



# Guardianship Audits

**PRESENTED BY:**

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# Objectives

- Provide an overview of guardianship reporting requirements, highlighting common issues and solutions
- Clarify Florida Statutes and Florida Probate Rules related to guardianship reporting
- Ensure guardians and attorneys can submit accurate reports to avoid rejections and unnecessary resubmissions



# Mission Statement

To Meet the Needs and Exceed the Expectations of  
Those We Serve, in Fulfilling our Constitutional  
Obligations.



# Agenda

1. Clerk's Statutory Duty & Audit Levels
2. Initial Reporting Requirements
3. Annual Reporting Requirements
4. Final Reporting Requirements
5. Best Practices
6. Q&A Session



# Clerk's Statutory Duty

- **Statutory Duty:** The Clerk of Court is required by law to audit all guardianships under F.S. § 744.368, unless waived by court-order

## Sarasota County Audit Levels:

- **Level 1 – Customer Service Department:** Routine audits of initial and annual reports
- **Level 2 & 3 – Office of the Inspector General:** Forensic audits, often initiated based on Level 1 findings, court-ordered audits, or allegations reported to the fraud hotline





# Initial Reporting Common Issues

- **Inventory:** Missing valuations, lack of supporting documentation, incomplete asset descriptions
- **Initial Plan:** No mention of advance directives or a Do-Not-Resuscitate (DNR) order, vague care descriptions, incorrect reporting period
- **Inventory & Plan:** Missing proof of service



# Initial Reports: Inventory

## Issue 1: Missing Valuations in Inventory

**Problem:** The inventory report may lack proper asset valuations

### Common Causes:

- Lack of professional appraisals for valuable assets
- Overlooking assets

### Solution:

- Ensure professional appraisals are provided for high-value assets
- Attach supporting documentation for valuations
- File amended inventory if necessary



# Initial Reports: Inventory

## Issue 2: Supporting documentation

**Problem:** The inventory may lack proper supporting documentation for assets, such as checking and savings accounts, stocks, and other investments

### Common Causes:

- Incomplete record-keeping
- Unawareness of requirements

### Solution:

- Maintain organized records
- Attach supporting documentation for all financial accounts





# Initial Reports: Inventory

## Issue 3: Incomplete Asset Descriptions

**Problem:** Assets listed lack essential identifying details

**Common Causes:**

- Vague asset information
- Missing ownership information

**Solution:**

- Clearly identify each asset by name, type, and institution
- Clarify any partial ownership or joint holdings



# Initial Reports: Plan

## Issue 1: No Mention of Advance Directives or DNR

**Problem:** The plan fails to mention if the ward has any existing advance directives or DNR orders, as required by F.S. § 744.363

### Common Causes:

- Not all templates include an area to insert information
- Steps were taken to identify any advance directives or a DNR order but information was not included in the plan

### Solution:

- Add a dedicated section to include information
- If no directives exist, state “None known” and describe steps taken to identify if such documents existed



# Initial Reports: Plan

## Issue 2: Vague Care Descriptions

**Problem:** The plan provides unclear or overly general descriptions of the ward's care needs, living arrangements, or services

### Common Causes:

- Use of broad terms like “24/7 care” or “assisted living”
- Failure to describe the type, frequency, or provider of services (e.g., physical therapy, transportation)

### Solution:

- Clearly describe where the ward will live and the level of supervision provided
- Clearly describe specific services, who provides them, and how often



# Initial Reports: Plan

## Issue 3: Incorrect Reporting Period

**Problem:** The plan lists an incorrect reporting period

**Common Causes:**

- Miscalculation of start or end dates
- Confusion between calendar year and guardianship year

**Solution:**

- Use the date of Letters of Guardianship as the starting point, with the ending date being the last day of the anniversary month for the subsequent year

**Example:**

Letters of Guardianship issued on 4/6/2024  
Initial Plan would be: 4/6/2024 – 4/30/2025





# Additional Issues with Initial Reports

## Issue 1: Missing Proof of Service

**Problem:** A proof of service was not filed with the initial reports. Unless the ward is a minor under the age of 14 or is totally incapacitated, the ward and the attorney for the ward shall be served with the initial reports per F.S. § 744.362 and Rule 5.690

### Common Causes:

- Failure to file proof after serving
- Unaware of the statutory requirement

### Solution:

- File the proof or certificate of service when filing initial reports





# Annual Reporting Common Issues

- **Accountings:** Expenditures without court approval, lack of supporting documentation, incorrect calculations
- **Plans:** No mention of advance directives or DNR, lack of substantive annual updates, missing physician's report
- **Accountings & Plans:** Missing proof of service, incorrect reporting periods, missing remuneration information, missing contact information



# Annual Reports: Accountings

## Issue 1: Expenditures without Court Approval

**Problem:** The guardian makes significant financial decisions, such as gifting funds, buying/altering property, or making large purchases, without obtaining a court order, as required by F.S. § 744.441

### Common Causes:

- Lack of understanding about which actions require prior judicial approval

### Solution:

- Consult with your attorney if the expense is appropriate prior to purchasing
- When in doubt, petition the court in advance for approval



# Annual Reports: Accountings

## Issue 2: Lack of Supporting Documentation

**Problem:** The accounting report may lack proper supporting documentation, such as receipts, bank statements, checks, or invoices

### Common Causes:

- Failure to gather or submit documentation
- Failure to keep receipts and proof of expenses

### Solution:

- Attach supporting documentation for all financial accounts showing balance at end of reporting period and large expenses
- Include explanations for any missing or unavailable documents in footnotes



# Annual Reports: Accountings

## Issue 3: Incorrect Calculations

**Problem:** Calculations on a schedule (e.g., Schedule A, income) do not add up correctly, or, the total of a schedule does not match the total on the summary page

### Common Causes:

- Missed entries or manual math errors

### Solution:

- Double-check all calculations and ensure figures match before filing report





# Annual Reports: Plans

## Issue 1: No Mention of Advance Directives or DNR

**Problem:** Similar to the initial plan, the plan fails to mention if the ward has any existing advance directives or Do-Not-Resuscitate orders, as required by F.S. § 744.3675

### Common Causes:

- Not all templates include an area to insert information
- Steps were taken to identify any advance directives or a DNR order but information was not included in the plan

### Solution:

- Add a dedicated section to include information
- If no directives exist, state “None known” and describe steps taken to identify if such documents existed





# Annual Reports: Plans

## Issue 2: Lack of Substantive Annual Updates

**Problem:** Plans often fail to reflect new or evolving details about the ward's condition, care needs, or environment

### Common Causes:

- Reusing identical content from previous reports
- Not consulting care providers or reviewing recent changes

### Solution:

- Ensure the plan reflects current progress, setbacks, or changes in the ward's condition or care
- Verify current info with healthcare professionals or caregivers



# Annual Reports: Plans

## Issue 3: Missing Physician's Report

**Problem:** The plan is missing an annual report of a physician who examined the ward no more than 90 days before the reporting period, as required by F.S. § 744.3675

### Common Causes:

- Physician's report was delayed or not requested in time
- Guardian is unaware of the requirement

### Solution:

- Schedule the evaluation in advance to avoid last-minute issues
- Ensure the report is attached to the plan prior to submission (unless report is waived by court-order)



# Additional Issues with Annual Reports

## Issue 1: Missing Proof of Service

**Problem:** A proof of service was not filed with the annual reports. Unless the ward is a minor under the age of 14 or is totally incapacitated, the ward and the attorney for the ward shall be served with the annual reports per F.S. § 744.367 and Rule 5.695.

### Common Causes:

- Failure to file after serving
- Unaware of the statutory requirement

### Solution:

- File the proof or certificate of service when filing initial reports



# Additional Issues with Annual Reports

## Issue 2: Incorrect Reporting Periods

**Problem:** Similar to the initial plan, the annual plan or accounting lists an incorrect reporting period

### Common Causes:

- Miscalculation of start or end dates
- Not verifying the date Letters of Guardianship were issued

### Solution:

- Annual reports must begin on the following day of the previous report and end on the last day of the anniversary month of the date of Letters of Guardianship.





# Additional Issues with Annual Reports

## Issue 3: Missing Remuneration Information

**Problem:** The annual accounting or plan are submitted without a statement disclosing any remuneration the guardian received for services to or on behalf of the ward, per F.S. § 744.367

### Common Causes:

- Guardian is unaware of the disclosure requirement, or disclosure was accidentally omitted

### Solution:

- Include a declaration of all remuneration received
- Disclose even if no remuneration was received. A statement of “none” is still required





# Additional Issues with Annual Reports

## Issue 4: Missing Contact Information

**Problem:** Annual reports are submitted without the guardian's current mailing address, phone number, and e-mail address, per Rule 5.695

### Common Causes:

- Guardian unaware that this information is required annually
- Failure to update changes in contact information

### Solution:

- Confirm that each annual plan and accounting includes the contact information



# Final Report and Application for Discharge Common Issues

- Missing final distributions
- Missing proof of service to beneficiaries of the ward's estate (if guardian is named as personal representative)
- Missing previous accountings
- Relationship with final accounting reporting period and ward's date of death or date of restoration of rights
- No final order of discharge filed and recorded



# Best Practices for Initial, Annual, and Final Reporting

- Start early. Begin collecting documents well before the deadline to avoid delays
- Track reporting periods carefully
- Maintain detailed records year-round
- Review for completeness before submission
- When in doubt, note it. Explain in a footnote why there may be discrepancies



# Best Practices for Initial, Annual, and Final Reporting - Cont.

- If reports will be late, file for an extension
- Consult with counsel prior to filing if you are unclear about reporting requirements
- Download the correct templates for reports from your own circuit's site and ensure the case style is correct
- Review any specific requirements in place by Administrative Order of the Court or Judge requirements posted on the court's website



# Any Questions?

