

Guardianship and Conservatorship Program Regulations

Regulation 000 Administrative Regulations

Effective January 1, 2022;

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001 Purpose of Administrative Regulations

The regulations shall include administrative items for the Certified Professional Guardianship and Conservatorship Board (Board) such as definitions applicable to all aspects of professional guardianship and conservatorship related to the Board, public records and records retention, policies, best practices, and related administrative items.

Guardianship and Conservatorship Program Regulations

002 Definitions

These definitions apply to any regulations adopted by the Board unless the context clearly requires otherwise.

002.1 An “Agreement Regarding Discipline” is a written settlement agreement approved by the professional guardian and conservator and the Board of a grievance or complaint against a professional guardian and conservator. The final agreement, approved by the parties, is a public record available for inspection, copying, and disclosure.

002.2 “Certification of an individual” is the process by which an individual becomes qualified to perform services as a professional guardian and conservator as defined in RCW 11.130.010 (26). Certification is given to individuals that the Board believes to have attained a minimum level of experience and an understanding of the responsibilities of guardianship and conservatorship; have not been disqualified by prior conduct, such as discharge from other cases, or been shown not to be trustworthy; know how to make decisions for someone else; and who will make those decisions in an ethical manner and in compliance with the standards of practice.

002.3 “Certification of an agency” is the process by which an agency becomes qualified to perform services as a professional guardian and conservator as defined in RCW 11.130.010 (26). Certification is given to agencies that meet the requirements for certification of an agency in General Rule of Court (GR) 23.

002.4 A “complaint” is the document filed by the Board during a disciplinary proceeding for the purpose of bringing the matter before a hearing officer for a factual hearing on the issue of whether or not the professional guardian and conservator’s conduct provides grounds for the imposition of disciplinary sanctions by the Board. In a complaint, the Board describes how the professional guardian and conservator allegedly violated an applicable statute, fiduciary duty, court order, standard of practice, rule, regulation, or other authority. The Board must approve the filing of a complaint.

002.5 “Decertification” of a professional guardian and conservator or agency occurs when the Board or the Supreme Court cancels the certification of a professional guardian and conservator or agency for any reason.

002.6 To “deliberate” is to consult with others in a process of exercising pre-decisional opinions and making recommendations prior to reaching a decision. “Deliberative records” are records that contain preliminary or draft opinions or recommendations as part of a deliberative process.

002.7 “Disciplinary records” are the records maintained by the Washington State Administrative Office of the Courts (AOC) of any disciplinary review, sanction, or other

action imposed by the Board on the professional guardian and conservator, which shall include the reason for the Board's action. The AOC shall maintain such records as defined by records retention schedules of the judicial branch and the AOC.

002.8 A "disciplinary sanction" is any punitive or remedial action taken by the Board against a professional guardian and conservator as a result of a disciplinary proceeding under the rules and regulations of the Board. A disciplinary sanction may be decertification, suspension, a prohibition on taking new cases, letter of reprimand, or letter of admonition. A disciplinary sanction is also any remedy the Board imposes on the professional guardian and conservator for the purpose of ensuring compliance with the duties of a professional guardian and conservator, such as continuing education, auditing practices, restitution, payment of the costs of an investigation, and any other remedy ordered by the Board.

002.9 "Executive session" is a meeting of a quorum of the Board, declared by the Board as an executive session, which meeting is not open to the public.

002.10 A "grievance" is a written document filed by any person with the Board, or filed by the Board itself, for the purpose of commencing a review of the professional guardian and conservator's conduct under the rules and disciplinary regulations applicable to professional guardian and conservators. The grievance must include a description of the conduct of the professional guardian and conservator that the grievant alleges violates a statute, fiduciary duty, court order, standard of practice, rule, regulation, or other authority applicable to professional guardian and conservators, including the approximate date(s) of the conduct. If the grievant is unable to submit a grievance in written form due to a disability or inability to communicate in written language, it may be communicated orally to AOC staff. AOC staff shall offer to assist the grievant by providing, in written form, the circumstances underlying the grievance, and shall offer to submit what the grievant communicates as the grievance.

002.11 A "hearing" is a proceeding that allows parties an opportunity to be heard regarding an issue. A hearing officer, appointed by the Chair of the Board as set forth in the Disciplinary Regulations, rules on all evidence, procedures, and legal issues. The Board may be represented by an attorney or other staff, and the professional guardian and conservator may be represented by an attorney. Each party may present evidence and argument as directed by these regulations and the hearing officer.

002.12 An "incomplete grievance" is one that: i) does not provide sufficient details of alleged conduct to demonstrate that a violation of statute, regulation, standard of practice, or rule, relating to the conduct of a certified professional guardian or conservator, could have occurred, or ii) does not provide the dates the alleged conduct occurred, or iii) is not signed and dated by the person filing the grievance. A grievance is considered signed pursuant to the definition of "sign" in RCW 11.130.010 (34) .

002.13 "Investigative records" are records related to an investigation pursuant to GR 23 and the disciplinary regulations of the Board into the conduct of a professional guardian and conservator prior to the imposition of any disciplinary sanction or dismissal.).

002.14 "Professional guardian and conservator" is a guardian and conservator as defined by RCW Chapter 11.130.010 (26) and includes both the individual and the agency.

002.16 "Revoked" or "revocation" means a professional guardian and conservator's certification is cancelled by the Board or the Washington State Supreme Court pursuant to the procedures set forth in these disciplinary regulations or any other regulations of the Board, as a result of the professional guardian and conservator's failure to comply with any Board rule or regulation.

002.17 A "suspension" of a professional guardian and conservator occurs when the Board or the Supreme Court orders that the certification of a professional guardian and conservator or agency be temporarily cancelled for a specified period of time. A suspended professional guardian and conservator or agency may not act as a certified professional guardian or conservator for any person during the period of suspension.

002.18 "Voluntary surrender" means a process where a certified professional guardian and conservator voluntarily decides to discontinue practice in the profession and surrenders his or her certification pursuant to regulations adopted by the Board.

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003 Public Records

See General Rule 31.1

003.1 Records Retention. Records related to the Certified Professional Guardianship and Conservatorship Board shall be retained in accordance with records retention schedules for the judicial branch and the Washington State Administrative Office of the Courts (AOC).

003.2 Posting Records. For a grievance or complaint that results in discipline to a professional guardian and conservator, the grievance or complaint, any response submitted by the professional guardian and conservator, the agreement or order imposing discipline, and any order on appeal by the professional guardian and conservator, shall be posted for public access on the website for the Administrative Office of the Court.

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004 Policies

004.1 Board Attendance. Board members need to participate in a minimum of 80% [to be rounded down] of full Board meetings held during the calendar year. In other words, a member may not have more than two unexcused absences during a calendar year.

004.2 Regulations, Ethics and Appeals Committee

004.2.1 The Chair of the Board may appoint a Regulations, Ethics and Appeals Committee, if necessary. The Chair shall designate the members of the committee, the chair of the committee, and the term of the committee members.

004.2.2 The duties of the committee shall be:

004.2.2.1 Coordinate proposed regulation changes for consistency among all regulations.

004.2.2.2 Review of all regulations for necessary updates.

004.2.2.3 Other duties as assigned by the Chair of the Board.

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005 Best Practices

(Reserved)

Guardianship and Conservatorship Program Regulations

006 General Provisions

006.1 Format for Documents Filed with the Board

006.1.1 All documents filed with the Board, on any matter before the Board, must be on letter-size paper (8 ½ inches by 11 inches). Documents filed may not include any tabs or other dividers, except that colored letter-size paper may be used for dividers between sections.

006.2.2 This rule is not mandatory for exhibits, but the use of exhibits that comply with this regulation is encouraged if it does not impair legibility.

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007 Board Meetings

007.1 The Board shall hold meetings as determined to be necessary by the Chair. The Board, its members, committees, and any action taken to further the Board's purpose, including but not limited to holding meetings, are not subject to chapter 42.30 RCW, the Open Public Meetings Act. Nothing in these regulations should be construed to imply that the Board is subject to the Open Public Meetings Act. The following guidelines should not impede the Board's ability to fulfill its obligations and duties as defined in these regulations.

007.2 Meetings of the Board will be open to the public except for executive sessions. The Board may meet in executive session for the following: application and certification matters, disciplinary matters, enforcement actions, litigation, potential litigation, and other attorney-client privileged communications. The Board may also meet in executive session for any other matter that is deemed privileged or confidential. The decision to deem a matter privileged or confidential shall be by vote of a quorum of the Board.

007.3 The Board shall publish the date and time of its regular meetings on the AOC guardianship portal website. The Board shall publish the date and time of its regular meetings at least thirty (30) days in advance. In the event of changes due to emergent circumstances, the Board shall provide notice as soon as reasonably practicable. A public comment session will occur at the Board's January, April, June and October meetings. The public may submit written comments to the Board at any time. The Board shall promulgate regulations regarding notice and comment requirements for regulations adoption, amendment and repeal that provide for stakeholder notice and comment.

007.4 Before convening in executive session, the meeting chair shall publicly inform the public that it is initiating a meeting that excludes the public, and the time when that executive session will conclude. The meeting chair may extend the executive session by informing the public of the adjusted timeframe.