

WAPG Telephone Conference

Thursday, October 7, 12:00 Noon to 1:00 PM

The Washington Association of Professional Guardians (WAPG) is sponsoring a free one-hour telephone conference call for all current WAPG members with guest moderator Chris Neil - Attorney for Professional Guardians, CPG Board Member and WAPG Member. Mr. Neil will discuss current trends in Guardianship, and take questions or comments. It will likely be a lively discussion.

This is your chance to ask questions of a current member of the Certified Professional Guardian Board, get the most current information on trends in guardianship administration, and discuss unique or difficult situations with your fellow professional guardian colleagues.

This call will be free to all dues paying members (2010) of WAPG. Reply to Glenda Voller at gvoller_seattle@msn.com with your interest, and you will receive call-in instructions for the event.

Mark Your Calendar!

WAPG General Meeting

Date: Monday, October 11, 2010
Time: 12:45 PM - 2:00 PM
Place: Valley View Library, 17850 Military Rd S, SeaTac, WA 98188

This meeting follows the CPG Board Meeting held at the AOC SeaTac Facility starting at 9:00AM, SeaTac Office Center, 18000 International Blvd, South Tower, Ste 1106, SeaTac, WA 98188

WAPG Fall Training

Date: Wednesday, November 10, 2010
Place: Best Western Evergreen Inn and Suites
31124 25th Ave S, Federal Way, WA 98003

Lunch is included. More information & registration materials is to follow.

Training will include WAPG Special Meeting for WAPG Members Time of meeting TBA.

DSHS Proposes New Regulations and Fees for AFH Operators

In what appears to be a response to public pressure created by the Seattle Times exposé of the deplorable conditions found at some Washington adult family homes (AFHs), the Department of Social and Health Services (DSHS) announced plans to stiffen up the training requirements for AFH owner-operators, to increase the license fee from \$100 to \$1,000, and to increase penalties for safety violations from \$100 to up to \$3,000.

The conditions revealed in the Seattle Times series were not shocking to any guardian who has visited more than just a few well run AFHs. The victims reported on in the Seattle Times articles came from all walks of life, but they all shared two things in common. The AFH residents were all poor, hence they were receiving COPES benefits, and they lacked advocates in the form of court-appointed guardians or family members actively involved in their care.

DSHS intends to increase its oversight of the 48-hour training program prospective AFH operators are required to take. This is a welcomed move in an under-regulated industry. Also welcomed is the prospect that financial penalties for citations for violations of safety regulations will be more than a slap on the wrist. The proposed increase in the licensing fee, on the other hand, does not appear to serve any purpose other than generating revenue for DSHS.

The proposed changes were reported in the Seattle Times on 09/16/2010. The article can be found at:

http://seattletimes.nwsourc.com/html/localnews/2012909310_seniors16m.html

Resource of the Month

Parcel Viewers. Almost all county assessors, even in the smallest and most remote counties have a multitude of information about real property parcels available online. Some counties in Washington have compiled all information related to a particular parcel in a compact and well organized property report.

Included in the property report are the basic physical characteristics of the property such as lot size, square footage of structure, number of bedrooms, baths, etc., year built, and more. The report will also provide a history of the tax assessed value (valuable if you need to establish a cost basis), sale dates and sale prices (ditto), and a tax payment history (taxes in default?). Also available are parcel maps which can very useful when you need a rough idea of where the lot lines are but do not need the precision of a survey.

The more deluxe websites provide recording numbers for deeds, liens, and judgments and direct links to pdf images of the recorded documents. This can be a very useful tool when you need to do some quick research on encumbrances against the property. Links to a selection of county assessor's parcel viewers:

Snohomish County: <http://web5.co.snohomish.wa.us/propsys/asr-tr-propinq/>

Spokane County: <http://www.spokanecounty.org/pubpadal/>

Whatcom County: <http://property.whatcomcounty.us/propertyaccess/?cid=0>

Chelan County: http://www.co.chelan.wa.us/as/as_property_tax_disclaimer.htm

King County: <http://www.kingcounty.gov/operations/GIS/PropResearch/ParcelViewer.aspx>

King County just added some nice new features such as current and historical photos of the house and information about construction permits.

Want to share your favorite resource? Submit it to fastcj@drizzle.com

The WAPG Newsletter

A monthly publication of the Washington Association of Professional Guardians.

Christopher J. Fast, Editor

Executive Board:

Michael L. Johnson & Scott Malavotte,
Co-Presidents
Madeline B. Hudson, Vice President
William C. Jaback, Treasurer
Glenda A. Voller, Secretary
Leesa M. Camerota, Education
Program Coordinator

WAPG
P.O. Box 2225
Seattle, WA 98111

The Washington Association of Professional Guardians is a 503(C) non-profit organization. WAPG is affiliated with the National Guardianship Association.

The contents of this newsletter do not necessarily represent the views of the Editors, the WAPG Executive Board, or the WAPG membership.

Submissions Guidelines: The Newsletter is published on the third Friday of each month. Article ideas should be discussed in advance with the editor. The deadline for submission is the first of the month. Late submissions will be considered on a space available basis. Submissions should be made in electronic format and emailed to fastcj@drizzle.com. All submissions are subject to editing.

Commissioner Watness Issues Memorandum Order re Petitioning Attorney Fees In DSHS Case

King County Superior Court Commissioner Eric Watness issued a memorandum order in the matter of the Guardianship of Leavitt on July 21, 2010, in which he takes up the issue of payment of petitioning attorney fees in a new guardianship involving a nursing home resident receiving Medicaid. DSHS objected to the fees of the attorney representing the nursing home, which brought the petition for guardianship.

At issue is who will file future petitions for guardianship, if DSHS refuses to pay petitioning attorney's fees. Per the reasoning of DSHS, the petitioner would be left with the responsibility to pay the attorney's fees, or the attorney would simply go unpaid for his or her services. This would have a chilling effect on the guardianship process. In this scenario, writes Commissioner Watness, "the loser will be the Medicaid client who will have no access whatsoever to the courts."

Once again, DSHS appears to be solving short-term budget problems in a way that will most likely result in increased long-term costs to the State. DSHS, through the Office of the Attorney General (AG), does on occasion file petitions for guardianship, usually following an APS investigation. Clearly, DSHS will not be willing to serve as the petitioner in all future guardianship petitions involving Medicaid recipients. Given DSHS poor history of overseeing the care its clients receive in the facilities it licenses (see story on page 1), it is unlikely that DSHS would be aware that one of its clients is in need of the protections of a guardianship.

Commissioner Watness' memorandum order is a thoughtful analysis of the facts of the case as well as the larger issues that will affect guardians, care facilities, attorneys, and last but not least, the Incapacitated Person in need of the protection of a guardianship.

The memorandum order is posted alongside this newsletter at www.wapg.org.

View from the Trench

A monthly opinion column

Guardian's Get the Shaft on DSHS Cases

Glenda Voller, CPG

Do you have clients who receive SSA, SSDI or SSI or any type of federal entitlement and are eligible under the COPEs, Medicaid long-term nursing, or other programs of the Washington Department of Social and Health Services?

DSHS sees it as its prerogative to set the guardian's monthly fee advance and to determine whether a guardian should receive pay for fees already earned and approved by the court. Guardians who have met their obligations to serve the needs of the incapacitated person should be paid for 100% of their services and costs, if those fees and costs have been approved by the Superior Court.

It appears that DSHS is now applying the Washington Administrative Code (WAC) as it sees fit. And no one knows, including court commissioners and judges, when or which WAC DSHS will decide to use until they appear at a contested court hearing.

The time has come for guardians to look at the fee billings we submit to the court for approval. In Medicaid cases, the current practice of contemporaneous timekeeping statements submitted to the court for approval doesn't seem to work anymore, at least for the IP who is a client of DSHS.

The problem of guardians not receiving adequate compensation for their work with DSHS clients must be addressed by the community of professional guardians. This is not the court's responsibility. And left to its own devices, DSHS would eliminate all fees paid to guardians. It must be guardians who find a solution to this fee problem. A collaboration of professional guardians needs to present a strong case to the decision makers at DSHS in Olympia that there is a financial benefit to DSHS to have guardians manage the affairs of incapacitated people.

Let's talk with DSHS about monthly fee advances and paying fees to petitioning attorneys and attorneys who represent guardians. We guardians need to engage DSHS in a dialog about issues of "extraordinary services" performed by the guardian versus "usual and customary services," and the impact of WAC's 388-79-020, 030, 040 and 050, to name a few. DSHS needs to understand that the requirements under WAC 388-79 are not only onerous, but they increase the cost of guardianship administration. This understanding will only come from dialog between DSHS and the professional guardian community.

It is vital that DSHS and the professional guardian community come to an understanding as this profession moves forward. If the University of Washington professional guardian program is to attract high caliber students, there has to be a reasonable probability that the graduates of the program will receive fair compensation for their future work. If we are to retain quality professionals in our professional community, there must be a way to receive fair compensation for our work, and not just in our private pay cases.

It would serve guardians to consider that if we all simply refuse to take DSHS cases, then in turn, the courts will have a problem of not being able to fulfill their duty to provide the protection of a guardianship to those at risk of self-harm, exploitation, or neglect. This is a drastic measure, but it may be the route guardians need to take so as to insure we get paid for our services.

Glenda Voller is a practicing Certified Professional Guardian and proprietor of Montlake Guardianship Services in Seattle. Ms. Voller serves as the Secretary of the WAPG. The views expressed here are her own and do not represent the position of WAPG or its Board.

WAPG invites you to get involved!

Is there a topic of particular concern that you would like to do something about? Join the WAPG committee handling the issue. Go to www.wapg.org to find the contact info for the committee chair(s). Is there no committee handling that issue? Contact Scott Malavotte (425-883-1181 or mal.assoc@verizon.net) or Michael L. Johnson (206-623-3030 or hardmanjohnson@gmail.com) to start your own committee.

Certified Professional Guardian Board 2011 Meeting Calendar

Date	Place	Time
Monday, January 10	AOC SeaTac Facility	9:00 – 1:00 pm
Monday, February 14	Teleconference	8:00 – 9:30 am
Monday, March 14	Teleconference	8:00 – 9:30 am
Friday-Saturday, April 8-9 or Monday, April 11	TBD or AOC SeaTac Facility	
Monday, May 9	Teleconference	8:00 – 9:30 am
Monday, June 13	AOC SeaTac Facility	9:00 – 1:00 pm
Monday, July 11	Teleconference	8:00 – 9:30 am
Monday, August 8 (tentative)	Teleconference	8:00 – 9:30 am
Monday, September 12	Teleconference	8:00 – 9:30 am
Monday, October 10	AOC SeaTac Facility	9:00 – 1:00 pm
Monday, November 14	Teleconference	8:00 – 9:30 am
Monday, December 12 (tentative)	Teleconference	8:00 – 9:30 am

WAPG encourages all professional guardians to attend the CPGB meetings and make your voices heard.

Proposed Changes to SOPs and Application Rules Posted

The AOC has posted proposed changes to the Standards of Practice and Application Regulations 108 and 117. The comment period for SOP series 400 and Application Regulation 108 has been extended to December 17, 2010. The comment period for Application Regulation 117, which concerns the requirements for maintaining insurance and the consequences for failure to comply, expires on October 18, 2010.

It is important for all CPGs to carefully review the proposed changes and give some thought to how those changes may affect your guardianship practice. The proposed changes are posted at: http://www.courts.wa.gov/committee/?fa=committee.home&committee_id=133. E-mail your comments to Deborah.Jameson@courts.wa.gov at the AOC.

We also encourage you to contact WAPG with any concerns about the proposed changes.

King County Superior Court Upgrades e-File System

Guardians practicing in King County have had the opportunity to use the electronic filing (“e-File”) system for more than two years. E-Filing became mandatory as of July 1, 2009, for attorneys. Pro se parties are not required to e-File. Cases available for e-Filing were those opened after January 1, 2000. For anybody with a computer and an internet connection, e-Filing is an instant and cost-free means of filing documents with the court. Additional services available through e-File are electronic service of documents on all parties signed up for e-Service (free), submission of electronic working copies (per-page fee), and access to Ex Parte via the Clerk (required for all motions not requiring a noted hearing).

As of September 1, 2010, parties may E-file into any King County Superior Court case, even those filed before January 1, 2000. The new upgrades have resulted in a marked increase in website use and document upload speed.

More information about e-File is available at: <http://www.kingcounty.gov/courts/Clerk/E-Filing.aspx>