



AUDIT REPORT



To preserve the public trust as guardians of the people's records and assets

DATE January 24, 2022

NO. 2022-001

2021 REPORT ON GUARDIANSHIPS

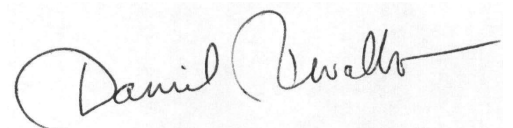
INTERNAL AUDIT DIVISION
ROGER D. EATON
CLERK OF THE CIRCUIT COURT AND COUNTY COMPTROLLER
CHARLOTTE COUNTY FLORIDA

Honorable Roger D. Eaton
Charlotte County Clerk of the Circuit Court and Comptroller
350 East Marion Avenue
Punta Gorda, Florida 33950

We have completed our report on guardianships in calendar year 2021. The purpose of this report was to provide a statistical summary of Internal Audit Division audits and reviews of guardianship activity.

The report details statutory requirements, breaks down audit reports and reviews by description, and provides statistical results of filings.

Respectfully submitted,

A handwritten signature in black ink that reads "Daniel Revallo". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Daniel Revallo
Internal Audit Director

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EXECUTIVE SUMMARY

The Charlotte County Clerk of the Circuit Court and Comptroller Internal Audit Division reviews all initial and annual guardianship reports to ensure they contain complete information about the ward (defined below) as appropriate. This includes preparing audit reports on verified inventories and annual accountings of the ward's property, and preparing plan reviews of the ward's health, living and social arrangements of the ward's person. For the calendar year ending December 31, 2021, Internal Audit produced 310 audit reports and 429 plan reviews. This included 225 original filings on the ward's property and 335 original plans on the ward's person. The remainder were amended and past due reports addressing deficiencies. These audit procedures and reviews performed, identified opportunities to improve and enhance the guardianship reporting process and ensure guardianship filings comply with Florida Statutes.

BACKGROUND

A guardianship is a legal proceeding in the circuit courts of Florida in which a guardian is appointed to exercise the legal rights of a ward. A ward may be a minor or an adult with mental or physical disabilities. Most wards are adults, or persons over 18 years of age, but some are minors that (1) suffered the loss of their parents, (2) became incapacitated, and/or (3) received an inheritance or proceeds from a lawsuit or insurance policy exceeding \$15,000. Guardianships in Florida can be voluntary as well. A voluntary guardianship may be established for a mentally competent adult who is incapable of managing his or her own estate and this adult voluntarily petitions for the appointment.

The guardian of the property makes decisions related to ward's finances. The guardian of the person makes decisions related to the ward's health, living and social arrangements. One guardian may be tasked with both responsibilities, known as a guardian of the person and property. Guardianship reporting is governed by Florida Statutes 744.345, 744.362, and 744.367 below, among others.

Florida Statute 744.345 states, "Letters of guardianship shall be issued to the guardian and shall specify whether the guardianship pertains to the person, or the property, or both, of the ward. The letters must state whether the guardianship is plenary (absolute) or limited, and, if limited, the letters must state the powers and duties of the guardian. The letters shall state whether or not and to what extent the guardian is authorized to act on behalf of the ward with regard to any advance directive previously executed by the ward."

Florida Statute 744.362 (1) states, "Each guardian shall file with the court an initial guardianship report within 60 days after her or his letters of guardianship are signed. The initial guardianship report for a guardian of the property must consist of a verified inventory. The initial guardianship report for a guardian of the person must consist of an initial guardianship plan...". The verified inventory of the property must be as of the date of the letters of guardianship, before the guardian has had an opportunity to handle the assets.

Florida statutes 744.367 (1) states, "...each guardian of the person shall file with the court an annual guardianship plan within 90 days after the last day of the anniversary month that the letters of guardianship were signed, and the plan must cover the coming fiscal year, ending on the last day in such anniversary month...". This plan covers the coming year ward's health, living and social arrangements, and past year doctor's appointments, activities, and how needs were addressed.

Florida Statute 744.367 (3)(a) states, “The annual guardianship report of a guardian of the property must consist of an annual accounting, and the annual guardianship report of a guardian of the person must consist of an annual guardianship plan.” The annual accounting carries forward the prior inventory balance of the ward, all financial transactions that have taken place, and shows an ending balance for the twelve-month period that is supported by bank statements and receipts. This shall also be filed within 90 days after the last day of the anniversary month in which the letters of guardianship were signed.

AUDIT OBJECTIVES

The Internal Audit Division augments the Clerk’s probate staff in an attempt to buttress the Court’s oversight process applicable to the protection of wards’ assets and care. In coordination and cooperation with the Guardianship Division of the Court, Internal Audit will conduct varying levels of reviews, audits, and financial investigations related to Guardianship reports and activities. Responsibilities of the Clerk’s office are governed by Florida Statute 744.368 below.

Florida Statute 744.368 states, “(1) In addition to the duty to serve as the custodian of the guardianship files, the clerk shall review each initial and annual guardianship report to ensure it contains information about the ward addressing, as appropriate:

- (a) Physical and mental health care;
- (b) Personal and social services;
- (c) The residential setting;
- (d) The application of insurance, private benefits, and government benefits;
- (e) The physical and mental health examinations; and
- (f) The initial verified inventory or the annual accounting.

(2) The Clerk shall, within 30 days after the date of filing of the initial or annual report of the guardian of the person, complete his or her review of the report.

(3) Within 90 days after the filing of the verified inventory and accountings by a guardian of the property, the clerk shall audit the verified inventory and the accountings. The clerk shall advise the court of the results of the audit.

(4) The clerk shall report to the court when a report is not timely filed.”

To satisfy statutory responsibilities of the Clerk’s office noted above, the Internal Audit Division regularly reviews the Benchmark Court Case Software System for filings flagged by the system warranting an Internal Audit review. The Internal Audit Division also runs monthly reports that flag accounts where a report may not have been timely filed and reviews the system to determine if a late notice should be filed. Internal Audit also reviews cases in the Benchmark System to ensure all guardianship cases are properly flagged for review. Internal Audit also logs every case reviewed and compares this list to prior years, ensuring cases are properly discharged, carried forward, or initiated.

AUDIT SCOPE

As stated in Florida Statute 744.368, the Clerk’s office reviews each initial and annual guardianship report, so the scope of this review is 100% of such filings. This report covers all reviews performed in the 2021 calendar year.

RESULTS

AUDITS PERFORMED OF VERIFIED INVENTORIES AND ACCOUNTINGS

During the calendar year ending December 31, 2021 (2021), we conducted the following audits of inventories and accountings, and past due filings.

Description	Number of Audit Reports
Verified Inventories	69
Annual Accountings	95
Interim Accountings	15
Amended Inventories / Accountings	35
Past Due Letters	49
Final Accountings	47
Total	310

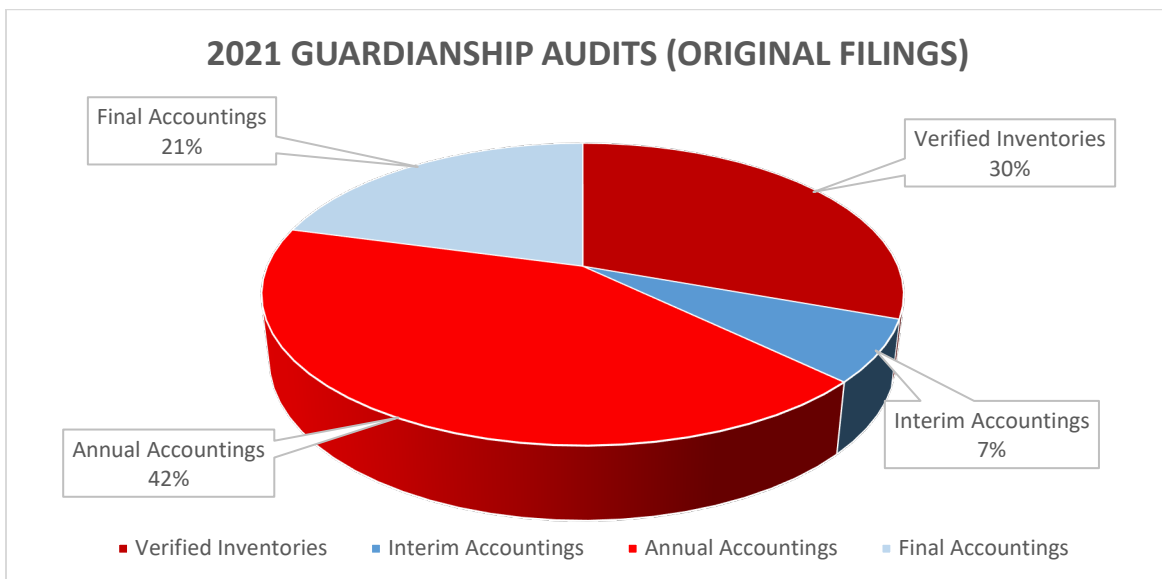
In 2021, 226 original filings were audited. (See Exhibit A for a breakdown of original filings.) Of these, 42 or 18% of original filings did not pass the audit requirement on the review. There were 35 amended inventories or accountings filed in 2021 which addressed either current or prior year deficiencies.

33 Amended Inventories / Accountings were reviewed by Internal Audit and met all requirements. 2 Amended Inventories / Accountings were rejected, resulting in Second Amended Inventories / Accountings to address requirements.

49 or 21% of original filings were not filed timely and were subsequently reported as past due.

There was a total of \$14,125 audit fees collected in 2021, for an average of \$62.50 per original filing. Any guardian unable to pay the audit fee from the ward's funds may petition the Court for a waiver of the fee. Fees are governed by the Florida Statutes. Interim Accountings required by the Court also are not charged an audit fee.

EXHIBIT A



REVIEWS PERFORMED OF GUARDIANSHIP PLANS

During 2021, we conducted the following reviews of initial and annual plans, and past due filings.

Description	Number of Reviews
Initial Plans	72
Annual Plans	263
Amended Initial and Annual Plans	39
Past Due Letters	55
Total	429

In 2021, 335 original plans were reviewed. (See Exhibit B for a breakdown of original plans.) As these are reviews, we provide no opinion on the plan other than to state what attributes are present and what attributes are absent. These attributes are restated below:

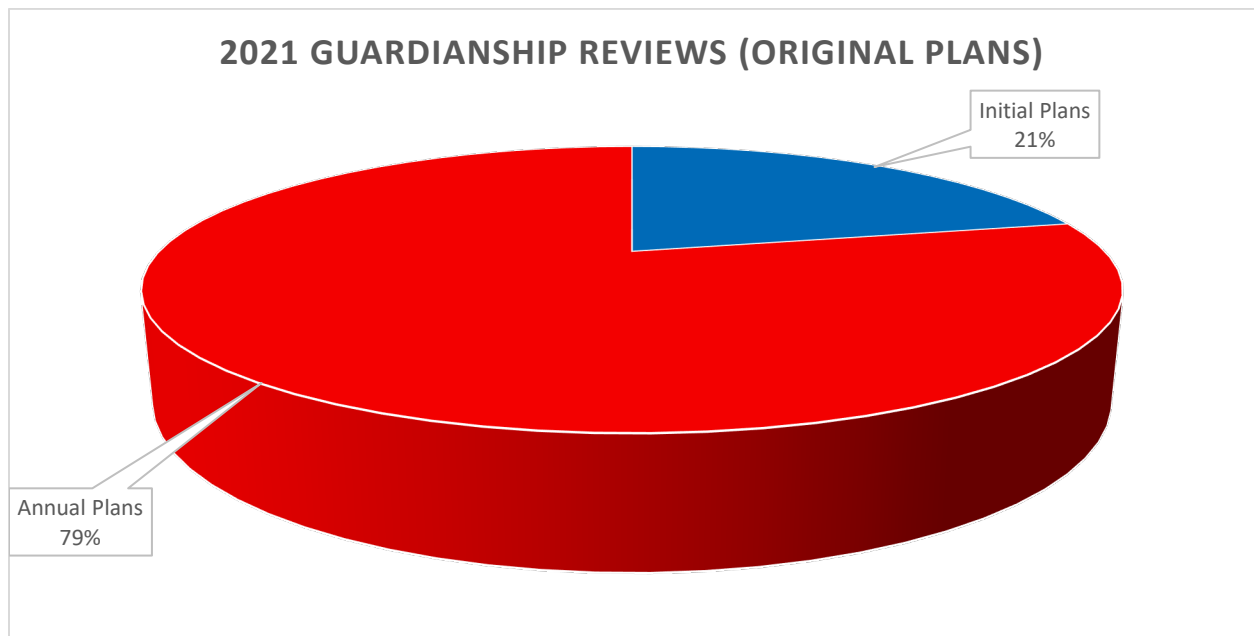
1. Physical and mental health care;
2. Personal and social services;
3. The residential setting;
4. The application of insurance, private benefits, and government benefits; and
5. The physical and mental health examinations.

34 Amended Plans were reviewed by Internal Audit and met all attributes. 5 Amended Plans continued to lack information, resulting in Second Amended Plans which met all attributes.

55 or 16% of original plans were not filed timely and were subsequently reported as past due.

No audit fees are charged for plans.

EXHIBIT B



2021 GUARDIANSHIP STATISTICS VS 2020 GUARDIANSHIP STATISTICS

Internal Audit also logs every case reviewed and compares this list to prior years, ensuring cases are properly discharged, carried forward, or initiated. Below are the results of this review.

Guardianship Reports

Description	2020 Results	2021 Results	Change
Verified Inventories	83	69	-14
Annual Accountings	148	95	-53
Interim Accountings	0	15	15
Amended Reports	47	35	-12
Final Accountings	77	47	-30
Past Due Letters	60	49	-11

2020 and 2021 showed slight trends of increasing guardianship case counts. Inventories, persons entering the guardianship program were more than Final Accountings, persons leaving the guardianship program. Amended reports and past due letters dropped, as filings became more compliant. Annual accountings dropped as more accountings were waved in accordance with Florida Statute 744.3678 (5) stating “This section (annual accounting) does not apply if the court determines that the ward receives income only from social security benefits and the guardian is the ward’s representative payee for the benefits.” This also led to more court required interim accountings to evaluate cases for compliance and direction. Simplified accountings (annual accountings) also accounted for the reduction as Florida Statute 744.3679 (2) states “The (simplified) accounting allowed by subsection (1) is in lieu of the accounting and auditing procedures under s.744.3678 (annual accounting). However, any interested party may seek judicial review as provided in s. 744.3685 (Order requiring guardianship report; contempt)”

Guardianship Reviews

Description	2020 Results	2021 Results	Change
Initial Plans	78	72	-6
Annual Plans	294	263	-31
Amended Plans	38	39	1
Past Due Letters	76	55	-21

2020 and 2021 had relatively steady guardianship plan activity, as these are not waived by the court. Differences were mainly timing issues involving the December 31st cutoff of these statistics.

Audit performed by:
 Dan Revallo
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 Charlotte County Clerk of Court & County Comptroller



Serving with compassion, expertise and efficiency in support of our community