



Office of Public & Professional Guardians

— 2018 Annual Report —

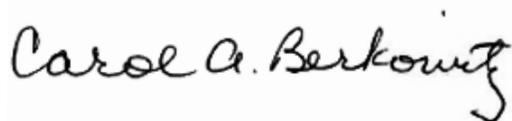
Department of
ELDER AFFAIRS
STATE OF FLORIDA





Carol A. Berkowitz, MA, Esq.
Executive Director

THE OFFICE OF PUBLIC & PROFESSIONAL GUARDIANS (OPPG), housed within the Department of Elder Affairs, appoints local public guardian offices as directed by statute to provide guardianship services to persons who do not have adequate income or assets to afford a private guardian and there is no willing family or friend to serve.



EXECUTIVE SUMMARY

A little more than a year ago, I was appointed by Secretary Jeffrey Bragg to serve as the Executive Director of the Office of Public and Professional Guardian (OPPG). It has been an exciting and enlightening time for me as I embraced new responsibilities for the OPPG.

Originally known as the “Statewide Public Guardianship Office (SPGO),” the OPPG is responsible for appointing, contracting with, and monitoring public guardians statewide. With the Legislature’s approval of SB 232 in 2016, the program was renamed the Office of Public and Professional Guardians, and its duties were expanded to include regulating more than 550 professional guardians statewide. This includes the investigation and, if appropriate, the discipline of the guardians found in violation of laws and rules. The program is also responsible for educating, training, and registering all professional guardians.

A toll-free complaint line was established so that the public could report grievances related to public and professional guardians and can do so anonymously if preferred. Anyone wishing to file a complaint may call the hotline toll-free at (855) 305-3030.

To date, we have received more than 140 legally sufficient complaints against registered professional guardians. The penalties that can be imposed on a non-compliant guardian range from issuing a letter of concern or imposing more OPPG oversight, to the revocation of a professional guardian’s registration – which, pursuant to section 744.20041, Florida Statutes, is a permanent revocation.

This year, the OPPG filed its first case where revocation of the guardian's registration was recommended to the Florida Division of Administrative Hearings. Of all the investigations for which the OPPG has received findings of violations, there have been 26 cases where the findings supported the issuance of a letter of concern.

In the fall, the Clerks' Statewide Investigations Alliance (SIA) held its second Annual Symposium, hosted by the Pinellas County Clerk, Ken Burke. The symposium was an opportunity for members and staff of the Clerks' SIA to receive training and address topics about investigations of professional guardians. The Office of Public and Professional Guardians was excited to participate with other speakers from the Elder Law Section of the Florida Bar; the Real Property, Probate, and Trust Law Section of the Florida Bar; the Clerks' SIA investigators; and other professionals.

I am also honored to serve the Department on the Working Interdisciplinary Networks of Guardianship Stakeholders (WINGS) steering committee and the Florida Supreme Court Judicial Management Council's Guardianship Workgroup, to which I was appointed by Chief Justice Jorge Labarga. The WINGS steering committee has set out to collaboratively address many key issues affecting guardianship in the state, including ensuring adequate protections from exploitation; data collection; education about alternatives to guardianship; restoration of rights; and a review of guardianship statutes. The WINGS effort is complementary to the Supreme Court's Judicial Management Council's Guardianship Workgroup, which was established in 2016 to improve judicial procedures and better protect vulnera-

ble people – children, adults with developmental and mental health disabilities, and elders. During the fall, the Workgroup issued final recommendations to the judiciary on improving the process of guardianship statewide.

This year the OPPG also partnered with the Foundation for Indigent Guardianship, Inc. (FIG), a direct service organization established for the sole purpose of supporting the 17 public guardian programs. By the end of the year, awards totaling over \$122,500 were made by FIG from the Pooled Special Needs Trust to Florida's public guardians. During the year, the Department of Elder Affairs supported FIG's efforts for their legislative reauthorization and new board appointments.

During this fiscal year, it was determined that an updated study of public guardianship in Florida was needed to better understand and update costs associated with guardianship. FIG was the primary funding source for this study, and we are awaiting the final report, which will be helpful during the 2019 Legislative Session as discuss ongoing funding needs for the program

This year, OPPG staff tackled many new priorities, and we realize that there is still so much more to accomplish. On behalf of the OPPG, we sincerely appreciate Governor Rick Scott and Secretary Bragg for their continued support and commitment to guardianship issues that enable our efforts to protect the state's most vulnerable adults.

For more information, you may call [850-414-2000](tel:850-414-2000).

DIRECT SUPPORT ORGANIZATION: THE FOUNDATION FOR INDIGENT GUARDIANSHIP

In 2006, the Florida Legislature created a direct-support organization within the Department of Elder Affairs (DOEA) – the Foundation for Indigent Guardianship (FIG). FIG’s authority includes the ability to raise funds by requesting and receiving grants, as well as to receive charitable gifts, bequests of moneys, securities, or other property (Section 744.2105, F.S.).

Between July 1, 2017, and June 30, 2018, awards totaling \$122,580 were made to public guardianship offices by FIG from residue of subaccounts in the Florida Public Guardianship Pooled Special Needs Trust (FPGPSNT). Since its inception, FIG has provided approximately \$1.8 million dollars to Florida public guardianship offices.

FIG is the administrative trustee of FPGPSNT and established this pooled special need trust to specifically supplement funding for public guardianship in Florida. Anyone in need of a pooled special needs trust is encouraged to use the FPGPSNT, as the residual funds upon the death of a beneficiary go directly to support public guardianship in Florida. Information regarding FIG’s FRGPSNT can be found at <http://trustaged.org/the-florida-public-guardianship-pooled-special-needs-trust/>.

Additionally, over the past year, FIG has been increasing its marketing efforts related to the financial needs of public guardianship and the FPGPSNT. In addition to sponsoring six educational programs around the state with

the assistance from staff of Advocates and Guardians for the Elderly and Disabled (AGED), FIG is working to develop its own website. As soon as the website is ready, a link will be posted on the OPPG website, as well as more information on how organizations can make a charitable contribution to this worthwhile cause of helping Florida’s most vulnerable citizens under the care of public guardian.

FIG was integral to the commissioning of the guardianship costs study mentioned above. FIG wishes to express appreciation to those who also contributed funds toward this study, including Advocates and Guardians for the Elderly and Disabled (AGED), Advocates for the Aging, Big Bend Chapter of FSGA, Gulf Coast Chapter of FSGA, Lee Guardianship Services, and the South Florida Guardianship Association.

Also, for the third year FIG sponsored a reception honoring all public guardians and their staff at the 2018 Florida State Guardianship Association’s annual conference. FIG not only recognized outstanding staff from each of the 17 public guardian programs with certificates of appreciation, but also awarded attorneys Stephen Martin and Keith Miller with the Outstanding Pro Bono Award of the Year for guardianship services they provided in the Tenth Circuit. FIG encourages other attorneys specializing in guardianship throughout the state to seek out their respective public guardian and offer pro bono services for Florida’s most vulnerable citizens under public guardianship.

PROFESSIONAL GUARDIAN REGISTRATION AND INVESTIGATION

In Fiscal Year 2017-2018, there were approximately 550 registered professional guardians registered with the OPPG. The OPPG contracts with 17 public guardian offices, covering all 67 counties in Florida.

As part of the expansion of the program in 2016, the OPPG was tasked with the development of administrative rules outlining the standards of practice for professional guardians and disciplinary action that may be taken by the Department for failure to comply with the rules or applicable statutes.

Through the rulemaking process, the OPPG developed standards of practice to which all registered professional guardians must comply (58M-2.009, Florida Administrative Rule). The OPPG additionally developed disciplinary actions and guidelines dictating a range of penalties that could be imposed by the Department for failure to comply with any guiding rules or statutes.

The OPPG established a statewide toll-free hotline, 1-855-305-3030, to receive complaints made against registered professional guardians. In addition, complaints can be submitted by email at OPPGComplaints@elderaffairs.org or through the Department's website at www.elderaffairs.org. Any person who wishes to file a complaint against a registered professional guardian may do so anonymously.

As of December 2018, the OPPG received more than 140 legally sufficient complaints against



registered professional guardians. The disciplinary actions the OPPG may pursue are set out in section 744.2004(2), Fla. Stat. While the OPPG was given oversight and disciplinary authority over professional guardians, the courts retain control over whether a guardian is removed from a case. The harshest penalty the OPPG may seek, when warranted, is the revocation of a professional guardian's registration – which, pursuant to section 744.20041, is a permanent revocation.

This year the OPPG has filed one case with the state's Division of Administrative Hearings wherein revocation was recommended as the appropriate remedy. Of the investigations for which the OPPG has received reported findings, there have been 26 instances where such findings supported the issuance of a letter of concern.

FLORIDA PUBLIC GUARDIANS

The Department contracts with 17 public guardianship offices statewide, providing public guardianship services to vulnerable adults that meet the following criteria:

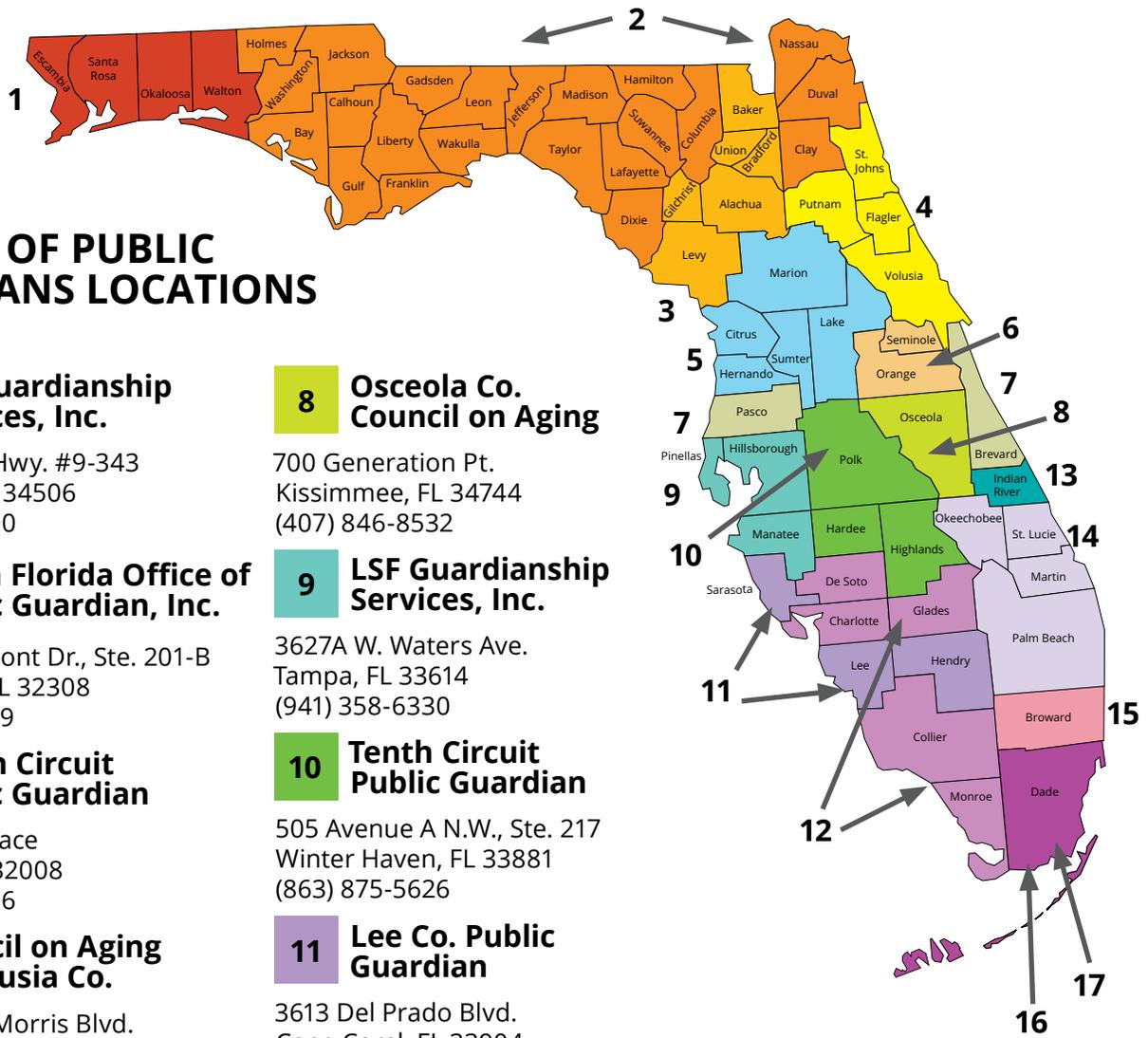
1. The person (referred to as a “ward”) must be indigent;
2. The ward may not have any friends or family that are willing or able to serve; and
3. The person must be adjudicated incapacitated under Chapter 744, Florida Statutes, or eligible for a Guardian Advocate under s. 393.12, Florida Statutes.

Public guardians primarily receive funding from the State in General Revenue appropriations. Additional dollars are allocated from the Department’s Administrative Trust Fund. Funds are distributed through contracts with public guardianship offices identified by the judiciary and the Department to assist in meeting local needs. Additional funding sources include county-funded support, the United Way, fundraisers, and grants. Contracts are negotiated annually.

STATE FISCAL YEAR	STATE FUNDING	CLIENTS SERVED
2008-2009	\$2,308,146	2,598
2009-2010	\$2,498,558	2,622
2010-2011	\$2,755,400	2,667
2011-2012	\$2,963,687	2,650
2012-2013	\$2,592,051	3,156
2013-2014	\$2,769,851	2,931
2014-2015	*\$6,489,345	3,329
2015-2016	\$5,734,662	3,874
2016-2017	**\$7,327,575	3,728
2017-2018	**\$7,327,575	3,846

* Reflects first year of \$3 million in additional funding given to OPPG (then SPGO) because of the Governor’s Enriching Seniors Initiative, which expanded SPGO statewide.

** With the transition to OPPG, a portion of funding is used to investigate complaints against professional guardians.



OFFICES OF PUBLIC GUARDIANS LOCATIONS

- 1 LSF Guardianship Services, Inc.**
4600 Mobile Hwy. #9-343
Pensacola, FL 34506
(850) 469-4600

8 Osceola Co. Council on Aging
700 Generation Pt.
Kissimmee, FL 34744
(407) 846-8532
- 2 North Florida Office of Public Guardian, Inc.**
1425 E. Piedmont Dr., Ste. 201-B
Tallahassee, FL 32308
(850) 487-4609

9 LSF Guardianship Services, Inc.
3627A W. Waters Ave.
Tampa, FL 33614
(941) 358-6330
- 3 Eighth Circuit Public Guardian**
27052 83rd Place
Branford, FL 32008
(386) 438-8236

10 Tenth Circuit Public Guardian
505 Avenue A N.W., Ste. 217
Winter Haven, FL 33881
(863) 875-5626
- 4 Council on Aging of Volusia Co.**
425 N. Clyde Morris Blvd.
Daytona Beach, FL 32114
(386) 253-4700

11 Lee Co. Public Guardian
3613 Del Prado Blvd.
Cape Coral, FL 33904
(239) 549-2505
- 5 Fifth Circuit Public Guardian Corporation**
110 N.W. 1st Ave., 4th Floor
Ocala, FL 34475
(352) 401-6753

12 Charlotte & Collier Co. Public Guardians
4680 Cardinal Way, Ste. 203
Naples, FL 34112
(239) 417-1040 Ext. 203
- 6 Seniors First, Inc.**
5395 L.B. McLeod Rd.
Orlando, FL 32811
(407) 297-9980

13 Public Guardianship Program of Indian River, Inc.
2101 Indian River Blvd., Ste. 200
Vero Beach, FL 32960
(772) 538-7101
- 7 Aging Solutions**
19001 Sunlake Blvd.
Lutz, FL 33558
Brevard: (866) 92-AGING
Hillsborough: (813) 949-1888
Pasco and Pinellas: (727) 442-1188

14 Legal Aid Society of Palm Beach Co., Inc.
423 Fern St., Ste. 200
West Palm Beach, FL 33401
(561) 655-8944
- 15 Barry University School of Social Work**
12401 Orange Dr., Ste. 214
Davie, FL 33330
(954) 862-3655

16 Guardianship Care Group, Inc.
337 Alcazar Ave., Unit 101
Coral Gables, FL 33134
(305) 748-6111
- 17 Guardianship Program of Dade Co., Inc.**
8300 N.W. 53rd St., Ste. 402
Miami, FL 33166
(305) 482-3101

County coloring represents area served by the corresponding office location.

TYPE OF WARDS SERVED BY PUBLIC GUARDIAN OFFICES

The 17 public guardian offices served over 3,800 clients in Fiscal Year 2017-2018. The most common type of incapacitated people served were those with the following diagnoses:

AGE RELATED

e.g., Alzheimer's disease, Parkinson's disease, dementia, etc.

DEVELOPMENTAL DISABILITIES

e.g., intellectual disabilities, Down syndrome, autism, etc.

TRAUMATIC BRAIN INJURY

e.g., concussion, contusion, second impact syndrome, etc.

MENTAL HEALTH INCAPACITIES

e.g., schizophrenia, anxiety or panic disorders, bipolar disorder, eating disorders, etc.

PUBLIC GUARDIAN OFFICE	CLIENTS SERVED FY 2017-2018
Aging Solutions	329
Barry	274
Charlotte & Collier County	198
COA Volusia	68
Eighth Circuit	64
Fifth Circuit	141
Guardianship Care Group	81
Guardianship Program of Dade County	1,598
Indian River County	14
Lee County	179
Legal Aid Society of Palm Beach	151
Lutheran Services of Florida - Pensacola	52
Lutheran Services of Florida - Sarasota	104
North Florida OPG	387
Osceola County Council on Aging	30
Seniors First	111
Tenth Circuit	65
TOTAL	3,846

MONITORING OF THE OFFICES OF PUBLIC GUARDIAN

Program monitoring is the process of evaluating contractor performance based on measurable service deliverables.

On-site monitoring is a formal review of contractor's financial, personnel, service, and client records, as well as program activities. The main objective is to ensure contractor compliance with applicable contract and statutory requirements.

Program monitoring should detect compliance errors which, if not corrected, could result in failure to provide adequate services to wards; possible harm to wards; and diversion of resources.

The 17 public guardian offices are monitored annually in the following areas:

ADMINISTRATIVE

Qualifications, policies and procedures, standards, and audits

FISCAL

Accounting system and control, petty cash, property, equipment and procurement; and

PROGRAMMATIC

Ward files, ward visitation, ward property, deceased or closed ward files, open ward files, legal review, and off-site visits.

In addition, programs are required to provide an independent CPA audit, reports to the OPPG on all wards served, and performance measures and standards.



PERFORMANCE MEASURES AND STANDARDS

Offices of Public Guardian evaluate public guardianship clients to ensure that clients are placed appropriately in the least restrictive environment. Approximately 1,088 clients were evaluated for restoration of rights, resulting in the filing of 75 petitions for restoration; 33 of which were approved by the courts.

OBJECTIVE:

To conduct evaluations to determine if a ward can have his or her rights restored.

	2011	2012	2013	2014	2015	2016	2017
NUMBER Public guardian wards evaluated for restoration of rights	2,574	906	1,041	2,671	1,126	796	1,088
Petitions for Restoration filed	36	42	29	34	62	78	75
Petitions for Restoration approved by the court	22	20	24	17	26	36	33

Offices of Public Guardian must visit each client at least quarterly. However, public guardian programs reported that nearly 70% of the total clients served this year (2,692 clients) were visited more than four times per year, with 51% of the total served (1,963 clients) visited at least monthly.

OBJECTIVE:

To strive to increase the frequency of visits to the ward beyond what is mandated in Florida Statutes.

	2011	2012	2013	2014	2015	2016	2017
<i>For the following items, client is placed only in one category.*</i>							
NUMBER Wards served during the previous fiscal year.	2,667	2,650	2,885	2,671	3,347	3,697	3,846
Wards visited four (4) times per year.	91	264	640	2,671	357	421	473
Wards visited more than four (4) times per year.	685	1,765	643	1,752	1,799	2,646	2,692
Wards visited one (1) time per month.	1,658	1,524	1,600	1,172	1,629	1,785	1,963
Wards visited one (1) time per week.	7	3	2	1,027	39	51	49

* Note: Numbers may not equal annual totals. This is usually attributed to a restoration of rights, death of a client, or a date the public guardian was appointed.

PUBLIC GUARDIAN WAITING LIST

The Florida Legislature and Governor Scott have supported the continued need for public guardianship services. In Fiscal Year 2016-17, the public guardian offices were given \$750,000 recurring General Revenue appropriations to assist in unmet need. The \$750,000 allowed for a continuation of services for those wards previously funded with non-recurring general revenue dollars. With the recurring dollars, the public guardian offices were able to ensure public guardianship services will continue to be provided for those 285 wards removed from waiting lists in prior years.

PUBLIC GUARDIAN OFFICE	ELIGIBLE REFERRALS PLACED ON WAITING LIST IN FY 2017-2018
Aging Solutions	119
Barry	54
Charlotte & Collier County	0
COA Volusia	63
Eighth Circuit	0
Fifth Circuit	56
Guardianship Care Group	7
Guardianship Program of Dade County	0
Indian River County	3
Lee County	27
Legal Aid Society of Palm Beach	15
Lutheran Services of Florida - Pensacola	27
Lutheran Services of Florida - Sarasota	24
North Florida OPG	31
Osceola County Council on Aging	17
Seniors First	31
Tenth Circuit	10
TOTAL	484

OUR SUCCESS STORIES

COMMUNITY SUPPORT SUCCESS STORY

The Aging Solutions Public Guardian office's lead "Elf," who spends countless hours obtaining community support for their "Elves for Elders" program, is a local attorney, Lisa Esposito. Lisa is a practicing employment law attorney who, according to the program, has devoted her time and energy in making sure that the vulnerable adults under guardianship who are indigent with no friends and family have a special and meaningful holiday. According to the program, Lisa's "selfless efforts" in chairing the Elves for Elders cause has had a huge impact on the clients, noting that Lisa is "a blessing!" Thank you, Lisa, for all your support and work!



NORTH FLORIDA OFFICE OF PUBLIC GUARDIAN SUCCESS STORY

The North Florida Office of Public Guardian served an elderly disabled adult living in a group home who needed cataract surgery. The ward was residing in a group home that was not meeting his needs or providing the necessary food and nutrition, and the public guardian staff worked tirelessly with the provider to ensure that the safety of the resident was met. However, due to malnutrition, the elderly ward was not able to receive the much-needed cataract surgery. With the public guardian staff's hard work, the program was able to find the ward a new group home placement that the ward adores, and with proper nutrition, the ward finally received the cataract surgery that he needed. The public guardian staff says, "He has a wonderful quality of life and really enjoys his new home!"

AGING SOLUTIONS — A PUBLIC GUARDIAN SUCCESS STORY

The guardianship staff at Aging Solutions goes above and beyond every day. During the holidays, the program has found a unique way to bring the Christmas spirit to the wards who have no other friends or family through the "Elves for Elders" program. Because of the program, a developmentally disabled young adult has asked for tennis shoes every year for Christmas for at least the last three years. He is not able to wear tennis shoes because of contractures in his lower legs and feet; however, this year he is going to get those tennis shoes! The program found an orthotic podiatrist to create molds and custom tennis shoes just for him. He will be getting his wish this Christmas!