

# **GUARDIANSHIP CERTIFICATION BOARD**

## **MINUTES OF MEETING**

May 18, 2007  
11:00 a.m.

Texas Center for the Judiciary  
1210 San Antonio, 8th Floor  
Austin, Texas

### **COMMENCEMENT OF MEETING**

Judge Gladys Burwell called the meeting of the Guardianship Certification Board (GCB or Board) to order on May 18, 2007 at 11:22 a.m. The meeting was held at the Texas Center for the Judiciary 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  
Carol Patrice Dabner  
Don Ford  
Phillip A. Grant  
Marlane Meyer  
Gina D. Patterson  
Patti Turner  
Robert Warach

Gina Patterson attended via telephone conference call. Leah Cohen joined the meeting in progress. Dr. Raymond Costello, Susan Eason, Kathy Strong and Janis Thompson did not participate. Others present were Carl Reynolds, Administrative Director; Margaret Bennett, General Counsel; Katie Bond, Assistant General Counsel; and Meredith Musick, Executive Assistant, all of the OCA. Members of the public present were Barb Scobey, manager of the guardianship program; Lawrence Hornsby, managing attorney for the enforcement unit; and Charlotte Breen, legal assistant, all of the Department of Aging and Disability Services (DADS).

### **ADMINISTRATIVE DIRECTOR'S REPORT**

Mr. Reynolds told the Board that OCA's proposal for a certification division was not adopted by the Appropriations Committee; therefore, there are no funds to implement it. He is hopeful that Senate Bill 1305, which provides funding to support the Process Server Review Board in

particular, will be of some benefit to the GCB if it passes. Mr. Reynolds is accepting ideas for OCA's quarterly newsletter, CourTex.

### **CLOSED SESSION**

The Board went into closed session at 11:25 a.m. to discuss Item III - Employment Issues- Director of Guardianship Certification Program, in accordance with section 7(c) of its Public Meetings Policy. The Board discussed the candidates for the position. No vote was taken during the closed session. The Board reconvened in public session at 11:54 a.m.

### **LEGISLATIVE UPDATE - 80TH LEGISLATURE, REGULAR SESSION**

Mr. Reynolds updated the Board on Senate Bills 505, 506 and 507. All three passed, and all three have been signed by the governor. Senate Bills 505 and 506, regarding criminal history and provisional certification, were effective the date they were signed, April 25, 2007. Senate Bill 507, reimbursement for Board members, will go into effect September 1, 2007. Although no funds were appropriated for reimbursement, Mr. Reynolds anticipates that OCA can cover the expenses with no problems.

### **CERTIFICATION EXAM UPDATE**

Sally Hurme of the National Guardianship Foundation (NGF) joined the meeting via conference call. She reported on the results of the four exams already held (in Hurst, Waco, San Antonio and Abilene). An exam is taking place in Houston today, and two more are scheduled in Lubbock and in Austin. 103 guardians have sat for the exams, and about 70 more are registered for the coming exams.

Ms. Hurme responded to questions from the Board regarding pass/fail numbers, number of people re-taking the exam in Houston, and the availability of pre-test materials provided by the National Guardianship Association. She left the meeting when questions were concluded.

The Board recessed at 12:08 p.m. and reconvened at 12:48 p.m.

### **EMPLOYMENT ISSUES - DIRECTOR OF GUARDIANSHIP CERTIFICATION PROGRAM**

Mr. Reynolds announced that Lesley Ondrechen had been selected as Guardianship Certification Program Director.

### **PROPOSED AMENDMENTS TO RULES GOVERNING GUARDIANSHIP CERTIFICATION**

#### **Provisional Certification**

Mr. Ford reported that the Provisional Certification Subcommittee of the Rules Committee convened to develop rules for provisional certification. The Subcommittee sought and received input from the interested members of the public, guardianship programs, and other stakeholders. The existing rules were modified as necessary, and Rule XIV was added to provide for provisional certification. Provisional certification allows people who do not meet certification

criteria to gain experience so they can be certified. Mr. Ford summarized the responsibilities of the provisionally certified guardian's supervisor, the role of the provisionally certified guardian, and the application requirements for provisional certification. The Subcommittee agreed that provisional certification would be limited to one two-year period. Ms. Bond added that the Board's approval is sought to publish the proposed rules for a short comment period.

After discussion, a motion was made to submit the proposed rules for public comment. Upon second, a vote was taken and the motion carried. Comments on the proposed rules will be due on June 4. The Board will convene for a short meeting after that date to review public comments and then submit the proposed rules to the Supreme Court for approval and adoption.

#### **A. Criminal History Information**

Margie Kyser and Baerbel Cleveland of the Department of Public Safety (DPS) joined the meeting via teleconference call as a resource for the Board. The Board discussed the merits of a fingerprint search, secure name search and simple name search. Ms. Kyser noted that DPS's vendor has 68 locations in Texas, with more planned.

The Board reviewed comments from DADS and from county guardianship programs. Ms. Scobey discussed DADS' concerns regarding fingerprint searches, particularly national searches: they exceed current requirements in law; they are burdensome, especially on smaller programs; fingerprints may be rejected; and they subject DADS' employees to multiple criminal history searches. The Board discussed sharing criminal history information between it and DADS. Ms. Kyser stated that criminal history information can be shared so long as the applicant gives permission and so long as both entities receiving the information have an ORI number. Ms. Bond noted that the Board has the required ORI number so it can receive FBI criminal history searches via DPS.

Ms. Bond noted that DPS retains the fingerprints, and the Board would receive notification of arrest by anyone who is certified. Notification is available only when a fingerprint search is done, not with a simple or secure name search. To address some of DADS' concerns about duplication of searches, it was suggested that language be added to the proposed rules to permit the Board to accept a criminal history search obtained within 90 days of the application for certification.

A motion was made to approve the change to section VI(g) of the Board's rules, requiring an applicant to obtain his or her criminal history record within 90 days of the application for certification, and to adopt the proposed amendment. The motion was seconded. Mr. Grant proposed language that the criminal history search can be obtained no earlier than 90 days preceding the date of submission of the application.

The motion was amended to adopt Mr. Grant's proposed language. Upon second, a vote was taken and the motion carried. Another motion, to move forward to submit the amended rules on

criminal history to the Supreme Court for adoption, was made and seconded. A vote was taken, and the motion carried.

### **APPLICATION FORMS AND PROCESSES**

The Board reviewed drafts of the application for provisional certification and accompanying instruction sheet. The Board discussed the necessity for an additional application form if an applicant does not meet the qualifications for certification and wishes to apply for provisional certification. Staff will notify applicants by letter. Because a certified guardian supervisor must sign the provisional certification application, another application is necessary.

The Board discussed whether to require another criminal history check when a provisionally certified guardian moves to full certification. The consensus of the Board was to require a new criminal history search if full certification is granted more than a year after the person is provisionally certified. The proposed provisional certification rules will be changed to reflect this.

A motion was made that if a provisionally certified guardian applies for full certification within one year of obtaining provisional certification, the applicant will not be required to obtain a new criminal history search. The motion was seconded, a vote taken, and the motion carried. The new provisions will be added to the proposed rules as Rule XIV(g) and included in the rules to be posted to the Board's website for public comment.

### **COMMITTEE ASSIGNMENTS**

No assignments were needed.

### **PUBLIC COMMENT**

Ms. Scobey requested clarification of the criminal history issues decided by the Board. She asked if the Board would consider a waiver of the fingerprint requirement if the FBI was not able to process an applicant's fingerprints. The Board's consensus was a waiver would be considered to accept a Criminal Justice Information Search (CJIS), providing the FBI verified the fingerprints were not usable. Ms Scobey noted that, in light of the Board's decision to require a fingerprint search, DADS will start doing fingerprint, not secure name, searches.

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

The next Board meeting is scheduled for June 5, 2007, at a time to be determined, to discuss provisional certification rules and any other items as may be necessary. The Board will also meet on July 27, 2007, at 11:00 a.m. CDT at OCA's offices in Austin. Future meetings will be discussed on July 27.

### **ADJOURNMENT**

On motion and second, the meeting was adjourned at 2:15 p.m.