

GUARDIANSHIP CERTIFICATION BOARD

MINUTES OF MEETING

October 26, 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 October 26, 2007 at 11:05 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
Garth Corbett
Dr. Raymond Costello
Carol Patrice Dabner
Susan Eason

Don D. Ford
Philip A. Grant
Marlane Meyer
Patti Turner
Robert Warach

Leah Cohen, Dr. Raymond Costello, Susan Eason, Marlane Meyer and Robert Warach attended via telephone conference call. Jason Armstrong, Gina Patterson, Kathy Strong and Janis Thompson 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 and Barbara Scobey of the Texas Department of Aging and Disability Services (DADS), Melvin Johnson of the Texas Council for Developmental Disabilities, Esther Williams, Dale Williams, Harold Foraker and Shenetha Harrison-Toliver.

MINUTES OF JULY 27, 2007 MEETING

Upon motion by Ms. Meyer and second by Ms. Eason, the minutes were approved as submitted.

DIRECTORS' REPORTS

Mr. Reynolds reported to the Board on the status of OCA's data management reporting project, advising that the new reporting forms may not be effective until September 2009. This allows vendors time to re-tool to accommodate new requirements on the new forms. Judge Herman's proposal that the appointee report indicate whether the appointed guardian is an attorney, a

family member, a guardianship program, etc. has been referred to the Supreme Court of Texas as a separate matter from OCA's project. The proposed new forms for district and county courts, including probate courts, will be presented to the Judicial Council at its December 7 meeting for comment.

Ms. Ondrechen advised that Janis Thompson, a public member, had tendered her resignation from the Board. The Supreme Court will appoint her successor from a list of candidates provided by the governor.

Ms. Ondrechen reported that as of October 25, 2007, 141 guardians have been certified, and 52 have been provisionally certified. This includes two provisionally certified guardians who moved to full certification, both of whom are DADS employees. Ten applications for certification are pending, including the two to be discussed at today's meeting; two provisional applications, both of which will be discussed today, are pending.

Ms. Ondrechen reported on several procedural matters: secure name search criminal history reports for applicants whose fingerprints were rejected twice by the FBI; revision of the application for provisional certification; a certified copy of the disposition from applicants with deferred adjudication or a conviction must be provided to the director before any action will be taken on the application; and the \$25 application fee will be collected from provisionally certified guardians who apply for full certification, except DADS employees who are exempt from fees. Ms. Ondrechen told the Board that a provisionally certified guardian, who had been referred to the Disciplinary Review Committee, voluntarily surrendered her certification. No disciplinary action was taken, but for future cases, a disciplinary action log will be maintained.

She advised the Board of the results of the October 6 exams. Board members and examinees have commented on the lack of Texas-specific study materials; Ms. Ondrechen will contact the National Guardianship Association, and will report to the Board at its next meeting.

Ms. Ondrechen reported on the National Guardianship Association conference she had attended earlier in the month, including giving an update on the GCB to the Guardianship Advisory Board which met during the conference. The Chair remarked on the final presentation given at the conference, and offered to provide copies of the materials to those who did not attend. Ms. Ondrechen also gave an update on continuing education matters.

The Chair addressed the Board on the need for an evacuation plan for all wards, and advised that she requires it as part of the annual reports filed by guardians. She brought sample plans for Board members' review.

Ms. Ondrechen reported on administrative matters including an update on certification software, the completion of a business continuity plan for the Board, and criminal history reporting. Finally, she brought a recently issued attorney general opinion concerning fees collected by county courts to the Board's attention.

REVIEW OF APPLICATIONS FOR CERTIFICATION

The Board went into closed session at 11:38 a.m. to discuss agenda item IV - 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 1:13 p.m.

Dr. Costello, chair of the Denial of Certification Review Committee, told the Board that, after review of additional documents provided to it by the applicant, the Committee recommended approval of certification for Esther Williams. Dr. Costello so moved, and Mr. Warach seconded. Ms. Williams addressed the Board on her experience providing guardianship services informally to a family member. After discussion, a vote was taken and the motion carried.

Mr. Grant moved to defer consideration of the provisional certification application of Shenetha Harrison-Toliver until additional information can be obtained. Ms. Meyer seconded, and the motion carried.

Harold Foraker responded to Board members' questions about details of his application. The Board suggested provisional certification as an alternative.

Mr. Ford moved to approve Mr. Foraker for certification, with no recommendation for provisional certification, and Ms. Meyer seconded. The director asked the Board to approve a waiver of the requirement for a high school diploma or a GED. Mr. Ford moved to approve certification for Mr. Foraker, and to waive the requirement for a high school diploma or a GED. At the request of Dr. Costello for separate motions, Mr. Ford amended his motion to approve a waiver of the requirement for a high school diploma or a GED, based on Mr. Foraker's extensive post-high school education. Upon second by Ms. Meyer, the waiver was granted.

Mr. Ford then moved for approval of certification, with no requirement for provisional certification, and Ms. Meyer seconded. A vote was taken and certification was denied due to lack of experience. Mr. Grant, Ms. Turner, Mr. Warach, Dr. Costello, and Ms. Dabner noted for the record they would be in favor of provisional certification for Mr. Foraker.

Mr. Grant moved, and Ms. Meyer seconded, to defer action on Latorya Williams' application for provisional certification until the Board's next regularly scheduled meeting, and to encourage her to attend. The Board discussed conducting an independent investigation. Mr. Grant amended his motion to defer consideration of Ms. Williams' application for provisional certification until the Board's next regularly scheduled meeting, to request additional information as discussed in closed session. Mr. Warach seconded, and the motion carried. The Board instructed the director to send letters to Ms. Harrison-Toliver and to Ms. Williams expressing the Board's wishes.

ENFORCEMENT OF CERTIFICATION REQUIREMENTS

The Board discussed a letter received from the statutory probate judge in Denton County, regarding guardians who are not certified but who continue to serve as guardians. The consensus of the Board was that no action will be taken at this time.

POLICIES AND RULES

A. Proposed Division of Responsibilities Policy

Ms. Ondrechen noted this policy is required by statute, Government Code 111.022. Mr. Ford moved to adopt the policy as written. Upon second by Mr. Grant, the motion carried.

B. Proposed Access to Board Records Policy

Ms. Ondrechen told the Board she drafted this policy to address privacy of applicants, but noted the need to deal with the broader issue of access to Board's records. The policy's purpose is to document that Board records are maintained and access is granted pursuant to Rule 12 of the Rules of Judicial Administration, not the Public Information Act. The Chair noted that item 6 in the proposed policy states that criminal history reports will not be maintained as part of an applicant's file once certification is granted. Mr. Ford moved to adopt the policy as written. Upon second by Ms. Meyer, the motion carried.

C. Proposed Amendment of Public Meetings Policy

Ms. Bond noted that two items were changed in the policy. The first item concerns making recordings or preparing minutes for all Board meetings, except that consultations with an attorney in closed sessions do not have to be recorded; this mirrors a provision in the Open Meetings Act. The second provides for emergency meetings and the emergency addition of items to an agenda. Upon motion by Ms. Meyer and second by Mr. Warach, the amendments were approved.

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

Ms. Bond advised the Board that this amendment adds a provision that making a false representation or material misstatement of fact to the Board is grounds for denial, suspension or revocation of certification. Mr. Grant moved that the proposed amendment to Rule XI(a) be posted for public comment, and then reviewed at the next Board meeting. Upon second by Ms. Meyer, the motion carried.

E. Proposed Alternative Dispute Resolution Rules

Ms. Bond reminded the Board that Section 111.019 of the Government Code requires the Board to develop a policy to encourage the use of alternative dispute resolution procedures. She also reminded the Board that she had previously drafted a policy, but the Board's consensus was that the matter should be addressed in a rule. Ms. Bond discussed some of the provisions, and reported that she had reviewed similar rules for the Court Reporters Certification Board, the State Office of Administrative Hearings and the Department of Licensing and Regulation in the course of preparing the proposed rule. Judge Burwell moved that the rule be referred to the Rules Committee for detailed review. Mr. Ford seconded, and the motion carried.

EXAM SCHEDULE FOR 2008

Lesley Richards, certification coordinator at the Center for Guardianship Certification (CGC), joined the meeting by conference call. Ms. Ondrechen proposed that two of the three contracted exams in calendar year 2008 be held to coincide with the Texas Guardianship Association's spring and fall conferences, April 16-18 in Corpus Christi and November 12-14 in Waco. Ms. Ondrechen noted that she had been approached at the Guardianship Advisory Board meeting about holding an exam in East Texas. After discussion, the consensus of the Board was to hold the third exam in a more western part of the state, because the other two locations are southeast and central. Ms. Ondrechen will contact Ms. Richards to begin the process of choosing locations, and will report to the Board.

COMMITTEE ASSIGNMENTS

Ms. Ondrechen had noted earlier in the meeting that the Chair had replaced Ms. Thompson on the Disciplinary Review Committee with Garth Corbett through December 31, 2007. The Chair reviewed current committee assignments, through December 31, 2007. The Rules Committee will remain a standing committee; members are Don Ford (chair), Carol Dabner, Philip Grant and Marlane Meyer. The Minimum Standards Committee will also remain a standing committee; members are Garth Corbett (chair), Dr. Raymond Costello, Patti Turner and Susan Eason. The Chair made the following committee assignments for the first six months of 2008 (January 1 through June 30):

Application Review Committee

Gina Patterson (chair), Carol Dabner and Philip Grant

Denial of Certification Review Committee

Marlane Meyer (chair), Jason Armstrong and Robert Warach

Disciplinary Review Committee

Kathy Strong (chair), Leah Cohen and Don Ford

PUBLIC COMMENT

Applicants for certification who attended the Board meeting responded to questions earlier in the meeting. No other public comment was made.

FUTURE BOARD MEETINGS

After review of calendars, holidays and other events provided by Ms. Ondrechen, the Board scheduled its 2008 quarterly meetings for January 25, April 25, July 25 and October 24.

(NOTE: Conflicts with the January 25 and April 25 dates were brought to the director's attention after the meeting was adjourned. Those meetings have been re-scheduled for February 1 and May 2, respectively.)

ADJOURNMENT

On motion by Mr. Ford and second by Mr. Grant, the meeting was adjourned at 2:42 p.m.