

## Faulk, Camilla

---

**From:** aguak9@aol.com  
**Sent:** Monday, April 28, 2008 12:32 PM  
**To:** Faulk, Camilla  
**Subject:** Fwd: Gen. Rule 23 proposals

below are my comments relative to Gen. Rule 23 proposals

-----Original Message-----

**From:** aguak9@aol.com  
**To:** aguak9@aol.com  
**Sent:** Sun, 27 Apr 2008 6:19 pm  
**Subject:** Gen. Rule 23 proposals

To Whom It May Concern:

I am a licensed attorney and since 2001 working exclusively as a professional guardian. I specialize in serving for people with intellectual disabilities [fna mental retardation] most of whom have significant co occurring disabilities such as mental illness, seizure disorders, mobility impairment, and swallow disorders. None of my current clients are verbal. In the past I have been guardian for elderly disabled as well.

I was the WSBA's first attorney representative in the CPG/OAC organizing process, having been one of the 2-4 original WAPG members who successfully lobbied for certification of professional guardians. Shortly thereafter my own temporary disability resulted in a medical retirement from active law practice. After regaining sufficient health I took over guardianships from retiring MSW/guardians serving people with developmental disabilities.

I was the initial person who argued for more limited educational requirements for CPG status. Higher educational standards are a boon for public relations but have little worth as a predictor for guardian success in my experience, which includes 23 years as a lawyer representing guardians and people with disabilities. I found that effective guardians can come from homes whose families included a disabled person. Some of these guardians seemed to me more effective than other degreed guardians. Intelligence and motivation are better predictors. Knowing one's limitations is also key. A single person no matter how well educated can't do it all. One might need to be a social worker in dealing with an I.P.'s family and friends, a CPA to track investments and prepare tax forms, an MBA to select investments, and an M.D. with multiple specialties to direct medical care. The list could easily go on and require more years in college than any single life span.

There also appears to be a paucity of evidence to support the proposed change. We should be blunt about the proposal being a public relations issue. The Superior Courts with assistance of trained guardians ad litem are better suited to culling the wheat from the chaff.

The proposal to limit guardians on the certification board is perhaps most troubling. The make up of the board is already far from what was envisioned when the certification legislation was passed. I would not have testified and otherwise lobbied for the creation of the process as currently constituted. Our model was the Bar Assn. Composition was meant to have been primarily CPGs, with a judge and court commissioner ideally, and having access to other relevant expertise [not necessarily as board members]. Discipline was not expected to be a primary component. The "discipline" we were concerned about was the lack of state wide coverage. A deficient guardian could, prior to certification, move from county to county if "fired" by any county. There was no process for Superior Courts to alert other counties in cases which a guardian was removed even for criminal behavior such as theft. This was a particular problem where a criminal conviction might have been avoided but the acts were found under a civil standard.

I've generally found that multiple tracks for fact finding and discipline to be a bad idea. What do you do with inconsistent results? How much time and expense in defense is fair to an accused? The board was not

envisioned to be a fact finding body. It was to take discipline contained in court orders and alert courts statewide.

I concur with the rule 23 committee concerning credit reports and bankruptcies as their recommendation has been recently modified.

I would urge mandatory continuing education for board members. Board members should take guardian education regularly at a minimum of 12 hours a year. Word on street has it that the board is out of touch with the realities of CPG practice. The composition of the board lends credence to that idea. Few board members are ever identified at CPG continuing education seminars. Perhaps they attend incognito.

My apologies in advance if my comments are blunt, they are not intended to be offensive to anyone. I just feel that the original effort to improve and professionalize guardian practice has been hijacked by well meaning but insufficiently informed forces, some apparently hostile to guardians.

Yours truly,

James R. Hardman J.D., CPG

---

Plan your next roadtrip with [MapQuest.com](http://MapQuest.com): America's #1 Mapping Site.

---

Plan your next roadtrip with [MapQuest.com](http://MapQuest.com): America's #1 Mapping Site.