



TEXAS GUARDIANSHIP CERTIFICATION BOARD

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CHAIR:
Judge Gladys Burwell
Galveston

VICE CHAIR:
Leah Cohen
Austin

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

May 6, 2006
10:00 a.m.

STATE BAR OF TEXAS
1414 Colorado, Room 104
Austin, Texas

COMMENCEMENT OF MEETING

On May 6, 2006, after a Board Member Orientation, Carl Reynolds, Administrative Director for the Office of Court Administration (OCA), called the first meeting of the Guardianship Certification Board (Board) to order at approximately 10:44 a.m. in Room 104 of the State Bar in Austin, Texas.

ATTENDANCE OF MEMBERS

Meredith Musick of the OCA called the roll. The following members of the Board were present:

Jason Armstrong, Lufkin
Judge Gladys Burwell, Galveston
Leah Cohen, Austin
Garth Corbett, Austin
Dr. Raymond Costello, San Antonio
Carol Patrice Dabner, Dallas
Susan Eason, Austin
Don D. Ford, Houston
Phillip A. Grant, Round Rock
Marlane Meyer, McAllen
Gina D. Patterson, Houston
Janis Thompson, Sherman
Patti Turner, Fort Worth
Robert Warach, El Paso

Dr. Ann Elizabeth Lemke was unable to attend. Others present were Margaret Bennett, General Counsel, Mena Ramon, Deputy General Counsel, Katie Bond, Assistant General Counsel, and Glenna Rhea Bowman, Chief Financial Officer; all of the OCA. Members of the public present were David Edmundson of Senator Shapleigh's office, Kathleen Anderson and Aarcey Hayes.

SELECTION OF PRESIDING OFFICER AND OTHER OFFICERS

Judge Gladys Burwell was nominated to be the Board Chair. There were no other nominations, and after a unanimous vote, Judge Burwell was elected to serve as Chair of the Board.

Next, Judge Burwell called for nominations for a vice-chair. After a brief discussion, Ms. Cohen was elected to serve as Vice-Chair for the Board, also unanimously.

It was agreed a Secretary was not needed because OCA will provide the administrative support.

ETHICS POLICY

The Board considered the proposed Ethics Policy. Mr. Reynolds requested that the Board strike the phrase "and to adopt some stricter standards" from the first sentence of Section 2 because the policy is currently based on both common and statutory law. He also noted there were typographical errors that needed to be corrected. After proper motion and vote, the Ethics Policy was approved as amended.

PUBLIC MEETINGS POLICY

The Board considered the proposed Public Meetings Policy. Mr. Reynolds suggested a change to the definition of "Meeting" in Section 2(d)(1). He recommended striking the word "of" from "a deliberation among members constituting a quorum of." Ms. Bond also suggested changing the last word in Section 7(a)(2) from "chapter" to "policy." After discussion and a proper motion and vote, the Public Meetings Policy was approved as amended.

REPORTING REQUIREMENTS

Mr. Reynolds explained that OCA had posted Guardianship Reporting Requirements on its website. The website shows there are two separate reporting requirements related to guardians. First, county clerks were required to report to OCA and the Health and Human Services Commission (HHSC) by February 1, 2006; second, guardianship programs and private professional guardians were required to report to OCA by January 31, 2006. He asked the Board to approve the posting of the reporting requirements, and there were no objections.

Mr. Reynolds informed the Board that he sent a letter on the Board's behalf to clerks in the 20 largest counties notifying them of the new GCB and the focus that guardianships are now receiving in the courts. In the letter, he also requested that the clerks provide any data that they have to OCA.

Judge Burwell affirmed the importance of the reports that OCA receives and referred to the OCA Annual Report. Mr. Reynolds stated that OCA is working to improve the report.

Audience member Kathleen Anderson, representing HHSC, was asked if HHSC still collects data from guardianship programs and county clerks. She stated that, for various reasons, it has

been difficult to obtain the information and that HHSC would support OCA's efforts to collect the data.

The Board discussed the information that should be collected. Mr. Reynolds stated that the surveys would be refined based on the Board's input. He also noted that it will be important to communicate with guardianship programs regarding the Board and reporting requirements. The Board also discussed the importance of judicial training, and Mr. Reynolds suggested that the Board may want to form a committee on judicial education.

PROPOSED SUPREME COURT RULES FOR CERTIFICATION OF GUARDIANS

The Board considered the proposed Rules Regarding Certification and Re-Certification of Guardians. Ms. Ramon explained that the Board is required to recommend rules for certification of guardians to the Supreme Court for final approval. ([Attachment A](#)).

The Board discussed several issues related to the minimum standards for certification, including obtaining criminal history information. Ms. Ramon noted that while clerks currently have statutory authority to obtain criminal history directly, the Board does not have such authority. She suggested that the Board consider either requesting applicants to obtain their criminal history and provide it to the Board or requesting a statutory amendment that would provide this authority. The Board discussed the portion of the rule that addresses what types of criminal history disqualify an applicant and whether to obtain national criminal history information. Finally, the Board discussed asking applicants whether they have ever filed bankruptcy.

Judge Burwell raised the issue whether individuals certified by the National Guardianship Association (NGA) could be grandfathered into the Texas program for a period of time. The Board discussed this issue and determined that it would be reasonable to permit some amount of grandfathering. Ms. Ramon described the Board's options on accepting certification by other organizations and administering examinations.

The Board discussed fee and examination issues. The Board decided to develop a Texas-specific component for the examination and to require those who are grandfathered with NGA certification to take only the Texas portion.

The Board then discussed several issues regarding recertification, including requiring applicants for recertification to report the number of cases in which they were serving as a guardian. The Board also discussed continuing education requirements and the reference in the rules to education programs offered by specific organizations. It was noted that continuing education will not be limited to entities that the Board lists in the rules.

Next, the Board discussed complaint procedure. The Board concurred with Ms. Dabner's recommendation that Respondents be notified by both certified and regular mail. Ms. Ramon explained the proposed complaint process, which includes preliminary screening of complaints by the Director and review of complaints by a Board committee that would make recommendations to the Board. The Board determined that OCA should provide the Board with a report of all complaints received.

MINIMUM STANDARDS FOR GUARDIANSHIP SERVICES

The draft minimum standards ([Attachment B](#)) are a product of the Guardianship Advisory Board (GAB). Ms. Anderson stated that the standards were never adopted.

Mr. Reynolds commented that the minimum standards adopted by the Board will be sent to the GAB for review and then submitted to the Supreme Court for approval.

Ms. Anderson noted that HHSC has standards that have been adopted in the Texas Administrative Code (TAC) for guardianship programs. Since this is also the Board's responsibility, Mr. Reynolds suggested the Board might use those standards in developing its minimum standards.

The Board discussed several specific provisions in the GAB standards. Judge Burwell requested that "removal by court" be included in Section 381.405(24). Mr. Reynolds suggested that Section 381.441(e) be clarified. Mr. Ford noted that "durable" should be changed to "medical" in Section 381.441(c). Mr. Reynolds suggested that it may not be necessary to include Section 381.419 in the Board's minimum standards. Finally, the Board discussed Division Three, Rights of Wards.

PROCESS FOR SELECTION OF DIRECTOR FOR THE GUARDIANSHIP CERTIFICATION PROGRAM

Ms. Patterson, Mr. Warach and Mr. Armstrong all volunteered to be on a committee to assist with hiring the Guardianship Program Director. Ms. Patterson will chair that committee.

ASSIGNMENT OF COMMITTEES AND TASKS

The Board established committees to develop rules and minimum standards. Mr. Ford will chair the Rules Committee, with Ms. Dabner, Mr. Grant and Ms. Meyer serving as members. Mr. Corbett will chair the Standards Committee, with Ms. Eason, Dr. Costello and Ms. Turner serving as members.

It was also suggested that Gene Terry, a former Constitutional County Court judge who is now in charge of education at the Texas Association of Counties, Judge Guy Herman, and Ted Wood of OCA, be resources to a committee regarding the Texas component of the examination when that need arises.

NEXT BOARD MEETING DATES

The Board agreed to meet alternating Fridays and Saturdays to accommodate as many members as possible and scheduled its next two meetings for Friday, August 18, 2006 from 9:30-3:00, and Saturday, November 18, 2006, with locations to be ascertained by Ms. Musick. Future meetings will be agreed upon at another meeting. The Rules Committee planned its first meeting for Monday, May 15, 2006, to be held as a conference call coordinated by OCA.

PUBLIC COMMENT

Ms. Hayes expressed her appreciation to the Board for its interest in guardianship issues. She stressed that it is important to be sensitive to individuals with disabilities and younger wards as

well as seniors. She also requested that the Board take public comment before taking action on an item.

With no further comment, the meeting was adjourned at approximately 2:15 p.m.

Chair, Judge Gladys Burwell