



## Decision Points to Consider: National Guardian Certification Paired with State Certification

The Center for Guardianship Certification (CGC) offers the following template as an outline of a potential partnership, explaining the critical decision points that can be negotiated to meet your state's needs.

### **Eligibility: Who can or must be certified?**

Action: Jointly determine who is eligible for certification.

Discussion: CGC recommends the minimum standards for CGC certification for voluntary certification.

States with mandatory registration may want to maintain registration as a baseline of eligibility. The relationship between registration and certification must be determined.

States initiating mandatory certification must consider grandfathering for existing guardians, time line for obtaining certification, appointment status if guardian does not pass the exam, case reassignment for guardians who do not or cannot pass the exam.

### CGC minimum standards:

1. Must be at least 21 years of age.
2. Must be a high school graduate or possess the GED equivalent.
3. Must have one year of relevant work experience related to guardianship or conservatorship or the following educational or training requirements: (1) a degree in a field related to guardianship, or (2) completion of a course curriculum or training specifically related to guardianship or conservatorship approved by the CGC.
4. Must not have been convicted of or pled no contest to a felony.
5. Must attest that he or she has not been civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, or conversion.
6. Must attest that he or she has not been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, or conversion.
7. Must attest that he or she is bonded in accordance with state statutes and local practice.
8. Must attest that he or she has not been found liable in a subrogation action by an insurance or bonding agent.
9. Must receive a passing grade on [both the multi-state and state-specific components of the exam.

### State-specific options

10. Must be registered in compliance with state law and enclose a copy of such registration with the application for certification.

11. [Mandatory certification] Every person who seeks appointment as guardian [or conservator] for more than two unrelated wards for compensation must apply for certification [within x months of y].

12. Must have completed [required training components].

Note: Membership in NGA or a state guardianship association cannot be a prerequisite to certification.

### **Initial Application: How to apply?**

Action: Jointly create an application process. Establish a level of verification.

Discussion: CGC offers to develop, disseminate, receive and review for compliance the application forms and collect application fees. Staffing is necessary to manage the administration of the certification process and CGC can provide that administrative component. Procedures must establish necessary verification of applicant information about education, residency, employment, and bonding. Will criminal background, credit checks, fingerprinting additionally be required? If so, a process must be developed and funding obtained.

### **Re-certification application: How to maintain certification?**

Action: Jointly determine term of certification, requirements for re-certification, process to re-certify.

Discussion: CGC recommends that the certification must be renewed every two years after it is issued. The certification term should be the same as any state registration term to avoid multiple or overlapping deadlines.

CGC recommends that to be eligible for re-certification the guardian must certify to a minimum of twenty hours over two years of continuing education units. CGC also allows CEU credits for guardians who conduct trainings, speak at conferences, and author articles.

CGC highly recommends that the re-applicant, at a minimum, reaffirm or attest that he or she:

1. Has not been convicted of or pled no contest to a felony.
2. Has not been civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, moral turpitude, theft, or conversion.
3. Has not been relieved of responsibilities as a guardian by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, or conversion.
4. Is bonded in accordance with state statutes and local practice.
5. Has not been found liable in a subrogation action by an insurance or bonding agent.

New credit or criminal checks may be appropriate.

Current registration should be required and copies of paid forms/receipts furnished.

CGC Assistance: CGC offers to maintain the database of certificates, send renewal notices and reminders, collect re-certification fees, approve CEU courses and units (automatic for CGC/ NGA/state association/state approved courses), and verify compliance. CGC needs to

have the authority to require additional information from the applicant and consent or waivers to obtain information from others.

### **Decertification: How to remove a certification?**

Action: Jointly establish the criteria to deny an application for certification or re-certification and a disciplinary process to remove, revoke or suspend certification.

Discussion: The CGC disciplinary criteria are designed to dovetail with and spring from court action against a guardian. We recognize that the courts have the primary responsibility to supervise, monitor, and sanction guardians. We complement the court's lead in monitoring guardians. All petitions for disciplinary review must be in writing and well documented. The process provides for preliminary screening for substantive complaints and substantial due process for the respondent.

CGC recommends the following criteria for denial or removal of certification:

1. Failed to abide by the Rules and Regulations promulgated by the CGC to govern the certification program;
2. Failed to pay any applicable fee established by [the CGC];
3. Failed to meet the Minimum Standards for Certification established by [the CGC];
4. Been convicted of or pled no contest to a felony.
5. Been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion.
6. Been relieved of responsibilities as a guardian or fiduciary by a court, employer, or client for actions involving fraud, moral turpitude, misrepresentation, material omission, misappropriation, theft, or conversion.
7. Not been bonded in accordance with state statutes and local practice.
8. Been found liable in a subrogation action by an insurance or bonding agent.
9. Failed to notify CGC of a violation of the initial eligibility standards.
10. Violated the NGA [state] Code of Ethics.
11. Obtained a certificate contrary to CGC Rules and Regulations or when ineligible.
12. Made any false representations or misstatements of material fact to CGC.

CGC recommends the follow disciplinary procedure as set forth in the CGC Rules and Regulations Regarding Certification and Re-Certification of National Certified Guardians.

Initiation of Process. Any person ("Petitioner") may petition CGC to initiate disciplinary procedures against a Certified Guardian ("Respondent").

Content of the Petition. A Petition, which is to be submitted to the CGC President, must be in writing and must include: the name and pertinent contact information of the Petitioner and the Respondent; an allegation of the existence of one or more of the disciplinary criteria set forth in section; an adequate factual basis for the allegation(s); and any necessary documentation or other supporting materials or information.

Initial Review of Petition. The CGC President, in consultation with the CGC Chair and CGC General Counsel, will review the Petition to determine if it includes the necessary elements

identified in paragraph B. If the President determines that the Petition does not conform to paragraph B, then, citing the specific deficiency or deficiencies, the President shall notify the Petitioner that the Petition will not be considered. The Petitioner may re-file an amended Petition, or may seek a review of the President's decision by the CGC Executive Committee by so notifying the CGC President within fifteen (15) days of the date of the rejection letter.

Professional Review Board. Once a Petition is determined to conform to the requirements of paragraph B [Section VIII of Rules & Regulations], the President will notify the CGC Chair, who will appoint three individuals to a Professional Review Board ("PRB") to address the Petition. At least one appointee shall be a member of the CGC Board of Trustees at the time of appointment. The CGC Chair shall also designate one of the PRB members to be PRB Chair. The PRB will act by majority vote.

Notice; Response. Concurrent with notification of the Chair, the President will also inform the Respondent in writing that a Petition has been submitted; provide the Respondent with a copy of the Petition, including all supporting materials, as well as a copy of these Rules and Regulations; and ask for a written Answer to the Petition to be received by CGC within fifteen (15) days.

Suspension Pending Decision. The CGC Executive Committee may, in its discretion, suspend the certification of the Respondent pending the decision of the PRB, and/or pending final disposition of any appeal.

Review by PRB. The PRB Chair will schedule at least one meeting, in person or via conference call, to review the Petition and Answer, if any. Additional meetings may be held as deemed necessary by the PRB. While the PRB may seek additional information in its discretion; it has no obligation to do so; the PRB is not an investigatory body, and will generally render its decision based on the submissions of the Petitioner and Respondent.

Hearing. The PRB shall offer the Respondent the opportunity for a hearing. The date and location of the hearing will be determined by the PRB. The respondent is responsible to bear all costs to attend the hearing including the cost of witnesses for the respondent and all other costs for respondent to prepare for the hearing. At this proceeding, the Respondent will be permitted to testify; present evidence; respond to questions from the PRB; and examine and cross-examine witnesses who are also present. The Respondent may be represented by legal counsel at the hearing. No hearing need be held if the PRB decides to dismiss the Petition. The PRB may establish rules for the conduct of the hearing, though formal rules of evidence will not apply.

Decision of PRB. The PRB shall strive to render a decision on the Petition within ninety (90) days of the submission of all documents by the Petitioner and Respondent or any hearing herein, and shall notify the Petitioner and Respondent in writing of that decision. The written notification shall include an explanation of the basis for the decision. In most cases a decision of the PRB will be one of the following: the Respondent has engaged in prohibited conduct; the Respondent has not engaged in prohibited conduct; or there is insufficient evidence to determine whether or not the Respondent has engaged in prohibited conduct. A finding of a prohibited conduct must include the PRB's decision as to any disciplinary action to be imposed including but not limited to, reprimand, censure, suspension, and revocation.

Appeal. A Petitioner or Respondent may appeal the decision of the PRB to the CGC Board of Trustees by submitting a written notice with the CGC President within thirty (30) days of the date of the PRB's decision. Either the PRB or the CGC Board of Trustees may postpone implementation of the disciplinary action, if any imposed by the PRB until after disposition of the appeal. The CGC Board shall seek to issue its ruling within sixty (60) days of receipt of the appeals notice. There shall be no right to a hearing. The decision of the CGC Board shall be final.

Publication. CGC may publicize the nature, existence, or preliminary or final result of any disciplinary proceeding or action, at any stage, if deemed by CGC to be in the interests of CGC, the Certification Program, or any segment of the general public.

Correspondence. All correspondence and notices herein between the petitioner and respondent should be made by certified mail.

NFG offers to conduct the disciplinary process for denial, removal or suspension of certification. Present CGC practice is for the CGC Chair to convene a separate PRB for each petition and appoint Registered Guardians or Master Guardians from a state different than the Respondent's. This policy is flexible and it might be appropriate to appoint members of PRB who practice in the Respondent's state but not in the Respondent's immediate area.

### **Examination: What should be tested?**

Action: Jointly determine if a state component is necessary, and if so, the state core competencies to be tested, establish the proportion of national to state topics in the exam, compose the state questions, and validate the examination process and test composition.

Discussion: The CGC NCG national examination was developed by a committee of experienced guardians from across the country. Before writing any questions, the NCG committee surveyed the NGA membership for their opinions of the core competencies that a guardian should demonstrate. This survey guided the committee in developing questions relating to specified competencies. Each question has been further identified to its source in the NGA *Code of Ethics and Standards of Practice*.

The committee's procedure in developing the certification process has been validated by Dr. Judith Hale, <http://www.haleassociates.com/certification.html>. The item and criticality analyses have been conducted by Dr. Jobie Skaggs and by Dr. Robert Wise.

The CGC national exam question pool contains over 350 multiple choice questions. To preserve the pool's integrity, each time the test is given three different tests are developed. One hundred questions are selected from the national pool for each exam.

CGC recommends that a state test writing committee be appointed, including experienced guardians who also have familiarity with testing procedures and question composition. It is also advantageous to have a member of the judiciary sit on the committee. Members of this committee will be precluded from sitting for the examination. CGC will chair this committee and appoint national representatives to jointly sit on the committee. CGC will also assist the committee in maintaining all documentation of the test development process necessary to support the validation process.

CGC recommends that the state committee survey guardians and judges to obtain a ranking of state specific core knowledge that a guardian should possess. This survey will guide the committee in composing question across the appropriate range of substantive areas. Sample questionnaires used to survey members of the Professional Fiduciary Association of California, the Texas Guardianship Association, the Oregon Guardian and Conservator Association, and the Florida Guardianship Association are available.

CGC recommends that the examination document consist of two equally weighted parts: objective questions taken from the existing NCG test pool that demonstrate knowledge of universal guardianship ethics and practices, and objective questions that demonstrate specific knowledge of state laws and procedures. The test should be designed to be completed within three hours.

The committee should determine and create the total number of state questions necessary to make up a sufficient pool of questions to be rotated among the different test takers and testing sessions. A sufficient pool requires 1.4 times the number of state questions on the test times three distinct exams. For example, if 50 state questions are to be asked, 210 questions need to be in the pool. Existing state-specific questions in the other states' question pools can be reviewed to identify appropriate questions that need state specific answers.

CGC and the state committee will respectively approve the content of the total examination and the accuracy of the answers, while preserving the security and the integrity of all question pools.

The state committee will have an on-going responsibility to maintain and revise the test pool, update answers to reflect law changes, refresh the question pool, and analyze problematic questions that are consistently answered incorrectly or never answered incorrectly.

An applicant would need to receive a passing grade on both components of the test. An unsuccessful applicant can apply to retake the section of the exam they failed, with a recommendation for additional study. Applicants who have previously passed the NCG examination would need to take the state-specific component. Successful applicants would be entitled to hold themselves out as a CGC National Certified Guardian and as a state-certified guardian.

### **Examination Administration: How is the test given?**

Action: Jointly determine when, where, and how the test is to be administered.

Discussion: As of 2010 the NCG examination is administered online in proctored settings such as the NGA annual meeting and, upon request, at state guardianship association meetings. Where and how frequently the test will be administered depends on the needs of the state and the number of guardians to be examined. A mandatory test would need to be provided frequently in geographically disperse locations, particularly within the first year certification is established.

CGC Assistance: CGC offers to administer the process to schedule examinations, reserve testing sites, provide test proctors, grade the examinations, and disseminate the results. CGC would work with the state to determine estimated demand, test frequency and locations.

### **Fees: What costs are involved?**

Action: Jointly determine the total expenses relating to the administration of the examination and certification process; identify appropriate staffing of each component of the process; set fee level that is affordable for all guardians; allocate compensation to CGC and the state entity.

Discussion: Substantial costs are involved in developing the process, creating the questions, validating the procedure and question pool, administering the testing, and managing the certification process. A dedicated staff is necessary to maintain the various data bases, manage the question pools and test formulation, and handle administrative record keeping. Some travel and staffing costs are needed to support the exam writing efforts. Staffing is also necessary to administer the re- and de-certification procedures.

CGC Assistance: CGC offers to provide all staffing and management of the certification process by charging each applicant the same costs it imposes on applicants for the CGC NCG certification, plus a small state administrative fee. Current CGC fees include \$200 test fee, \$250 for a joint exam, \$100 re-examination fee, \$110 re-certification fee. These fees are subject to change by CGC but would be uniform for all certification and joint certification applicants.

### **Test preparation: How to prepare?**

Action: Jointly determine the curriculum necessary to provide the grounding all guardians should obtain before being eligible to receive certification and appointment. Develop manuals and or study guides. Identify and qualify instructors. Arrange for delivery of review courses.

Discussion: Certification and its testing component are a means, not the end, to enhance the quality of services provided by guardians across the nation. Thus, the preparatory educational component in preparation for certification demands substantial attention. The primary goal of testing is to document that the applicant possesses a basic understanding how guardians should carry out their responsibilities, ethically and in compliance with the law. To prepare for the testing the guardian needs to be exposed to the substantive areas covered on exam. They should have a clear understanding of the core competencies they are expected to know. While any review course should not “teach to the test,” the test and the curriculum must compatibly cover the same material.

NGA and CGC have always maintained the importance of separating the training component and the certification component. NGA makes available to all NCG applicants a study guide and an online review course, as well as copies of the *Code of Ethics* and *Standards of Practice*. The guide can stand alone or be used in conjunction with the course. NGA has qualified Approved Educators who teach the review course.

CGC Assistance: CGC recommends that the national educational component be incorporated into the state training curriculum and materials. The state should be responsible for preparing the state-specific training outline, curriculum, and study materials and for providing the

qualified instructors. NGA would provide materials, including the Code of Ethics and the Standards of Practice, and instructors for the national segment of the training. For practical reasons, the national instructor should be a state resident. The cost to the applicant for all study materials and for a review course must be determined as well as allocation of payment between NGA and the state. Currently the NGA Study Guide costs \$75 and the four-hour review course costs \$80.

## **Summary**

This proposal is intended to lay the ground work for the Center for Guardianship Certification to cooperate with the appropriate state entity to implement a state certification process for professional guardians. Clearly, other issues need to be identified, discussed and decided. Nevertheless, everyone's common goal is to develop an effective and fair process that will improve the quality of guardianship services. We look forward to further discussions on how that common goal can be attained.