

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

April 16, 2007
10:00 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 April 16, 2007 at 10:02 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
Garth Corbett
Don Ford
Phillip A. Grant
Marlane Meyer
Gina Patterson
Kathy Strong
Janis Thompson
Patti Turner

All members attended via telephone conference call. Carol Patrice Dabner joined the meeting in progress. Dr. Raymond Costello, Susan Eason and Robert Warach did not participate. Others present were Carl Reynolds, Administrative Director; Margaret Bennett, General Counsel; Katie Bond, Assistant General Counsel; Lesley Ondrechen, Paralegal; and Meredith Musick, Executive Assistant, all of the OCA. Members of the public present were Tim McGinnis, Barb Scobey and Alex Jones of the Department of Aging and Disability Services (DADS). Margie Kyser and Baerbel Cleveland of the Department of Public Safety (DPS) attended the meeting as a resource regarding agenda item III, Criminal History Checks.

The Chair welcomed Ms. Strong to her first Board meeting. She confirmed that Ms. Strong had received the training required by Government Code Section 111.017 for new Board members.

LEGISLATIVE UPDATE - 80TH LEGISLATURE, REGULAR SESSION

Mr. Reynolds told the Board two of three bills affecting the Board have passed and are on the way to the governor for signature. Senate Bill 505, criminal history check and Senate Bill 506, provisional certification are awaiting signature; Senate Bill 507, reimbursement for Board members' travel to meetings, is scheduled for consideration this week. Mr. Reynolds stated that although funds were not specifically appropriated, OCA will ensure Board members are reimbursed if the bill passes.

CRIMINAL HISTORY CHECKS

A. Consideration of and possible action on various options and methods for obtaining criminal history checks

Ms. Bond identified three topics for discussion:

1. Will applicants obtain their own criminal history check and submit it to the Board, or will the results go directly to the Board.
2. What kind of check will the Board require - name or fingerprint? Texas or Texas and national?
3. Timing: will the Board require criminal history checks right away, or at a future date.

Ms. Kyser and Ms. Cleveland provided background information for the Board. The cost is \$15 for a Texas check, \$24 for a national check, and \$9.95 for the fingerprint service by DPS's contracted vendor. Ms. Kyser said it was best to have results sent directly to the Board; if the Board will require national checks, they must be sent to the Board and not the applicant. Ms. Cleveland noted that FBI rules require that an agency, not an individual applicant, request a national criminal history search. If the Board has an ORI number, then national search results can be sent directly to the Board. Ms. Kyser told the Board that name searches are not as reliable as fingerprint searches, and that many agencies and boards require fingerprint searches; e.g., teachers, nurses, chiropractors, process servers.

Ms. Kyser summarized how applicants may obtain fingerprints through DPS's contracted vendor, IBT. Applicants can obtain fingerprints from local law enforcement agencies, if local law enforcement is willing to perform that service, but it would take longer. By using IBT, DPS receives applicants' fingerprints electronically within one day. DPS and FBI responses are provided within 24 hours.

There was further discussion on name searches versus fingerprint searches, and national versus Texas-only searches. Comments were made by DADS representatives concerning possible duplication of criminal history searches by DADS and the Board, pending legislation that would permit DADS to share criminal history information with the Board, and cost of the fingerprint search.

Ms. Bond advised the Board that a rule change will be needed to require applicants to obtain a criminal history search as part of the application process. The Board wishes to be consistent in

its treatment of applicants from the beginning; therefore, the rule change should be made now. The consensus of the Board was to require a Texas and national fingerprint search.

B. Consideration of and possible action on amending Board rules

A motion was made to amend the rules to require applicants to obtain and cause to be sent directly to the Board the results of a fingerprint search for Texas and national criminal history. Upon second, a vote was taken, and the motion carried.

Ms. Bond told the Board that the Supreme Court has four administrative conferences scheduled in June, and one on May 21. Although a public comment period is not required, it has been the Board's practice to post proposed rules for comment in the past. The new rule to be drafted by the Rules Committee can be posted for a short public comment period. The proposed rule would then be submitted to the full Board at its May 18 meeting. Upon motion and second, the Board voted to authorize the Rules Committee to convene, draft language, publish it for comments and present the proposed rule to the Board on May 18. The rule change will be from requiring only an attestation that an applicant has no criminal history to requiring an attestation and a criminal history fingerprint search. The motion carried.

CONSIDERATION OF AND POSSIBLE ACTION ON BOARD AND STAFF ROLES IN CERTIFICATION

The Board considered the roles of staff and the Board in processing applications for certification. One option is that in circumstances where it is clear that an applicant meets, or does not meet, requirements, staff will take action and issue or deny certification. The Board discussed the matter, and agreed that their intent is to delegate that authority to staff, and no rule change is necessary.

A motion was made and seconded to delegate to Board staff the authority to review applications for certification and make decisions to deny or grant certification when decisions are clear-cut. After further discussion, the Board clarified that staff should seek assistance from the Board in making certification decisions in situations that are not clear. A vote was taken and the motion carried.

APPLICATION FORMS AND PROCESSES

The Board discussed and reached consensus on several items. The application for certification will be finalized and posted to the Board's website, accompanied by information regarding the proposed legislation and rule change to require Texas and national fingerprint criminal history searches. Applicants will be informed that applications will be held pending passage of legislation and adoption of rule changes. Certifications will be effective the date they are issued. A separate application for provisional certification will be required, and will be presented to the Board for approval at the May 18 meeting. The attestation will be required in addition to the criminal history searches.

Ms. Kyser told the Board that DPS can retain fingerprints. When certified guardians apply for re-certification, they will not have to be fingerprinted again. The FBI is currently not retaining them, but DPS can resend fingerprints to the FBI. The FBI requires payment for a new criminal history search, even though fingerprints are retained. DPS does not charge to re-check fingerprints, and will notify the Board if a certified guardian is arrested or has a criminal conviction during his or her certification period.

COMMITTEE ASSIGNMENTS

No further committee assignments are required at this time. The Rules Committee and the Provisional Certification Subcommittee of the Rules Committee are working.

PUBLIC COMMENT

There was no further public comment.

SCHEDULE FOR FUTURE BOARD MEETINGS

The next Board meeting is scheduled for May 18, 2007 at 11:00 a.m.. It will be held at the Texas Center for the Judiciary in Austin. Future meetings will be scheduled at the May meeting. Members of the Director Selection Committee will attend interviews of candidates for the Director position on May 18 before the 11:00 a.m. Board meeting.

ADJOURNMENT

On motion and second, the meeting was adjourned at 11:18 a.m.