

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

February 1, 2008
11:00 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 February 1, 2008 at 11:04 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

Lesley Ondrechen, Guardianship Certification Program Director, called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair	Philip A. Grant
Barry Anderson	Marlane Meyer
Jason Armstrong	Gina Patterson
Dr. Raymond Costello	Patti Turner
Carol Patrice Dabner	Robert Warach
Don Ford III	

Dr. Raymond Costello, Marlane Meyer, Patti Turner and Robert Warach attended via telephone conference call. Leah Cohen, Garth Corbett, Susan Eason and Kathy Strong did not participate. Others present were Carl Reynolds, Administrative Director; Lesley Ondrechen, Guardianship Certification Program Director; Margaret Bennett, General Counsel; and Katie Bond, Assistant General Counsel, all of the OCA. Members of the public present at the meeting were Alex Jones and Rosa Black of the Texas Department of Aging and Disability Services (DADS), Amy Young of the Texas Council for Developmental Disabilities, and Jan McLaughlin of the Harris County Guardianship Program.

Judge Burwell welcomed Barry Anderson, who was appointed to replace Janis Thompson. She verified that Mr. Anderson had received the required training for new Board members.

MINUTES OF OCTOBER 26, 2007 MEETING

Upon motion by Ms. Meyer and second by Mr. Warach, the minutes of the Board's October 26, 2007 meeting were approved as submitted.

DIRECTORS' REPORTS

Mr. Reynolds reported to the Board on a national conference of court administrators he attended in December. Major points of interest were a presentation by Tarrant County Probate Court Judge King on court visitors and the use of software that allows guardians to file their reports online. He stated that there is enormous nationwide interest in child protection, foster care, guardianship and elder abuse.

Mr. Reynolds told the Board that the new court reporting form for probate cases has been mostly completed. It will be posted for public comment in March, and is scheduled to be implemented on September 1, 2009. OCA is also re-vamping the court reporting form on payment of court-appointed fees.

Ms. Ondrechen reported that as of January 30, 2008, 166 guardians are certified, and 51 are provisionally certified. Included in the 166 certified guardians are 13 provisionally certified guardians who moved to full certification. Six applications for certification are pending, including the one considered by the Application Review Committee, which will report later in the meeting. Five applications for provisional certification are pending, two of which will be discussed today.

Ms. Ondrechen reported on the results of the certification exams given in Fort Worth in December, and advised that the next exam has been scheduled for April 21, 2008 in Corpus Christi. She updated the Board on action taken regarding complaints alleging study materials for the Texas portion of the exam were inadequate. Ms. Ondrechen suggested that the Board may want to consider in the future whether to impose a limit on the number of times an applicant could take the exam.

Ms. Ondrechen advised the Board on training she had attended, and her speaking to the Elder Law Section of the San Antonio Bar. She told the Board that the NGA had asked for presenters at its annual conference in Nashville in October, and she believes Texas should be represented to discuss certification. She reported that the topic for the Travis County Probate Court's continuing legal education presentations in May and in June is guardianship certification.

Ms. Ondrechen addressed reports required from county clerks, private professional guardians, DADS and public guardians. There is still confusion about who needs to report what to whom, and when. She will analyze and compile data from the reports received, and will report to the Board at its next meeting. She also asked that the Board consider consistency in reporting requirements to the Board and to the county clerks as a legislative issue.

Ms. Ondrechen advised that the Judicial Council has formed a Legislative Committee; she plans to attend the next Judicial Council meeting on March 7. She asked the Board to consider any legislative proposals it may have for the 81st Legislative Session, and be ready to discuss them at the next meeting.

Ms. Ondrechen told the Board that a complaint had been filed against a certified guardian, and that notice has gone out according to the rules. The Disciplinary Review Committee will convene following the expiration of the response period.

Finally, Ms. Ondrechen informed the Board about two administrative matters: the possibility of having a search function for certified guardians on the website and OCA's customer service survey, which will include questions on the regulatory boards OCA supports.

COMMITTEE REPORTS

A. Application Review Committee

Ms. Patterson, chair, reported that the Application Review Committee had reviewed an application for certification by Kathy Mims. The Committee considered her experience to be sufficient, and voted to approve her certification.

B. Rules Committee

Mr. Ford, chair, advised the Rules Committee met in November and discussed the Alternative Dispute Resolution rule. He will report in more detail when Policies and Rules are considered.

REVIEW OF APPLICATIONS FOR CERTIFICATION

The Board went into closed session at 11:24 a.m. to discuss agenda item V - Review of Applications for Certification, in accordance with sections 7(f) of its Public Meetings Policy. No vote was taken during closed session. The Board reconvened in public session at 11:59 a.m.

Mr. Grant moved, and Ms. Meyer seconded, to table consideration of Latorya Williams' application for provisional certification, pending receipt of confirmation that she is no longer employed by the Harris County Guardianship Program, and whether her designated certified guardian supervisor will continue to act in that capacity. The motion carried.

Mr. Grant moved to deny the application for provisional certification by Shenetha Harrison-Toliver, and Mr. Anderson seconded. The motion failed. Dr. Costello moved, and Ms. Meyer seconded, to approve provisional certification for Ms. Harrison-Toliver. The motion carried.

The Board recessed at 12:05 p.m. and reconvened at 12:36 p.m.

POLICIES AND RULES

A. Proposed Rule XV, Alternative Dispute Resolution

Mr. Ford reported on the Rule Committee's review of the proposed Alternative Dispute Resolution rule at its November 13, 2007 meeting; the Committee's recommendations are incorporated in the proposed rule the Board is considering. Ms. Bond summarized the rule's provisions, noting it allows for flexibility while encouraging the use of ADR to resolve disputes. Ms. Meyer noted potential conflicting language in section (j) and (l); Ms. Bond suggested removing a phrase from section (j) to resolve this issue. Mr. Grant moved to publish the proposed rule for comment as amended, and Ms. Meyer seconded. The motion carried.

B. Proposed Amendment of Rule XI(a), Grounds for Denial of Certification

Mr. Ford noted the rule had been posted for public comment. The proposed rule as posted, and incorporating public comment, was presented to the Board for consideration. Mr. Ford moved, and Ms. Meyer seconded, to adopt the rule incorporating the public comment. The motion carried. Ms. Bond will submit the rule to the Supreme Court for approval.

C. Proposed Amendment to Ethics Policy

Ms. Bond summarized the sections being amended. She noted the changes are mostly clean-up and to make the policy consistent with applicable laws. Upon motion by Mr. Grant and second by Mr. Warach, the amendments were adopted.

REQUEST FOR EXTENSION OF PROVISIONAL CERTIFICATION PERIOD

Ms. Ondrechen told the Board that a provisionally certified guardian has asked the Board to extend his provisional certification period for the amount of time he will be on active military duty. Mr. Grant so moved, and Ms. Patterson seconded. The motion carried.

ENFORCEMENT OF CERTIFICATION REQUIREMENTS

Ms. Ondrechen directed the Board's attention to a proposed "letter of caution." These letters would be sent when the director becomes aware of an individual who is providing guardianship services, and is required to be certified by the Board, but is not certified. The Board discussed various enforcement issues. Mr. Jones commented on notification to the court when a complaint is filed against a guardian and the duty of Adult Protective Services to investigate allegations of abuse, neglect and exploitation against a guardian.

Ms. Dabner moved, and Mr. Grant seconded, to authorize the director to use the proposed letter of caution, with a copy to the judge with probate jurisdiction in the addressee's county. The motion carried.

In the future, the Board will determine if a rule change is needed to permit notification to the court at the time a formal complaint is filed with the Board, and will pursue it if that is the case. The director also suggested the Board may want to consider the definition of "volunteer" and a *de minimus* provision regarding compensation as possible rule and legislative changes.

The Board reviewed correspondence from John Caldwell, director of the Guardianship Alliance of the Concho Valley, regarding fees for criminal history searches by guardians in each county in which the guardian serves. The consensus of the Board was this is an appropriate topic for the Judicial Council's Legislative Committee.

PUBLIC COMMENT

Mr. Jones commented during the discussion of Enforcement of Certification Requirements. No other public comment was made.

FUTURE BOARD MEETINGS

Ms. Ondrechen reminded the Board that its remaining 2008 quarterly meetings are scheduled for May 2, July 25 and October 24.

ADJOURNMENT

On motion by Ms. Dabner and second by Mr. Grant, the meeting was adjourned at 1:45 p.m.