

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

July 27, 2007
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 July 27, 2007 at 11:10 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, called the roll. The following members of the GCB were present:

Judge Gladys Burwell, Chair
Leah Cohen, Vice-Chair
Jason Armstrong
Garth Corbett
Dr. Raymond Costello
Carol Patrice Dabner
Susan Eason
Don D. Ford
Marlane Meyer
Gina Patterson
Kathy Strong
Robert Warach

Dr. Raymond Costello, Gina Patterson and Kathy Strong attended via telephone conference call. Phillip A. Grant, Janis Thompson and Patti Turner did not participate. Others present were Carl Reynolds, Administrative Director; Lesley Ondrechen, Director of the Guardianship Certification Program; Katie Bond, Assistant General Counsel, and Meredith Musick, Executive Assistant, all of the OCA. Members of the public present at the meeting were Tim McGinnis, Barbara Scobey, Leslie Brannon and Ron Turpin, all of the Texas Department of Aging and Disability Services (DADS).

MINUTES OF MEETINGS

November 13, 2006. Upon motion and second, the minutes were approved as submitted.
January 19, 2007. Upon motion and second, the minutes were approved as submitted.

February 27, 2007. Susan Eason was mistakenly identified as a member of the Rules Committee; Carol Patrice Dabner serves on the Rules Committee and the Provisional Certification Subcommittee. Upon motion and second, the minutes were approved as corrected.

April 16, 2007. Upon motion and second, the minutes were approved, pending verification of Mr. Warach's attendance.

May 18, 2007. Upon motion and second, the minutes were approved as submitted.

June 5, 2007. Upon motion and second, the minutes were approved as submitted.

DIRECTORS' REPORTS

Mr. Reynolds did not have any items to report to the Board.

Ms. Ondrechen reported that as of July 26, 2007, 59 guardians have been certified, and 15 applications are pending. As of July 27, seven guardians have been provisionally certified, and five applications are pending. She noted that two applicants for provisional certification took the national and the Texas exams on July 20, and both failed the national portion and passed the Texas. She reported on the status of applications for DADS and the Harris County Guardianship Program.

Ms. Ondrechen advised the Board of the results of the exams given in Houston on May 18. She directed the Board to a memo provided by Sally Hurme on behalf of the Center for Guardianship Certification for results of the June 11, June 29 and July 20 exams. The Board discussed the failure rate for the exams and possible reasons for it. The Chair asked for information on which version of the test was given on which date; Ms. Ondrechen will contact the Center for Guardianship Certification and report to the Board. Ms. Ondrechen noted the next exam will be given during the National Guardianship Association's Annual Conference in San Antonio, on October 6 and she will attend the conference. She reported on other training and meetings she will be attending and presenting in the next three months.

Ms. Ondrechen addressed several administrative matters, including the preparation of a business continuing plan for the Board, policies to be drafted, forms and procedures to be developed, and updates to the Board's website.

Judge Burwell told the Board that she had reviewed her probate files and identified guardians whom she believed were required to be certified. She said judges who handle probate matters should be advised when a list of certified guardians is available on the website. Ms. Ondrechen will send a letter to these judges the first week of August reminding them of the September 1 deadline. A second letter will be sent the second week in September requesting judges to review the list and verify any guardians who are required to be certified are on the list.

A question was raised concerning what will happen if a person is in the middle of administering a guardianship estate, and is not certified on September 1. The Chair stated that the statute requires that person be removed. Another question was raised whether a program was required

to have at least one certified guardian when a program is staffed by volunteers. Ms. Bond will research this and report to the Board.

CONSIDERATION OF APPLICATIONS FOR CERTIFICATION

The Chair directed the Board's attention to the documents provided by Ms. Ondrechen. Ms. Ondrechen explained that while the Board is not bound by the provisions of Occupations Code Chapter 53, it can be used as a guideline.

The Board went into closed session at 11:45 a.m. to discuss agenda item IV - Consideration 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 12:06 p.m.

A motion was made to approve certification of Leslie Brannon and Ron Turpin. Upon second, a vote was taken and the motion carried.

Ms. Ondrechen requested the Board to approve a waiver for a secure name search if the FBI is unable to process fingerprints a second time for Jesusa Thoman. Upon verification that the fingerprints were rejected twice, there is no charge to the applicant or to the Board for an FBI secure name search. Upon motion and second, the Board approved the waiver.

The Board discussed Esther Williams' application for certification. A motion was made and seconded to deny Ms. Williams certification based on lack of experience, but to recommend she apply for provisional certification. The motion carried with one dissenting vote.

The Board recessed at 12:26 p.m. and reconvened at 1:00 p.m.

TRAVEL REIMBURSEMENT

Glenna Bowman, Chief Financial Officer for the OCA, reviewed forms and procedures for Board members to claim reimbursement for their travel to meetings as of September 1, 2007. She introduced OCA's travel coordinator, Julie Flanders. Ms. Ondrechen will send the forms and contact information for Ms. Bowman and Ms. Flanders to the Board electronically.

CRIMINAL HISTORY REPORTS

Ms. Ondrechen reminded the Board that Government Code Chapter 411.1406(c)(3), enacted effective April 25, 2007, provides that criminal history reports received by the Board must be destroyed after the information is used for its authorized purpose. Ms. Ondrechen recommended that electronic records be permanently deleted and paper copies shredded once an applicant has been granted certification. Criminal history reports will be retained so long as any matter for a particular applicant is pending before the Board. On motion and second, the Board adopted the recommended procedures.

Ms. Ondrechen asked the Board for guidance in processing applications where it is not clear whether an applicant qualifies, particularly when an applicant has a criminal history. After

discussion, a motion was made to form an Application Review Committee, composed of at least three Board members, and delegate to that Committee the authority to review and make decisions on applications where applicants' qualifications are questioned by Board staff. The motion was amended to provide that the committee will meet at the call of the program director, and the members will serve for six months at a time on a rotating basis. Upon second, a vote was taken and the amended motion carried.

The Committee may refer the matter to the full Board if it does not reach a decision, and applicants may appeal denials by the Committee. Judge Burwell, Ms. Cohen and Ms. Eason will serve on the Committee from now until December 31, 2007. Ms. Ondrechen will arrange with OCA's IT staff for a secure portal to allow Committee members to view confidential documents.

MEMBERS' ABSENCE FROM BOARD MEETINGS

Ms. Ondrechen told the Board that Government Code 111.015 states that it is grounds for removal from the Board if a member misses half of the regularly scheduled meetings in calendar year, unless an excuse is approved by a majority of the Board. The statute also requires the director to notify the chair if she becomes aware of a potential ground for removal. Ms. Ondrechen will keep track of members' attendance from this point forward, and will inform the Chair if a problem arises.

ALTERNATIVE DISPUTE RESOLUTION (ADR) POLICY

Ms. Bond reminded the Board that pursuant to Government Code Section 111.019, she had drafted a proposed ADR policy, and Board members had certain concerns about the proposal. She recommended a rule change, rather than a policy, to address this statutory requirement, noting that a policy cannot be enforced. Ms. Bond will draft a proposed rule and present it to the Board at its next regularly scheduled meeting.

CONTINUING EDUCATION

Ms. Ondrechen proposed the possibility of eliminating the requirement for applicants for re-certification to provide documentation of continuing education. After discussion, the Board's consensus was to make no change to the documentation requirement. A form similar to that used by the Paralegal Division of the State Bar of Texas to list continuing education courses taken will be developed for use as part of the application for re-certification.

Ms. Ondrechen discussed approval of continuing education for participation in the Texas Guardianship Association's spring conference, which took place in April 2007, and the National Guardianship Association's annual conference in October. The rules state that continuing education must be earned during the certification period; therefore, credit will not be approved for any class, conference, training, seminar, etc. attended before a guardian's certification date. Hours will be approved for the NGA conference and will be posted to the Board's website.

The Chair mentioned that she was providing Ms. Ondrechen with the agenda for the Texas College of Probate Judges. She also noted that the 9th Annual Estate Planning, Guardianship

and Elder Law Conference, sponsored by the University of Texas School of Law Continuing Legal Education department, is taking place in Galveston August 9-10. The director will review the materials for consideration of approval of continuing education credit for certified guardians who attend this conference. Authority to approve courses for continuing education has been delegated to the program director by the Board. The Chair asked Board members to inform Ms. Ondrechen of any continuing education opportunities of which they are aware.

Ms. Ondrechen offered some suggestions on how the Board could provide continuing education, should it decide to do so. The Board discussed whether its role is to facilitate or provide continuing education. The Chair proposed that the Board should find and make information available on training available from other entities before trying to offer it, and the Board concurred.

FUTURE AMENDMENTS TO RULES

Ms. Bond informed the Board that Rule XIV(g), providing that a provisionally certified guardian who obtains full certification within one year does not have to submit a new criminal history, was inadvertently not submitted for approval to the Supreme Court of Texas with other recent rule changes. She will submit it to the Court. No other rules need to be submitted at this point.

COMMITTEE ASSIGNMENTS

Members were assigned to the Application Review Committee during the course of the meeting. No other committee assignments are needed at this time.

PUBLIC COMMENT

In response to a question from a Board member, Mr. McGinnis stated that DADS does not have plans at this time open its training sessions to the general public; Board members are welcome to attend. DADS may consider video-taping some of its training and making it available on the internet.

FUTURE BOARD MEETINGS

The next Board meeting is scheduled for Friday, October 26, 2007 beginning at 11:00 a.m. It will be held in the Office of Court Administration's offices in Austin. The Board will consider scheduling its meetings for calendar year 2008 at that meeting.

ADJOURNMENT

On motion and second, the meeting was adjourned at 2:36 p.m.