



State of New Hampshire Guardian ad Litem Board

Public Minutes

November 15, 2013

Legislative Office Building Room 101

Members Present: Alan Cantor, Susan Duncan, Chair, Chris Keating, Ann Larney, Master Henrietta Luneau, David Villiotti

Members Absent: Senator David Pierce, Representative Deanna Rollo

Chairwoman Duncan called the meeting to order at 1:07pm.

A quorum was present.

1. Public Comment

a. Mike Brewster

- i. The Board has bullying tactics that they don't realize.
- ii. The Board is harming people & needlessly beating up on families.
- iii. There needs to be a separation of power. People on the State payroll should not be on the Board.
- iv. People are being so mistreated by the system that they could act out and harm the Board.
- v. He has a grievance filed with the Legislature.

b. Pamela Ambrose

- i. Would like to know the Board's definition of absolute judicial immunity?
 1. The Board explained they do not give opinions they rely on their counsel at the Attorney General's Office.
- ii. How does immunity apply to a GAL in their accountability to their practice?
 1. The Board explained the complaint process.
 - a. If a complaint is filed a series of protocols is performed.
 - b. Complaints are filed with the Board for GALs.
 - c. The sub-committee reviews the complaint and then brings it to the full board for a vote.
 - d. The Board can only hold GALs accountable for rule violations.
 - e. Board has ability to remove certification of GAL.
 - f. The courts have been extremely supportive towards Board actions against GALs.
- iii. What is the percentage after review of revocation?
 1. The Board stated:
 - a. There have been 3 certification revocations since the complaint process started.
 - b. All complaints that moved to a hearing have the decision posted online at www.nh.gov/gal.
- iv. It is "incredulous" to have a complaint filing fee.
 1. The Board stated that when the rules revision is complete the complaint fee will be removed.
- v. There are hurdles are in place to stop a family from filing a complaint.
 1. Filing a waiver of filing fee.
 2. Obtaining all court orders, GAL reports, etc.
- vi. There are phenomenal GALs in NH.

- vii. The NH GAL training protocols and certification process is short and shallow for the work that they are doing.
 - 1. GALs are making anywhere between \$60-\$250 per hour. For this kind of money they should have more education on the subject matter.
 - 2. The consistency of training is non existent.
- viii. Family court is not evidentiary based.
- ix. GAL needs to make herculean efforts to be objective.
 - 1. It is hard for parties to appreciate work of GAL.
- x. When people use family court and custody cases as a litigation tactic then people can go to jail.
- xi. When an accusation is made that a parent has harmed the child in some way the child is removed from that parent right away.
 - 1. This process is saying that the parent is guilty before proven.
- xii. The lack of training for certified GALs doesn't make them as accountable as CASA's.
 - 1. The Board would love to have a CASA model with paid supervisors in every county. This is currently impossible due to the Board's miserably small budget. All the Board members are volunteer and have full time jobs.
 - 2. The system is better than it was before.
 - 3. There did not use to be a process for filing a complaint.
 - 4. There did not use to be a process or protocols for certifying GALs. A Judge used to be able to ask anyone to be a GAL and could be appointed without training.
- xiii. There is a lack of transparency of GAL records and complaints.
- xiv. People do not know where to go or what to do if they have a problem with the GAL.
- xv. The Board needs to step back and re-evaluate if certified GALs or GALs at all are the way to go.
 - 1. Due to the budget cut the Judicial Branch is using dramatically less GALs due to funding.

c. Mike Puiia

i. Recusal Request

- 1. Mr. Puiia requested that Chairwoman Duncan recuse herself due to an incident that occurred between Mr. Puiia and Ms. Duncan in full time job capacity.
 - a. It was pointed out that this is the public comment section. No decisions are being made, the public comment section is for the Board to hear what the public has to say.
- 2. C. Keating made a motion to deny the request for recusal of Chairwoman Duncan from the public comment. A. Larney seconded.
 - a. Mr. Puiia explained that he is submitting a complaint and requests that Chairwoman Duncan be recused from anything having to do with him. He had an issue with her in her full time job capacity separate from the Board and he feels that she cannot be unbiased in making a decision.
 - b. Mr. Puiia withdrew his request for Chairwoman Duncan to be recused from public comment but maintained his request that she be recused from his complaint.
- 3. C. Keating withdrew his motion.
 - a. It was explained to Mr. Puiia that the Board would discuss the rescusal after it receives the complaint.

ii. Mr. Puiia's testified that:

- 1. GALs in NH and nationally have quasi judicial immunity. This means that the Board is one stop to go to fix negligence and malfeasances of a GAL.
- 2. 490-C :4 (g) states that one of the duties of the Board is to *investigate and resolve complaints against certified guardians ad litem, and against formerly certified guardians ad litem who are claimed to have engaged in acts or omissions*

prohibited when certified. The board may, upon the submission of a written allegation or complaint against a presently or formerly certified guardian ad litem who holds, held, or may hold an appointment in a case under the authority of a court, refer that matter to the appropriate court for investigation, resolution, or other action. Such referral may be made regardless of whether the allegation or complaint relates to a case which is then pending in court and may be made in lieu of or in addition to any investigatory or disciplinary procedures that the board may itself be authorized to pursue. The board may further informally resolve complaints by agreement. A complaint relating to a trial or judicial proceeding in progress shall be dismissed without prejudice, unless the board for good cause votes to proceed immediately with such complaint. This allows the Board to consider a complaint for an open case.

3. The State recently completed a scathing review audit of the Board. The audit says, “*We identified weaknesses in the Board's structure, administration, and operations, which resulted in its inability to operate efficiently and effectively. A lack of consistent administrative support and knowledge of basic State requirements contributed to many of the Board's administrative and operational weaknesses.*”
4. Any complaint Mr. Puiia has been aware of that is submitted to the Board by someone other than court personnel and is an open case is automatically dismissed.
5. Board has legal obligation to consider all complaints, open or not.
6. GALs should fall under training standards like CASA.
7. GALs are public officers to the court. There should be more transparency regarding their work.
 - a. There should be a database with the following information:
 - i. Current Cases
 - ii. Previous Cases
 - iii. YTD income as GAL
8. GALs should not have authority to make decisions in court cases. Their role is to investigate and report.
9. The GAL program should be abolished as it was recently in Pennsylvania.
10. There is no due process for litigants due to sealed documents and GAL quasi judicial immunity.
11. The Board has consistently denied right to know requests to review all complaints. They have relied on their counsel at the Attorney’s General’s Office who says that it is against the law. The Judicial Conduct Committee allows all complaints dismissed or accepted to be reviewed.
12. By not allowing the public to view the complaint files the Board is causing injury and treating the citizens of NH with disrespect. The audit supports this concluding that the Board operates unlawfully and ineffectively.
13. All complaints should be public unless it is a sealed case.
14. Despite Judge Kelly’s Administrative Order 2005-01 fee caps are not being enforced and motions to exceed are not being filed. Bills are being approved in private pay cases without a hearing.
15. When Board decides to on the renewal of a GAL there is no transparency for the decision.
 - a. The public should be able to have input and offer testimony towards the renewals.
16. Mr. Puiia submitted to the Board written testimony regarding a GAL who is up for renewal. He requested that his information sheet be reviewed before making a decision about renewing the GAL’s certification.
 - a. There were no stipulations filed in the case.

- b. There is no consistency in billing cycle or amount.
 - 17. The Court can reallocate a GAL bill at any point to whomever.
 - 18. The Board is going to crash and members are going to have severe repercussions but it has ability to turn around. The Board is the main reason people in the State are going to snap.
 - 19. Membership:
 - a. Public members should not be anyone employed by state or involved in judicial or legislative branch. It should be a lay person who has had experience with the GAL program in NH.
 - b. The Executive Director of Judicial Council seat on the Board should not be unlimited.
 - 20. The complaint filing fee should be removed.
 - 21. The Board needs to adopt emergency protocols for letting the public know of upcoming GALs recertifying and allowing the public to contribute their opinion on the GAL.
2. Joseph Puiia
- a. Has been unexpectedly involved in family court system for 7 years.
 - b. He used to have trust in system until now, being involved and seeing what is happening. The system is like being in the middle of a revolving firing squad.
 - c. The intentions of the GAL are good but the affect has been opposite. It doesn't protect children it protects those that can pay for it.
 - d. GALs do not have training for the momentous decisions they make for families.
 - e. The GALs do not ask proper questions in the correct ways.
 - f. People should not get involved in the court process for a divorce. All that happens is the children get hurt while people like the attorneys and GALs make a lot of money.
 - g. There should be no unlimited term for any Board member.
 - h. Board members appointed as a general public member should not be insiders meaning they should not be a state employee or be involved in the judicial or legislative branch. They should be a recipient of GAL services.
 - i. The current general public member is a State employee making them an insider. Board membership is negatively affected when too many insiders are on the board.
 - j. Recertification needs to be open to public.

M. Luneau 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). Seconded by A roll call vote was taken: Alan Cantor, Aye, Susan Duncan, Aye, Chris Keating, Aye, Ann Larney, Aye, Master Henrietta Luneau, Aye, David Villiotti, Aye

~Non-Public Session~

M. Luneau left the room recused during non-public session.

A quorum was still present.

M. Luneau returned to the room during non-public session.

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

3. Review Minutes

- a. October 18, 2013 Sub-Committee Public
 - i. M. Luneau made a motion to approve the minutes. C. Keating seconded. Vote: 3-0-3 A. Cantor, M. Luneau, & D. Villiotti abstaining. Motion passes.
- b. October 18, 2013 Sub-Committee Non-Public SEALED
 - i. A. Larney had changes so discussion was held until non-public session.

- c. October 18, 2013 Full Board Public
 - i. A. Larney made a motion to approve the minutes. S. Duncan seconded. Vote: 3-0-3 A. Cantor, M. Luneau, & D. Villiotti abstaining. Motion passes.
- d. October 18, 2013 Non-Public SEALED
 - i. A. Larney had changes so discussion was held until non-public session.

4. Continuing Education Requests

- a. Keeping the Brain in Mind: The Impact of Trauma and Attachment Disruptions on Learning and Behavior by the NHAG office for 5 CEU’s.
 - i. C. Keating made a motion to approve. M. Luneau seconded. Vote: 6-0. Motion passes.

5. Training

- a. One of the representatives from NHTI was sick and therefore the discussion was moved to the December meeting.
 - i. A list of Board questions has been provided to NHTI to get the discussion rolling.
- b. It was suggested in an email from NHTI that the Board look into web based training.
 - i. Discussion Included:
 - 1. How does the Board know that someone was participating in the web based training?

6. Board Actions & Updates

- a. Board Membership
 - i. Dave Robbins has been appointed to fill the vacant General Public seat on the Board.
- b. 2014 LSR’s
 - i. The following are the LSR’s that could possibly have something to do with the Board or it’s actions.

2014-H-2093-R title: requiring state agencies to use the postmark date as the date of filing or payment.

Sponsors: (Prime)Douglas Carroll

2014-H-2113-R title: establishing a citizen appeal panel.

Sponsors: (Prime)George Lambert

2014-H-2176-R title: relative to increases in fees using rulemaking authority.

Sponsors: (Prime)William Hatch

2014-H-2264-R title: relative to quorums for meetings under the right-to-know law.

Sponsors: (Prime)Rebecca Brown

2014-H-2322-L title: relative to the conduct of public officials.

Sponsors: (Prime)Brad Bailey

2014-H-2430-R title: requiring a deposit for right-to-know requests.

Sponsors: (Prime)Dan McGuire

2014-H-2458-R title: making certain changes to the right-to-know law.

Sponsors: (Prime)Kyle Tasker

2014-H-2462-R title: relative to the establishment of fees by certain regulatory boards.

Sponsors: (Prime)Susan Almy

2014-H-2559-R title: relative to grounds for divorce for persons with minor children.

Sponsors: (Prime)Warren Groen

2014-H-2566-R title: relative to payment of guardians ad litem and complaints against guardians ad litem.

Sponsors: (Prime)Andrew White

2014-H-2570-R title: allowing recording of public officials in the performance of official duties.

Sponsors: (Prime)Rick Watrous

2014-H-2577-R **title:** petition of grievance on behalf of Ann Marie Moynihan.
 Sponsors: (Prime)Robert Luther

2014-H-2578-R **title:** petition of grievance on behalf of Joseph Gagan.
 Sponsors: (Prime)Daniel Itse

2014-S-2735-R **title:** relative to public or private criticism of employers by employees.
 Sponsors: (Prime)David Pierce

c. Late Reports

- i. The list of GAL late reports was distributed and reviewed.

d. Ralph Morin Email

- i. GAL Morin feels that the Board needs to be informing GALs of possible trainings be offered.

ii. Discussion Included:

1. It is not the Board's job to promote other people's training.

- iii. The Board agreed to have S. Duncan and C. Keating respond to the email.

e. Send reminder to all GAL's regarding CEUs

- i. In the past month the office has received numerous inquiries regarding renewal CEU requirements.

- ii. Would the Board support sending an email to all certified GALs and possibly posting on the website a statement reminding them of their CEU requirements?

iii. Discussion Included:

1. In their letter of certification it states you must have the proper amount of CEU's to renew.

2. The expiration reminder also includes the fact that they have to have CEU's to renew.

3. The Board agreed that GALs are notified on more than one occasion and are supposed to be familiar with the GAL rules so there is no need to do a mass email or posting on the website.

f. 2014 Meeting Schedule

- i. The Board agreed to change the October 2014 to October 10th.

A. Larney made a motion to adjourn. M. Luneau seconded. Vote: 6-0. Motion passes.