

# THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED  
AMENDMENTS TO GR 23—RULE FOR  
CERTIFYING PROFESSIONAL GUARDIANS  
AND CONSERVATORS

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## ORDER

NO. 25700-A-1379

Attorney Deborah Jameson, having recommended the suggested amendments to GR 23—Rule for Certifying Professional Guardians and Conservators, and the Court having approved the suggested amendments for publication;

Now, therefore, it is hereby

### ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as attached hereto are to be published for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites in November 2021.

(b) The purpose statement as required by GR 9(e), is published solely for the information of the Bench, Bar and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than February 28, 2022. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov). Comments submitted by e-mail message must be limited to 1500 words.

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ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO GR 23—RULE FOR  
CERTIFYING PROFESSIONAL GUARDIANS AND CONSERVATORS

DATED at Olympia, Washington this 5th day of October, 2021.

For the Court

  
González, C.J.

GERALD W. NEIL  
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DEBORAH J. JAMESON

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October 3, 2021

Clerk of the Supreme Court  
PO Box 40929  
Olympia WA 98504-0929

Re: Proposed Changes to GR 23 Cover Sheet

Dear Clerk:

The Supreme Court has recently reviewed General Rule 23 to comply with RCW 11.130, the Uniform Guardianship, Conservatorship, and Other Protective Arrangement Act (UGA). I am writing to request two additional changes to GR 23.

**Name of Proponent:** Deborah Jameson

**Spokesperson:** Deborah Jameson

**Purpose:**

Change to number of certified professional guardians on the Board:

In 2009, GR 23 was amended to limit the number of professional guardians to no more than one-third of the Board membership. Part of the thinking was that the certification of professional guardians was relatively new (11 years). There was a sense that professional guardians would not provide effective oversight of their fellow professionals, even though the Washington Association of Professional Guardians was fully behind the movement to create the certification process.

Certification has now been required for over 20 years for professional guardians. Guardianship in Washington has existed far longer than certification, going back to the founding of the state. It is time for guardians to be recognized as professionals who have an interest in ensuring the high caliber of other practitioners.

The Certified Professional Guardian Board is nearly the only professional organization where the regulated professionals make up a minority of the regulating Board. (See attached chart). It is also a highly specialized profession where

stakeholders have little opportunity to develop a detailed understanding of the responsibilities of being a professional guardian. Even people who work with the populations that guardians serve, do not know what it is to actually be a guardian.

Using myself as an example, I have been involved in guardianship for over 20 years as a Guardian ad Litem, CPG Board grievance investigator, staff for the CPG Board, and as an attorney for lay and professional guardians. I recently became a guardian and still find myself learning about what guardians actually do.

Professional guardians should be regulated by people with an in-depth understanding of the duties, challenges, and experience of professional guardians, i.e., other professional guardians. The Court should change GR 23 and eliminate the limitation on the number of professional guardians who may be on the Board.

I also want to disclose that a change to GR 23 would potentially affect me. I plan to apply to be a member of the CPG Board as one of the WSBA's nominees. However, because I am also a professional guardian, I would not be eligible.

#### Change to language re open meetings:

During the past year or two, the Board has been conducting substantive discussions while in Executive Session. For example, the Board discussed creating an alternate training program for applicants this year because the University of Washington suspended training. The discussion was held in Executive Session and only the final or confirming vote was in the public session.

The Board has taken the position that committee recommendations (Regulations, Educations, Standards of Practice, Applications) are discussed in Executive Session because the discussions are "preliminary". The Board argues that having those recommendation discussions in Executive Session allows the Board to ask questions of the committee. The Board states that there is still adequate discussion of the proposals in open sessions.

The Board's discussions should be in public unless there is some confidentiality required (as is true of applications and disciplinary matters). The public should be able to hear the questions the Board asks. The public should be a witness to the entire discussion by the Board. Washington favors open meetings and the Board has been acting contrary to policy.

The recent Supreme Court case of *Beauregard v. WSBA*, No. 97249-4, February 11, 2021 holds that some entities are subject to the Open Public Meetings Act (OPMA). The OPMA applies to each governing body of a public agency. Public agencies have been defined as any State board created by, or pursuant to statute, other than courts

and the legislature.<sup>1</sup> (Emphasis added)

The CPG Board was created by the legislature in 1997 in ESHB 1771. GR 23 in its very first sentence cites to its creation by statute, namely RCW 11.88.008. Based upon the Beauregard analysis, the CPG Board is a public agency subject to the Open Meeting Act and GR 23 should be amended to reflect that fact.

**Hearing:**

A public hearing would be useful because stakeholders in guardianship may wish to testify about increasing the representation of professionals on the board, including both professional guardians and groups like the Ombud Program and Disability Rights Washington.

On the issue of requiring the Board to hold open meetings except in limited circumstances, proponents of open government may want to testify, so having a public hearing would be useful.

**Expedited Consideration:**

Expedited consideration is requested because the Board selects new members at this time of year and if the proportion of professional guardians is increased, it could affect those people chosen.

Sincerely,

DEBORAH JAMESON

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<sup>1</sup> RCW 42.30.020(1)(a).

### **Proposed Changes to GR 23**

#### GR 23(c) Certified Professional Guardian Board.

##### *(1) Establishment.*

(i) Membership. The Supreme Court shall appoint a Certified Professional Guardian Board (Board) of 12 or more members. The Board shall include representatives from the following areas of expertise: professional guardians; attorneys; advocates for incapacitated persons; courts; state agencies; and those employed in medical, social, health, financial, or other fields pertinent to guardianships. ~~No more than one third of the Board membership shall be practicing professional guardians.~~

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##### *(2) Duties and Powers.*

(xii) Meetings. The Board shall hold meetings as determined to be necessary by the chair. Meetings of the Board will be open to the public except for executive session, review panel, or disciplinary meetings prior to filing of a disciplinary complaint.

Executive session shall be limited to discussion of applications and disciplinary matters.

The Open Public Meetings Act shall apply to the Board.