



# AUDIT REPORT



**DATE** January 22, 2021

**NO.** 2021-001

## 2020 REPORT ON GUARDIANSHIPS

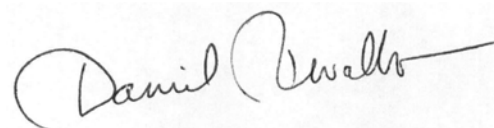
INTERNAL AUDIT DIVISION  
ROGER D. EATON  
CLERK OF THE CIRCUIT COURT AND COUNTY COMPTROLLER  
CHARLOTTE COUNTY FLORIDA

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 2020. 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 line extending from the end of the name.

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, 2020, Internal Audit produced 415 audit reports and 486 plan reviews. This included 310 original filings on the ward's property and 372 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, ensuring 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.

### 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 2020 calendar year.

## RESULTS

### AUDITS PERFORMED OF VERIFIED INVENTORIES AND ACCOUNTINGS

During the calendar year ending December 31, 2020 (2020), we conducted the following audits of inventories and accountings, and past due filings.

Description	Number of Audit Reports
Verified Inventories	83
Annual Accountings	148
Amended Inventories / Accountings	47
Past Due Letters	60
Final Accountings	77
<b>Total</b>	<b>415</b>

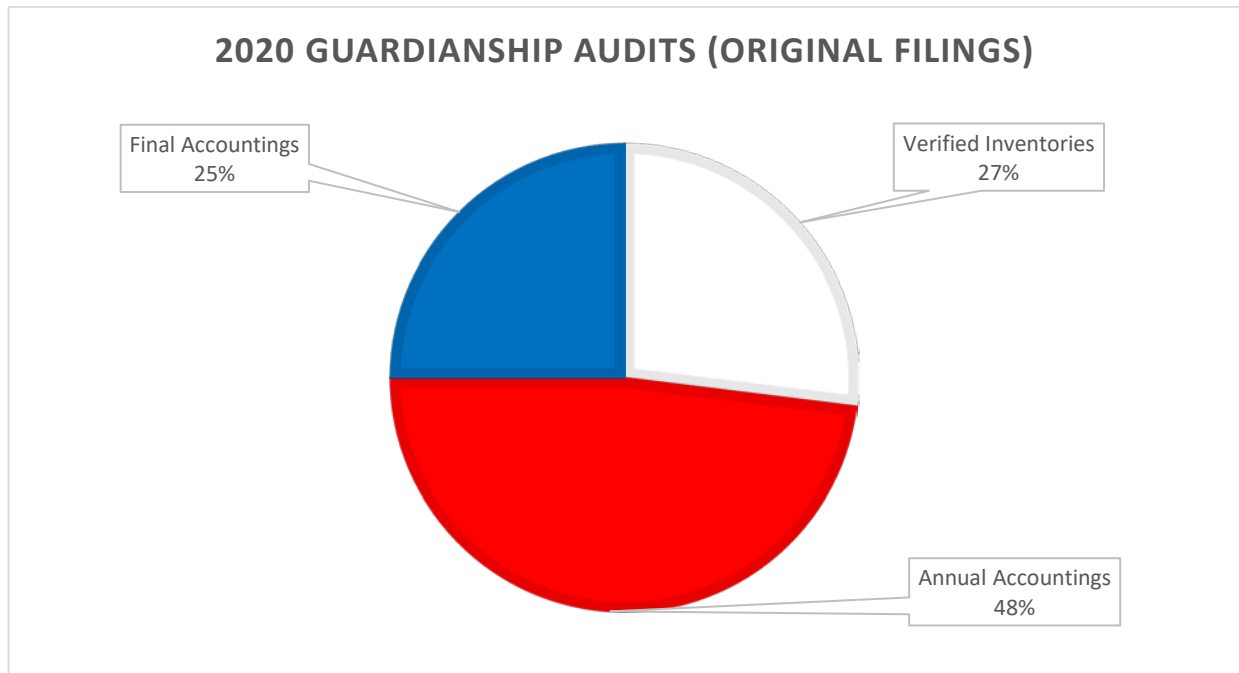
In 2020, 308 original filings were audited. (See Exhibit A for a breakdown of original filings.) Of these, 38 or 12% of original filings did not pass the audit requirement on the review. There were 47 amended inventories or accountings filed in 2020 which addressed either current or prior year deficiencies.

43 Amended Inventories / Accountings were reviewed by Internal Audit and met all requirements. 4 Amended Inventories / Accountings were rejected, resulting in Second Amended Inventories / Accountings to address requirements.

60 or 19% of original filings were not filed timely and were subsequently reported as past due.

There were a total of \$13,100 audit fees collected in 2020, for an average of \$42.53 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.

### EXHIBIT A



**REVIEWS PERFORMED OF GUARDIANSHIP PLANS**

During 2020, we conducted the following reviews of initial and annual plans, and past due filings.

Description	Number of Reviews
Initial Plans	78
Annual Plans	294
Amended Initial and Annual Plans	38
Past Due Letters	76
<b>Total</b>	<b>486</b>

In 2020, 372 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:

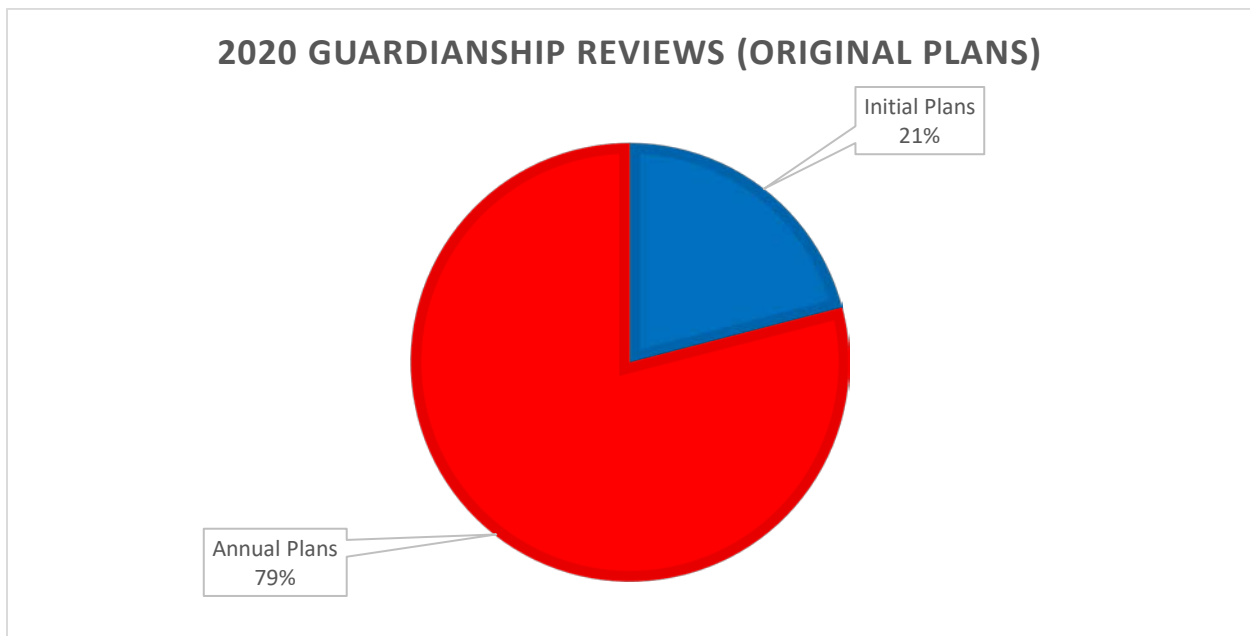
1. Physical and mental health care;
2. Personal and social services;
3. The residential setting;
4. The application of insurance, private benefits, and government benefits; and
5. The physical and mental health examinations.

36 Amended Plans were reviewed by Internal Audit and met all attributes. 2 Amended Plans continued to lack information, resulting in Second Amended Plans which met all attributes.

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

No audit fees are charged for plans.

**EXHIBIT B**



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



