

Guardianship and Conservatorship Program ~~Rules~~ Regulations

Regulation 100 Application Regulation

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101 Application for Certification

Every person or agency desiring to be certified as a CPGC must submit an application approved by the CPGC Board, undergo a criminal history check, pay the fee set by the CPGC Board, attend a mandatory training, and satisfy all requirements set forth in the applicable rules and regulations.

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102 Definitions

102.1 “Applicant” means any individual or agency that submits an application to become a CPGC or a Certified Professional Guardian and Conservator Agency.

102.2 “Agency” means any legal entity in the ~~S~~state of Washington authorized by its formation documents to act as a fiduciary, guardian, or ~~limited guardian conservator (full or limited)~~(Revised 3-8-10).

102.3 “Conditional approval” is the status granted by the Board to applicants that meet application requirements with the exception of any identified outstanding obligation(s). Conditionally approved applicants must complete all additional outstanding obligations, as identified by the Board, in order to attain certification. Conditional approval shall not authorize an applicant to identify him/herself as a certified professional guardian and conservator or a conditionally approved certified professional guardian and conservator. ~~(Adopted 7-9-12)~~.

102.4 “Designated CPGC” means the identified certified professional guardian and conservator(s) within an agency who have the final decision-making authority for ~~incapacitated persons or their estate- individuals subject to guardianship or individuals subject to conservatorship or their estates~~ on behalf of the agency. ~~(Revised 4-13-15)~~.

102.5 “Experience working in a discipline pertinent to the provision of guardianship and conservatorship 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. ~~(Adopted 8-10-09)~~.

102.6 “Experience working in a discipline pertinent to the provision of guardianship and conservatorship services” in GR 23(d)(1)(iv) does not include providing services for a family member. ~~(Adopted 9-14-09)~~.

102.7 “Experience working in a discipline pertinent to the provision of guardianship and conservatorship services” in GR 23(d)(1)(iv) includes experience in which the applicant has developed skills that are transferable to the provision of guardianship and conservatorship services. ~~(Adopted 8-10-09)~~.

102.8 “Decision-making or the use of independent judgment on behalf of others” in GR 23(d)(1)(iv) is not limited to- decision making or use of independent judgment on behalf of incapacitated persons individuals subject to guardianship or conservatorship. ~~(Adopted 8-10-09)~~

102.8.1 “Decision-making” is the act or process of deciding something. Components of the decision-making process include: defining the problem or issue; collecting relevant information and data; exploring and weighing options; choosing the optimal option; planning and executing the option; and taking appropriate follow up action.

102.8.2 “Independent judgment” is:

In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct and acting or making a decision after the various possibilities have been considered. The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources.

The exercise of discretion and independent judgment implies that one has authority to make an independent choice, free from immediate direction or supervision. However, discretion and independent judgment can be exercised even if the decision or recommendation is reviewed at a higher level. Thus, the term "discretion and independent judgment" does not require that the decisions being made have to be final or free from review. The fact that one's decisions may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that one is not exercising discretion and independent judgment. Source: US Department of Labor

102.9 “Fees and Filing Requirements Table” refers to the listing of Board-approved fees for the various CPGC and agency application and reporting requirements identified in these Regulations. The Fees and Filing Requirements Table is accessible to the public online at http://www.courts.wa.gov/programs_orgs/guardian. (Adopted 7-9-12).

102.10 “GR 23” refers to Washington State Court General Rule 23 which establishes the scope and authority of the CPGC Board, minimal qualifications for guardian and conservator and agency applicants, and mandatory ongoing guardian and conservator and agency disclosure requirements. Washington State Court Rules are found at www.courts.wa.gov/court_rules. (Adopted 7-9-12).

~~102.11 “On behalf of others” in GR 23(d)(1)(v) means for the benefit of others. (Adopted 8-10-09) Every person or agency desiring to be certified as a CPG must submit an application approved by the CPG Board, undergo a criminal history check, pay the fee set by the CPG Board, attend a mandatory training, and satisfy all requirements set forth in the applicable rules and regulations.~~

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103 Qualifications

103.1 The certification qualifications are set out in General Rule 23, Rule for Certifying Professional Guardian and Conservators. Successful individual applicants must meet or exceed those requirements.

103.2 All individual applicants must complete an approved CPGC training course as described in Section 108. ~~(Adopted 7-9-12)~~

103.3 Pursuant to the timeline¹ established by the Administrative Office of the Courts (AOC), an individual applicant must submit a complete application packet to the AOC which shall include the following: ~~(Adopted 7-9-12)~~

103.3.1 A fully completed CPGC online application form. The applicant should keep a copy of the completed application.

103.3.2 A separate official transcript, received in a sealed envelope mailed from every accredited college and university attended. ~~(Revised 7-9-12)~~

103.3.3 Proof of each relevant professional license or certification currently held. ~~(Revised 7-9-12)~~

103.3.4 A fingerprint card that has been ~~processed at a local police department~~ processed and obtained by a Board approved process.

103.3.5 A completed, signed Authorization and Release of Information.

¹The timeline for application submissions and approvals can be found on the Certified Professional Guardianship and Conservatorship Board's web site: www.courts.wa.gov/programs_orgs/guardian/

103.3.6 A declaration submitted under penalty of perjury, that the guardian and conservator will take—steps to ensure the guardian’s employees who come into contact with the person or estate of an incapacitated person have passed a criminal history check prior to having contact with the incapacitated person or incapacitated person’s estate shall exercise reasonable care, skill, and caution in ensuring a background check is conducted on their own employees, their agents, and any employees of those agents, prior to those persons providing direct services to the individual subject to a guardianship or conservatorship.

When determining the scope of a background check, the guardian or conservator should consider the abilities and vulnerabilities of the protected person and the specific task(s) that the employee or agent are being delegated.

A background check must include a criminal history check utilizing public or proprietary databases ²that are available to the public.

² Examples of public or proprietary databases include, but are not limited to, the Washington State Patrol’s “Washington Access to Criminal History” (WATCH), Superior Court databases (Odyssey, LINX, ECR Online), Department of Social and Health Services Public Disclosure Office, and the Federal Bureau of Investigations Identity History Summary Check (IdHSC).

Additionally, a background check should include a check of public or proprietary databases that report substantiated findings of abuse, neglect, or exploitation of a vulnerable adult.

When engaging licensed agencies that are required by law or regulation to obtain background checks on their employees, the guardian and conservator may rely on the declaration of the agency that they comply with State background check requirements.

103.3.7 A non-refundable application fee as identified on the Fees and Filing Requirements Table. ~~(Revised 7-9-12)~~

103.3.8 A personal credit report obtained from a Board approved credit reporting agency. ~~(Adopted 1-9-12)~~

103.3.9 If an individual has declared bankruptcy in the seven (7) 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. ~~(Adopted 1-9-12)~~

103.3.10 A sworn statement that he/she has read and agrees to abide by the continuing disclosure requirements of GR 23 and all other requirements imposed by rule, regulation or statute for CPGCs.

103.4 An agency applicant must provide:

103.4.1 A fully completed CPGC agency on-line application. The applicant should keep a copy of the completed application.

103.4.2 A copy of the formation documents of the legal entity.

103.4.3 A declaration submitted under penalty of perjury that it ~~will~~shall

(a) ~~take steps to ensure~~ exercise reasonable care, skill, and caution in ensuring a background check is conducted on its own employees, its agents, and any employees of those agents, board members, or anyone formally associated with the agency entity, prior to those persons providing direct services to the individual subject to a guardianship or conservatorship 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 ensure that all officers and directors meet the qualifications of Chapter ~~44.88-11.130~~ RCW for guardian and conservators.

When determining the scope of a background check, the CPGC agency should consider the abilities and vulnerabilities of the protected person and the specific task(s) that the employee or agent are being delegated.

A background check must include a criminal history check utilizing public or proprietary databases ³that are available to the public.

³ Examples of public or proprietary databases include the Washington State Patrol's "Washington Access to Criminal History" (WATCH), Superior Court databases (Odyssey, LINX, ECR Online), Department of Social and Health Services Public Disclosure Office, and the Federal Bureau of Investigations Identity History Summary Check (IdHSC).

Additionally, a background check should include a check of public or proprietary databases that report substantiated findings of abuse, neglect, or exploitation of a vulnerable adult.

When engaging licensed agencies that are required by law or regulation to obtain background checks on their employees, the CPGC agency may rely on the declaration of the licensed agency that they comply with State background check requirements

103.4.4 The names of the agency's current board of directors, members, managers, owners, and/or its officers.

103.4.5 A list identifying all CPGCs at the agency (a minimum of two are required), and a copy of either meeting minutes or a board resolution identifying the designated CPGCs. The designated CPGCs shall submit the Acceptance of Designated CPGC form. ~~(Revised 1-9-12)~~

103.4.6 A non-refundable application fee as identified on the Fees and Filing Requirements Table. ~~(Revised 7-9-12)~~.

103.4.7 A sworn statement that they have read and agree to abide by the continuing disclosure requirements of GR 23 and all other requirements imposed by rule, regulation or statute for CPGCs.

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104 Filing Application for Certification

| Persons or agencies applying to receive certification as CPGCs or CPGC Agencies under GR 23 must submit the required application and fee electronically using the online application available at www.courts.wa.gov/programs_orgs/guardian. Additional material may be sent by mail to:

| Certified Professional Guardian and Conservator Program
Administrative Office of the Courts (AOC)
PO Box 41172
Olympia, WA 98504-1172.

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105 Initial Review and Verification of Applications for Certification

105.1 Initial Review of the Application. The AOC will review applications submitted under Regulation 103.3 and 103.4 for completeness. Incomplete applications ~~will~~ may be rejected, but the applicant may re-apply in the future. (~~Adopted 7-9-12~~).

105.2 Verification of Application. The AOC will verify completeness of the online application form in writing, and will instruct the applicant to complete all remaining application requirements. Upon written notification, each applicant will have a period of (30) thirty calendar days to complete these requirements. Failure to timely complete these requirements will result in rejection of the application, but the applicant may re-apply in the future. (~~Revised 7-9-12~~)

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106 Processing of Applications for Certification.

106.1 Certification and Application Committee

The Chair of the Board shall appoint the members of the Certification and Application Committee. The Chair of the Board shall designate one of the committee members as the committee chair. The term of all members, including the chair, shall be one year.

106.2 Approval of Individual Applications

106.2.1 After an application is complete, the Certification and Application Committee shall report to the Board in executive session on the merits of the application.

106.2.2 The Board shall approve the applications for certification or conditional approval, refer the applications back to the Certification and Application Committee for additional information, or deny the applications.

106.3 Approval of Agency Application

106.3.1 The AOC has authority to approve agency applications which comply with all requirements set forth in these Regulations. ~~(Adopted 7-9-12).~~

106.3.2 If the AOC denies an agency application, the denial will be reviewed by the Application and Certification committee, and the CPGC Board. The CPGC Board shall hold the final decision-making authority for denying an agency application. ~~(Adopted 7-9-12)~~

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107 Right to Appeal of Denial of Certification or Conditional Approval

107.1 Right of Appeal. Every applicant denied shall have a right of appeal before an Appeals Panel. The applicant shall receive a copy of the written application file relied on by the Board with the notice of denial.

107.2 Appeals Panel. The Chair shall appoint an Appeals Panel made up of three Board members who did not serve on the Application Committee.

107.3 Filing of Appeal. An applicant may appeal denial of certification or conditional approval by submitting a written request to:

Certified Professional Guardiansship and Conservatorship Board
Administrative Office of the Courts
PO Box 41170
Olympia WA 98504-1170

107.4 Procedure for Appeal

107.4.1 Commencement. The request must:

107.4.2 Be filed within sixty (60) calendar days of the date the denial of application was issued;

107.4.3 Identify the applicant; and

107.4.4 Explain fully the applicant's reason for contesting denial of certification.

107.4.5 Additional Material Shall Not be Considered. The appeal is limited to the information submitted originally by the applicant for application purposes, and reviewed by the Applications Committee. Denied applicants wishing to submit additional information may newly apply. ~~(Revised 7-9-12)~~

107.4.6 Stipulations. The Appeals Panel may use written stipulations. ~~(Adopted 1-12-00)~~

107.4.7 Time Lines and Scheduling of the Appeal.

107.4.7.1 The date of review of the appeal will be not more than sixty (60) calendar days from the date of receipt of applicant's materials by the AOC. The AOC will notify the applicant of the schedule date for the consideration of the appeal.

107.4.7.2 An Appeals Panel will not consider any request for appeal that does not strictly comply with the times stated, unless waived. Upon a showing of good cause, the Appeals Panel may waive the time requirements, reschedule the review for an earlier, or later date.

107.4.8 Review by the Appeals Panel. The Appeals Panel shall make a decision based solely on the written record.

107.4.9 Decision of the Appeals Panel. Within twenty (20) calendar days after the date of review of the appeal, the assigned Appeals Panel shall file with the AOC written findings of fact, conclusions of law, and a recommendation to the Board to approve or deny the appeal. ~~(Amended 11-12-02)~~

107.4.10 Decision of the Board. Within sixty (60) calendar days of the Appeals Panel's decision, the Board shall review the findings, conclusions and recommendation of the Appeals Panel. The Board shall adopt, modify, or reverse the findings, conclusions, and recommendation of the Appeals Panel. A copy of the Board's decision, as set forth in the minutes of the Board meeting or in a separate written decision of the Board, shall be served on the applicant by mail within thirty (30) calendar days.

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108 Training

Each approved applicant shall complete and pass the training program that has been approved by the Board. The training will incorporate the goals and objectives and content adopted by the Board. Applicants shall submit to the AOC a certificate of completion which shall be valid for two years ~~form-~~ from the date of completing the training. Certification is dependent on documentation of ~~completing-~~ completion of this training.

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109 Certification by the Supreme Court

109.1 The Board shall submit the names of those persons and agencies that have successfully completed the requirements and are recommended for approval as a CPGC or Certified Professional Guardian and Conservator Agency to the Supreme Court. Certification shall be effective upon order of the Supreme Court.

109.2 A certified professional guardian and conservator or certified professional guardian and conservator agency shall be appointed and carry E & O Insurance in the name as certified. A CPGC or CPGC Agency may include a business name in contact information and promotional materials concerning the provision of guardianship services provided that the name of the CPGC or CPGC agency is listed.

109.2.1 If an individual certified professional guardian and conservator is appointed as guardian or conservator, the certified professional guardian and conservator shall assure that letters of guardianship and/or letters of conservatorship are issued to the certified professional guardian and conservator individually. If a certified professional guardian and conservator agency is appointed as guardian or conservator, the agency shall assure that letters of guardianship and/or conservatorship are issued to the certified professional guardian and conservator agency.

109.2.2 A certified professional guardian and conservator or certified professional guardian and conservator agency shall not make a false or misleading communication about the guardian and conservator or the guardian and conservator's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, omits a fact necessary to make the communication considered as a whole not materially misleading.

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110 Fees

110.1 Schedule of Fees. The Board shall determine a schedule of application fees and other processing fees as may be required. All fees shall be published annually by the Board in the Fees and Filing Requirements Table at www.courts.wa.gov/programs_orgs/guardian. ~~-(Revised 7-9-12).~~

110.2 Payment of Initial Certification Fee

110.2.1 The initial certification fee for both individuals and agencies is due sixty (60) calendar days after notice of the application's approval by the Board for certification.

110.2.2 The initial certification fess is not prorated.

110.2.3 Upon receipt of the initial certification fee, the application will be forwarded to the Supreme Court with the Board's recommendation for certification.

110.3 Failure to Pay Initial Certification Fee. In the event an applicant does not timely pay the initial certification fee, the Board will not forward the application to the Supreme Court for certification, and the Board will deny certification.

110.4 Training Fee. This is an administrative fee unrelated to the cost of training that may be paid to the trainer.

¹The timeline for application submissions and approvals can be found on the Certified Professional Guardian Board's web site:

www.courts.wa.gov/programs_orgs/guardian/

~~{Adopted February 12, 2000; Renumbered January 13, 2003; Revised July 9, 2012; Adopted as Amended {Date} Effective January 1, 2022}~~