall disclose the conflict of interest to the court and seek prior court approval in accordance with the steps outlined in 406.4. ~~Any conflict shall be disclosed to the court immediately in writing.~~

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

406.5 A guardian who is an attorney may provide legal services to the incapacitated person only when doing so best meets the needs of the incapacitated person and is approved by the court following full disclosure of the conflict of interest.

406.65-A guardian shall not accept a gift from an incapacitated person or their estate other than ordinary social hospitality.

406.76 Payment of fees or other compensation for guardianship services by a party other than the incapacitated person is a potential conflict of interest which shall be fully disclosed.

406.87 The guardian shall protect the incapacitated person's rights and best interests against infringement by third parties.*

Motion: *A motion was made and seconded to accept all of 406. The motion passed.*

Disciplinary Regulations 503.14-503.16 and 515 were posted the required timeframe and the committee recommends adoption.

503.14 Failure to Timely Submit Required Re-certification Documents and Payments: Failure to submit recertification documents and payments, including annual disclosures, annual dues, errors & omissions declarations, policy pages from insurance companies (when applicable), continuing education declarations, and other documents as determined by the Board to be necessary in order to maintain certification shall subject a guardian to late fees and potential decertification.

503.14.1 Guardians will be required to pay a \$50 late fee if recertification documents or payments are made after the due date, but within thirty (30) days of the due date.

503.14.2 Guardians will be required to pay a \$100 late fee if recertification documents or payments are made within thirty-one (31) days of the due date and sixty (60) days of the due date.

503.14.3 Failure to submit any required recertification documents within sixty (60) days of the due date shall subject the CPG or Agency to revocation of certification by the Board.

503.14.4 To effect such decertification, the Board shall send a written notice of non-compliance to the CPG by certified mail, directed to the CPG's last known address as maintained on the records of the Administrative Office of the Courts. The notice shall advise the CPG of the pendency of decertification for failure to submit required recertification documents. The notice shall further advise the CPG that if the CPG believes that an administrative error has been made and that the CPG is not in default on the obligation to submit required recertification documents, the CPG may file a petition requesting an administrative hearing. The petition shall set forth in detail the facts supporting the CPG's claim that an administrative error has been made by the Board and must be signed under penalty of perjury. The CPG must file the petition within ten (10) calendar days of notice of the pendency of decertification.

503.14.5 If a petition is filed, the Chair of the Board shall appoint a three-member Review Panel to conduct a hearing on the petition. In the sole discretion of the Review Panel, the hearing may be held by telephone. The Review Panel shall make written findings and a recommendation as to whether the petition should be granted. The

findings and recommendation of the Review Panel shall be filed with the Board and served by first-class mail on the CPG.

503.14.6 The Board shall review the decision of the Review Panel and shall make a decision approving or denying the petition. If the petition is denied, then the Board shall decertify the CPG. The members of the Review Panel shall not participate in the decision of the Board. A copy of the Board's order shall be sent by certified mail to the CPG. Any such order shall be final.*

Motion: *A motion was made and seconded to table voting on Regulation 503.14 until the next meeting. The motion passed.*

515.2.1 Decertification is generally appropriate when a professional guardian engages in:

515.2.1.1 Professional misconduct incompatible with the Standards of Practice with the intent to benefit the professional guardian or another; or deceive the court; or cause serious or potentially serious injury to a party, the public, or the legal system or causes serious or potentially serious interference with a legal proceeding.

515.2.1.2 Felonious criminal conduct, or

515.2.1.3 Any other intentional misconduct involving dishonesty, fraud, deceit, or misrepresentation that seriously, adversely reflects on the professional guardian's fitness to practice, or

515.2.1.4 Gross incompetence as demonstrated by a pattern or practice of late filings, accounting errors, case tracking, or other violations of the same Standards of Practice, and where the guardian has not corrected the behavior despite previous attempts by the courts or the Board to correct the behavior.

Motion: *A motion was made and seconded to accept 515.2.1 The motion passed.*

Administrative Regulation 003.5 was posted the required timeframe and the committee recommends adoption.

003.5 Posting of Disciplinary Actions. Disciplinary sanctions involving admonitions or reprimands will be archived twelve months after the disciplinary action is completed. Disciplinary actions will remain permanently linked to an individual certified professional guardian's listing on the Web site.*

Motion: *A motion was made and seconded to accept 003.5. The motion passed.*

Clarifying Meaningful Visit Regulation SOP404.1 and 2

The Board addressed the following questions posed by the Regulations Committee:

- Should certified professional guardian agencies be treated differently than individual certified professional guardians?
- Who is responsible for visits – Any CPG? Individual CPG? Designated CPG? Other professionals? Qualified individuals?
- What qualifications should the individual responsible for visiting possess? Baccalaureate? Experience? Variation of CPG requirements?
- For continuity, should the same individual always visit designated IP?

The Board was unable to reach consensus and asked the Regulations Committee to take another look and return with recommendations.

The standards developed at the Third National Guardianship Summit were presented and briefly discussed.

Executive Session

Open Session

Motion: *A motion was made and seconded to approve the application of Arc of Southwest Washington. The motion passed.*

Motion: *A motion was made and seconded to approve the application of Jean Zwiebel. The motion passed.*

Motion: *A motion was made and seconded to accept the application for voluntary surrender submitted by Jaycee Johnson. The motion passed.*

Motion: *A motion was made and seconded to accept the application for voluntary surrender submitted by Dorothy Mahar. The motion passed.*

Motion: *A motion was made and seconded to accept Mary Morris' declaration of inactive status. The motion passed.*

Motion: *A motion was made and seconded to accept Karen Grass' declaration of inactive status. The motion passed.*

Motion: *A motion was made and seconded to approve the Agreement Regarding Discipline including a letter of admonishment with James and Debra Christnacht of the Comprehensive Guardianship Services, Inc. The motion passed.*

Adjourn

Judge Lawler noted the next meeting will be a phone conference on February 13, 2012 at 8 am.
Judge Lawler adjourned the meeting at approximately 12:45 pm.

Respectfully submitted,
Judge Lawler

Meeting minutes approved on 2/13/2012

Recap of Motions from January 9, 2012 Meeting

Motion Summary	Status
<i>A motion was made and seconded to approve 103.2.7.</i>	Passed
<i>A motion was made and seconded to approve 103.2.8.</i>	Passed
<i>A motion was made and seconded to approve 102.3.</i>	Passed
<i>A motion was made and seconded to approve 103.3.4.</i>	Passed
<i>A motion was made and seconded to approve 102 and 103 with re-numbering.</i>	Passed
<i>A motion was made and seconded to approve change title.</i>	Passed
<i>A motion was made and seconded to accept 119.2.</i>	Passed
<i>A motion was made and seconded to approve change re-numbering.</i>	Passed
<i>A motion was made and seconded to accept all of 406.</i>	Passed
<i>A motion was made and seconded to table voting on Regulation 503.14 until the next meeting.</i>	Passed
<i>A motion was made and seconded to accept 515.2.1</i>	Passed
<i>A motion was made and seconded to accept 003.5.</i>	Passed
<i>A motion was made and seconded to approve the application of Arc of Southwest Washington.</i>	Passed
<i>A motion was made and seconded to approve the application of Jean Zwiebel.</i>	Passed
<i>A motion was made and seconded to accept the application for voluntary surrender submitted by Dorothy Mahar.</i>	Passed
<i>A motion was made and seconded to accept Mary Morris' declaration of inactive status.</i>	Passed
<i>A motion was made and seconded to accept Karen Grass' declaration of inactive status.</i>	Passed
<i>A motion was made and seconded to approve the Agreement Regarding Discipline including a letter of admonishment with James and Debra Christnacht of the Comprehensive Guardianship Services, Inc.</i>	Passed

Action Items for February 13, 2012 Meeting

Action Item	Who	Status
Shirley Bondon will determine if Myra Downing is available to moderate the long range planning meeting.	Shirley Bondon	In Process
Develop rules to discuss at the next meeting.	Judge Lawler	Completed