

# **GUARDIANSHIP CERTIFICATION BOARD**

## **MINUTES OF MEETING**

January 19, 2007  
9:30 a.m.

Office of Court Administration  
205 W. 14th St., Suite 605  
Austin, Texas

### **COMMENCEMENT OF MEETING**

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on January 19, 2007 at 9:35 a.m. The meeting was held at the Office of Court Administration in Austin, Texas. Notice of this meeting was posted on the GCB's website and distributed to interested persons in accordance with the GCB's public meetings policy.

### **ATTENDANCE OF MEMBERS**

Meredith Musick, Executive Assistant at the Office of Court Administration (OCA), called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair  
Leah Cohen, Vice-Chair  
Jason Armstrong  
Dr. Raymond Costello  
Carol Patrice Dabner  
Don Ford  
Phillip A. Grant  
Marlane Meyer  
Janice Thompson  
Patti Turner  
Robert Warach

Ms. Thompson, Ms. Turner and Mr. Warach attended via telephone conference call. Garth Corbett, Susan Eason, Dr. Ann Elizabeth Lemke and Gina Patterson did not participate. Others present were Justice Phil Johnson and Jody Hughes, rules attorney, of the Supreme Court of Texas; Carl Reynolds, Administrative Director, Margaret Bennett, General Counsel, Katie Bond, Assistant General Counsel, and Meredith Musick, Executive Assistant, all of the OCA and Antonio Franco, Director of the Guardianship Certification Program. Members of the public present were Alex Jones, attorney for Department of Aging and Disability Services (DADS); Barb Scobey, a program supervisor at DADS; George Ford, Executive Director of Harris County Protective Services; and Terry Hammond, director of the National Guardianship Association.

### **MINUTES OF OCTOBER 21, 2006 GCB MEETING**

Upon motion and second, the minutes were approved as submitted.

## **APPROVED GUARDIANSHIP CERTIFICATION RULES AND FEES**

Justice Johnson introduced Mr. Hughes, who reviewed the changes the Supreme Court had made to the rules submitted for approval by the Board. He noted most changes were minor and made for clarification. Substantive changes were made to Rule VII, Requirements for Re-Certification (hours of continuing education required); Rule IX, Review and Appeal of Certification Denial; Rule XI, disciplinary criteria; and Rule XII, Complaints; Disciplinary Procedure.

The Board discussed the changes. Justice Johnson suggested the Board review the rules after a year or so to determine if it wished to recommend changes. Mr. Hughes confirmed that the rules as modified were adopted by the Supreme Court on December 12, 2006, which means they are in effect as of that date.

The Chair asked about where the rules would be published. Whether the rules will be included in the Texas Rules of Court is a determination to be made by the publisher, Thomson West. The State Bar Journal is probably not an appropriate forum for publication of the rules, but Mr. Reynolds will ask his contact person at the Bar about it.

The Board heard public comments on the rules. Mr. Jones noted that the requirement for sworn testimony will require that a person authorized by statute to give an oath must be present at the Board hearings; for example, a court reporter or notary public.

Mr. Hammond informed the Board that the National Guardianship Association is holding its annual conference in San Antonio October 6-9, and the Texas Guardianship Association is planning its spring conference. He asked how attendees at conferences where substantive training is provided could qualify to receive continuing education. Materials are to be submitted to Mr. Franco before a conference takes place; he will determine if the program qualifies for continuing education credit.

Mr. George Ford asked about county guardianship programs being exempted from fees, as DADS is. DADS is exempted by statute, and no other program is exempted. The Board does not have the authority to waive fees. Other programs seeking exemption must approach the legislature. Mr. Ford commented he would ask the Board to support legislation to establish an apprentice-ship type program.

Ms. Bond reminded the Board that the rules as proposed and submitted to the Supreme Court had required applicants for certification to pass a Texas exam and the national exam administered by the National Guardianship Foundation. Rule VI(d)(1) as adopted references "any other examination required and approved by the Board," which preserves the Board's intent to require a Texas and a national exam, but does not tie it to the NGF's test.

The Board discussed the issue, including whether or not to require two separate exams, possibly having one comprehensive Texas and national exam in future, and costs associated with taking the national exam. Mr. George Ford, Mr. Hammond, Ms. Scobey and Mr. Jones provided input.

A motion was made to table whether to require one test or two tests until such time as the Texas test is developed, the beta testers have taken it, and the results are available. The motion was seconded and carried.

Judge Burwell requested that NGF provide the dates and locations of exams in Texas. Mr. Hammond will ask Sally Hurme to contact Ms. Bond or Mr. Franco with that information.

### **RESOLUTION RECOMMENDING PROVISIONAL CERTIFICATION OR APPRENTICESHIP**

Ms. Bond updated the Board on the status of the legislative process. The Legislative Council has drafted an amendment to Chapter 111, Government Code to allow the Board to adopt rules to allow for provisional certification, and also amends the relevant portions of the Probate Code to make clear provisionally certified guardians can provide guardianship services. Upon motion and second, the resolution supporting the amendments was adopted. The resolution will be presented to the legislature in support of the proposed legislation.

### **ADOPTION OF LANGUAGE FOR MINIMUM STANDARDS PREAMBLE**

Ms. Bond reported that representatives of the Board, OCA and the Supreme Court had a conference call with NGA staff to address concerns with copyright issues. The preamble to the proposed minimum standards was revised to acknowledge NGA's contribution to the development of the Texas standards. A motion was made to amend the second paragraph of the preamble as presented. Upon second, and there being no discussion, the motion carried.

### **ALTERNATIVE DISPUTE RESOLUTION POLICY**

The Board is required by statute (Government Code section 111.019) to adopt an alternative dispute resolution (ADR) policy. The policy proposed adapts the Court Reporters Certification Board's policy to conform with the Board's standards. Employee and contract disputes will be resolved pursuant to OCA's policies and procedures. The bulk of the policy deals with complaints filed against certified guardians. Ms. Bond summarized key points of the policy.

The Board discussed the proposed policy, including the fact that the rules do not address ADR. Mr. Reynolds suggested that Mr. Hughes review the proposed ADR policy in the context of the rules, and advise if a rule change is needed. Suggestions for changing the policy were: giving the Board representative or committee members present at the mediation full authority to act for the Board or have the entire Board present at the mediation; to require that party requesting mediation must pay the fees; may former probate judges act as mediators; and mediation is not mandatory if all parties do not agree. Upon motion and second, consideration of the policy was tabled pending review by Mr. Hughes and revisions by Ms. Bond. The motion carried.

### **GCB AND OCA REPORTS**

In May 2006, a request was made to the clerks of the 20 largest counties to provide information on guardianship cases to OCA. Mr. Franco reviewed the reports and reminded the Board that

this reporting is voluntary. Judge Burwell reported a problem in reporting cases when a case is opened but a guardianship application has not been filed; e.g., when a guardian ad litem is appointed pursuant to a doctor's letter. The instructions can be revised to accommodate these situations, and advise counties to report them as guardian of the person, or another category can be added. The solution depends on why the information is being requested; that is, number of cases, or number and type of cases.

After discussion of the various data elements in the report, a Board member queried if the reports could be made mandatory. Mr. Reynolds explained the reporting elements were set by the Judicial Council. Collecting probate/guardianship data is part of the larger project to revamp all of the reporting forms.

Mr. Franco directed the Board's attention to a document he and Ms. Bond prepared, which will be used in identifying requirements for procurement of certification software for the three regulatory boards OCA supports. He asked for input from the Board if there are additional requirements. Mr. Reynolds told the Board that OCA had requested exceptional item funding for software from the legislature of \$70,000; however, the need was so urgent that funding has been found from existing resources to purchase the certification software.

### **LEGISLATIVE ISSUES**

Judge Burwell provided the Board a list of bills that have been filed that will affect the operation of guardianships. She summarized three of those bills: House Bill 353, House Bill 342 and House Bill 417.

### **PUBLIC COMMENT**

Mr. George Ford provided written comments to the Board. The only item not addressed during the course of the meeting is a concern that because the Texas test has not been written, there may be a time crunch in preparing for and taking the exams to meet the September 1 certification deadline.

### **SCHEDULE FOR FUTURE BOARD MEETINGS**

The Board will meet by telephone conference, in mid- to late February. Once the beta testing is complete and when the NGF exam schedule is provided to the Board, Ms. Bond will e-mail possible dates to the Board after the beta testing is complete and she receives the NGF exam schedule.

The next quarterly Board meeting is scheduled for Friday, May 18, 2007 beginning at 11:00 a.m. at a location to be determined. The Board agreed minutes are required for all full Board meetings, whether conducted in person or by telephone.

In response to a question regarding Board terms expiring on February 1, 2007, Ms. Bond advised the Board that members still serve, even if the term expires and even if a member resigns, until

they are reappointed by the Supreme Court. She anticipates that the vacancy should be filled and members with terms expiring February 1, 2007 reappointed by Supreme Court this month.

**ADJOURNMENT**

On motion and second, the meeting was adjourned at 12:30 p.m.