



# State of New Hampshire      Guardian ad Litem Board

## Public Minutes

Legislative Office Building Room 101  
February 15, 2013

### Members Present:

Alan Cantor, Susan Duncan, Chris Keating, Master Henrietta Luneau,  
Senator David Pierce, Representative Deanna Rollo

### Members Absent:

Ann Larney, David Villiotti

*Chairwoman Duncan called the meeting to order at 1:03pm.*

*A quorum was present.*

<b>1. Public Comments</b>
There was no public present.
<b>2. Introductions</b>
<ul style="list-style-type: none"> <li>a. Representative Deanna Rollo <ul style="list-style-type: none"> <li>i. Strafford District 18 appointed to Children and Family Law</li> </ul> </li> </ul>
<b>3. Presentations</b>
<ul style="list-style-type: none"> <li>a. Child Advocacy Center (CAC) <ul style="list-style-type: none"> <li>i. Bethany Cottrell, Executive Director of Merrimack County Child Advocacy Center &amp; Kristie Palestino, Director Granite State Children's Alliance</li> <li>ii. Ms. Palestino gave an overview of what a CAC is. <ul style="list-style-type: none"> <li>1. CAC's mainly deal with sexually abused children but also deal with severely physically abused children or those who have witnessed a violent crime.</li> <li>2. In the past children were being interviewed by eight different people for the same allegation. Cases were not going anywhere and children were looked at as being unreliable.</li> <li>3. In 1980's CAC's were developed to pull together all eight interviews into one by having a trained forensic interviewer in a neutral friendly setting.</li> <li>4. NH is one of the only states with a CAC in every single county.</li> <li>5. With a CAC the child is brought in and only interviewed by one person. The interviewer would wear an earpiece. A team is brought in to watch the interview on closed circuit television. Everyone's questions are asked but through one person so as not to traumatize the child any further.</li> <li>6. They also provide trainings including Forensic Interviewing for the non-forensic interviewer. <ul style="list-style-type: none"> <li>a. Training is free.</li> <li>b. Would like to offer to GALs as they interview children.</li> </ul> </li> <li>7. GALs may not know that they can sit in on interview.</li> <li>8. CAC's focus on truth.</li> </ul> </li> <li>iii. Discussion Included: <ul style="list-style-type: none"> <li>1. GALs have asked for more training regarding interviewing children.</li> </ul> </li> </ul> </li> </ul>

2. Bethany and Kristie will draft a proposal for a GAL specific course and submit to Board.
  3. Board office will post training online and send email to all certified GALs.
  4. Board members are encouraged to visit a CAC.
- b. Tim Cunningham
- i. Background Information:
    1. Has been a certified GAL since 1989
    2. This is his full time job. 90% of income is GAL.
    3. Has also worked as a family mediator and done co-parenting counseling.
    4. Formed the Seacoast Association of GALs
    5. Was on training committee in early 90's for GALs
    6. Spends one afternoon a month at courthouse providing help for pro-se litigants who do not understand the role of GALs.
  - ii. Since the court fund was cut for GALs there have been fewer appointments of GALs therefore fewer cases for currently certified GALs.
  - iii. Concerned that training is going to be offered for new GALs when current GALs are struggling for cases.
  - iv. It takes a few years to learn all the ropes and do the job well.
  - v. To have the supply greater than the demand takes away the professionalism.
  - vi. Families and children of NH deserve the best. You need to have experience to be the best.
  - vii. Discussion Included:
    1. Can each court determine how many GALs are needed?
    2. Board is aware that there is an injustice to families due to the court fund being cut.
    3. Judge Kelly informed the Board that he is unaware of any court that is in need of GALs.
    4. Supreme Court Attorney Howie Zibel has been doing statistical analysis and discovered that half as many GALs are being appointed since the fund were cut.
    5. Board is sensitive to the fact of having an overabundance of GALs.
    6. Currently in transition phase. Don't know what the legislature is going to do.
    7. Board resources are limited.
      - a. Board members are volunteers and have full time jobs outside of role as board member.
      - b. Budget only allows for part-time staff.
      - c. Board could/would do more if they had more money.
    8. What things could be done to better GALs?
      - a. Rather than bring on new GALs have a yearly training for existing GALs.
      - b. Provide service to those who would have been eligible for court fund by:
        - i. Reducing rate to \$60 per hour.
        - ii. Cap of \$1,000 per case.
      - c. Have a cap on hourly rate for private and public cases.
      - d. GALs need to have fiscal responsibility.
      - e. It is not unreasonable to expect pro bono work. You need to payback.
      - f. Have a guarantee of a certain number of cases per year, so you can budget accordingly.
    9. Should the Board post online the private pay costs for each GAL?
      - a. The court has this information.
      - b. Would it be considered free advertisement for GALs?

10. How are appointments obtained in a private pay case?
  - a. Each Marital Master and court clerk has the list of certified GALs to choose from.
11. How is the appointment influenced?
  - a. Some courts have a rotating basis.
  - b. Some courts pick based on personalities, fees, and performance.
  - c. Some courts allow the attorneys to pick.
  - d. GALs with experience is more valuable.
  - e. 50% of appointments have dropped since court fund cut.
  - f. There are lots of families that need a GAL but cannot afford it.
12. What is the impact of the lack of court fund?
  - a. Courts are struggling.
  - b. Many cases clearly need a GAL.
  - c. Most litigants are pro se and don't know what's important to the judge or master.
  - d. Marital Masters and Judges doing more interviews with the children in chambers.
    - i. Intimidating for children.
  - e. GALs provide more complete information of situation.
    - i. They can meet with children, parents etc in a neutral or familiar setting.
  - f. Costs more time and stress for all parties involved.
13. Would rigorous enforcement of fee caps help situation?
  - a. There was a trial run of GAL contract program.
    - i. \$1,000 per case.
    - ii. Did not matter how many hours per case.
  - b. Some GALs abuse the system.
    - i. They were visiting the child every week.
    - ii. It is a judge, marital master issue.
    - iii. If the judge, or master approve the bill there is nothing the Board can do.
14. GAL should have a system more like the public defenders office.
  - a. Central organization
  - b. Mentoring
  - c. Monitoring
- viii. There has been erosion in the political climate towards GALs.
  1. The original NH GALs used to either be a social worker, psychologist or attorney.
  2. Now all you need is an associate's degree in any field.
  3. Without the experience or knowledge you cannot perform this work well.
  4. The power of the court is being taken away.
- ix. Is it the role of the Board to constrict how many GALs are certified?
  1. The Board has never taken a position.
  2. There is a concern that current GALs will not renew certification because of lack of cases.
  3. Ethical obligation to provide training.
- x. The common law right to appoint a GAL was not taken away from Marital Masters or Judges.
  1. The practical realities need to be considered.
  2. A GAL would not be appointed knowing that the parties could not/would not pay.

3. Should the service of GALs only be available to those who can pay?
4. Is this justice for all?
- xi. The court fund had an annual expense of \$1.2 million.
- xii. What is it costing in court time as a result of not having the court fund?
  1. There are more review hearings.
  2. The Judge or Master will spend at least 30 minutes or more interviewing the children.
  3. Former Marital Master Deb Rein wrote an article in the NH Bar Journal in relation to this topic.
    - a. If the GAL fund were brought back the marital masters and judges can be more efficient with their time.
    - b. There would not be such a long wait for a court date.
  4. If marital masters were kept in the system than the state would save money as they are not paid as much as judges.
  5. Masters are specializing in family court cases.
- xiii. The Governor's budget for fiscal year 14-15 includes \$300,000 each year to codify NH Supreme Court decision *In Re: CM* by providing counsel for parents in abuse and neglect matters when there is a due process obligation to provide counsel.
  1. Is it suspected that an amendment may be made to include all parents in abuse and neglect matters.
- xiv. The fund amount does not include the money that is recovered.
  1. After you remove the actual cost of recovering the money there is a about 15%-20% return.
- xv. GALs help to settle cases and free up court time.
- xvi. There have been many cases that final hearings have not been needed because the GAL was able to settle the issues.
- xvii. The first year law students at UNH Law School are taking on as their cause for the year to push for litigation to establish a right for the assistance of a GAL in marital cases.

#### 4. Review Minutes:

- a. January 18, 2013 Sub-Committee Public
  - i. Master Luneau made a motion to approve the minutes. Seconded by A. Cantor. Vote: 4-0-2 Sen. Pierce and Rep. Rollo abstaining. Motion passes.
- b. January 18, 2013 Sub-Committee Non-Public SEALED
  - i. C. Keating made a motion to approve the minutes. Seconded by Master Luneau. Vote: 4-0-2 Sen. Pierce and Rep. Rollo abstaining. Motion passes.
- c. January 18, 2013 Public
  - i. C. Keating made a motion to approve the minutes as amended. Seconded by A. Cantor. Vote: 5-0-1 Rep. Rollo abstaining. Motion passes.
- d. January 18, 2013 Non-Public SEALED
  - i. Sen. Pierce made a motion to approve the minutes. Seconded by C. Keating. Vote: 5-0-1 Rep. Rollo abstaining. Motion passes.
- e. February 13, 2013 Sub-Committee Public
  - i. C. Keating made a motion to approve the minutes. Seconded by A. Cantor. Vote: 4-0-2 Sen. Pierce and Rep. Rollo abstaining. Motion passes.
- f. February 13, 2013 Sub-Committee Non-Public SEALED
  - i. C. Keating made a motion to approve the minutes. Seconded by A. Cantor. Vote: 4-0-2 Sen. Pierce and Rep. Rollo abstaining. Motion passes.

## 5. Continuing Education

- a. Meredith Richardson
  - i. 20<sup>th</sup> Annual Conference on Child Abuse and Neglect
    - 1. 9 credits (did not attend entire thing)
    - 2. The 18<sup>th</sup> & 19<sup>th</sup> Annual Conferences have been previously approved.
  - ii. Sen. Pierce made a motion to approve the above course. Master Luneau seconded. Vote: 6-0 Motion passes.
- b. Steven Bunker
  - i. NHAJ Annual Family Law Forum
    - 1. 6 credit
    - 2. The 2012 NHAJ Family Law Forum has been previously approved.
  - ii. Sen. Pierce made a motion to approve the above course. Master Luneau seconded. Vote: 6-0 Motion passes.
- c. Mary White
  - i. Enhancing Interview Skills: The Art of Asking the Right Questions
    - 1. 6 credits
  - ii. "DSM 5: Common Mental Health Disorders-Co-Occurrence, diagnosis and Key Changes
    - 1. 6 credits
  - iii. Sen. Pierce made a motion to request more information about the above mentioned courses. A. Cantor seconded. Vote: 6-0 Motion passes.
- d. Honey Hastings, Amoskeag Continuing Education
  - i. The following courses were approved by the Board in August 2012.
    - 1. Child Support and other Legal Updates
    - 2. Family Law Basics
      - a. They are being presented again this Spring.
      - b. The only change is the addition of new cases to the Child Support and Other legal Updates.
  - ii. Sen. Pierce made a motion to approve the Family Law Basics course and request more information about the new material for the Child Support and other Legal Updates course. C. Keating seconded. Vote: 6-0 Motion passes.

## 6. CASA Memorandum of Understanding

- a. MOU is required by statute.
- b. CASA only deals with abuse and neglect cases. Sometimes they turn into termination of parental rights.
- c. The current MOU expires today February 15, 2013
- d. Need to draft a new one.
  - i. Does the Board want to address audit issues in the MOU?
  - ii. Per our counsel at AG office new MOU does not need G & C approval but should have AG counsel approval.
- e. CASA has signed a temporary extension agreement allowing current MOU to stay in affect until May 1, 2013.
  - i. That will give time to work on new one.
  - ii. Counsel has approved the extension agreement.
- f. C. Keating made a motion to approve the temporary extension and authorize S. Duncan to sign on behalf of the board. Sen. Pierce seconded. Vote: 6-0 Motion passes.
- g. C. Keating offered to work with Ann and Jennifer to draft a new MOU.

## 7. Board Updates & Actions

- a. Meetings
  - i. Sen. Pierce is requesting that the board change to 2<sup>nd</sup> Friday
    - 1. Discussion Included:
      - a. A. Larney suggests alternating each month to accommodate both Master Luneau and Senator Pierce.
      - b. D. Villiotti does not have an opinion either way
      - c. Master Luneau will check with her court clerk to see if something can be worked out but it would not take affect until at least the fall.
      - d. Sen. Pierce will check and see if his other board definitely meets on the 2<sup>nd</sup> Friday.
    - 2. The Board agreed to not change the meeting dates at this time.
  - ii. Rules Meeting
    - 1. Due to the amount of work the Board has had at regular Board meetings there has been no time to discuss the rules changes.
    - 2. It was suggested that a separate meeting be scheduled for the sole purpose of rules.
    - 3. Board members will bring their calendars to the next meeting.
- b. Mary White email
  - i. Background Information:
    - 1. An email was received and discussed at the January meeting whether or not it would be a conflict of interest if the GAL was the mediator in the case?
    - 2. The Board voted to inform GAL White they do not give advisory opinions.
  - ii. Discussion Included:
    - 1. A new email was received from Mary White saying that the Family Mediator Board told her it would be conflict of interest.
    - 2. Since the Mediator Board has said that it would be a conflict the question has been answered.
    - 3. It is up to the judge to decide conflict of interest.
    - 4. The original email did not meet the criteria required for a declaratory ruling as stated in GAL 216.
  - iii. The Board agreed to do nothing further on this issue.
- c. Letter from Ralph Morin
  - i. Ralph is a currently certified GAL.
  - ii. He is asking to have the Board approve trainings he will coordinate.
  - iii. Master Luneau made a motion to send GAL Morin a letter explaining he needs to follow the Continuing Education Approval Process stated in GAL 403. C. Keating seconded. Vote: 6-0 Motion passes.
- d. Dr. Ben Garber
  - i. Dr. Garber was a certified GAL from February 2008 to February 2011.
  - ii. On his web pages and in his newspaper articles he states he is a certified GAL.
  - iii. Dr. Garber sent an email inquiring about his status on Wednesday 2/13.
  - iv. His website now states he is no longer certified and directs questions to the Board.
  - v. Discussion Included:
    - 1. Notices of expiration are sent out.
    - 2. Does the Board want to file a complaint?
      - a. Since he now knows he expired it was agreed to not do anything.
      - b. The Board may reconsider its decision if it becomes aware that Dr. Garber is still listing himself anywhere as a state certified GAL.

- e. House Bills
  - i. HB 387
    - 1. Relative to Immunity of Guardians ad Litem
    - 2. House voted to ITL on 2/13/13 by roll call.
  - ii. HB 402
    - 1. Relative to Complaint Investigation Procedures of the GAL Board
    - 2. House voted to ITL on 2/13/13 by roll call.
  - iii. HB 469
    - 1. Relative to time limits for regulatory boards and commissions to hold disciplinary proceedings
    - 2. Hearing is Thursday Feb. 21 at 10:30am in Room 306 of LOB
    - 3. Does the Board want to take a position?
      - a. The GAL rules provide some certainty as to the time frame.
      - b. The Board agreed to not take a position.
      - c. The Board staff will attend the hearing and take notes.
  - iv. HB 625-FN
    - 1. Relative to oversight of guardians ad litem by the Guardian ad Litem Board
    - 2. Executive Session is Tuesday February 19<sup>th</sup> @ 11:15am in Room 206 of LOB.
    - 3. The Board agreed to not take a position unless it passes the House.
  - v. HB 671
    - 1. Restoring state payment of fees for guardians ad litem and attorneys where the parents are indigent.
    - 2. Executive Session is Tuesday February 19<sup>th</sup> @ 11:15am in Room 206 of LOB.
  - vi. HB 681
    - 1. relative to the membership, duties, and responsibilities of the guardian ad litem board and establishing the Court Appointed Advocates for Children in Divorce (CAACD) Corporation
    - 2. Executive Session is Tuesday February 19<sup>th</sup> @ 11:15am in Room 206 of LOB.
    - 3. The Board agreed to not take a position unless it passes the House.
  - vii. HB 654-FN
    - 1. relative to licensure and renewal fees
    - 2. After reading the bill text this bill does not involve the Board or GALs.
  - viii. SB 156-FN
    - 1. relative to the appointment of a guardian ad litem in certain sexual assault cases
    - 2. Chairwoman Duncan passed out the text of the bill for informational purposes only.
    - 3. The Board will not take a position.
- f. Complaint Sub Committee
  - i. There is nothing in any of the Board Rules or RSAs specifying the complaint sub-committee must have 3 members to meet.
  - ii. It has always been unwritten Board policy to always have 3 members.
  - iii. The Board agreed that it would aim to have 3 people but if only 2 can make it that's okay since the full Board has to make the ultimate decision.
- g. Un-Certified Guardians ad Litem
  - i. Chairwoman Duncan had emailed Judge Kelly with the data obtained from the Administrative Office of the Courts regarding the appointments of non-certified GALs.
  - ii. Judge Kelly responded saying that he will be looking into the issue and will get back to the Board.

**8. Late Reports**

- a. All circuit courts reporting.
  - i. The list of late reporters was passed out to Board members.

**9. Budget**

- a. Governor's Budget
  - i. Governor Hassan presented the 97% Board budget to the Joint session.

**10. Non-Public Session**

*Sen. Pierce moved to go into non-public session for the purposes of discussing a matter which, if discussed in public, would likely affect adversely the reputation of a person or persons who is not a member of this body pursuant to RSA 91-A:3, II(c). A. Cantor seconded. A roll call vote was taken:*

*A. Cantor, Aye, S. Duncan, Aye, C. Keating, Aye, Master Luneau, Aye,  
Senator Pierce, Aye, Representative Rollo, Aye*

*~Non-Public Session~*

A. Cantor made a motion to go back into public session. Master Luneau seconded. Vote: 6-0 Motion passes.

Sen. Pierce made a motion to adjourn. A. Cantor seconded. Vote: 6-0 Motion passes.