

Miller, Carol Marbin, Florida's elderly guardians operate with little oversight, 'shocking' state audit finds, *Miami Herald* (Feb. 26, 2025), <https://www.miamiherald.com/news/politics-government/article300964309.html>

Oversight performed by the state agency created to police Florida's long-troubled professional guardians is so poor that one of the state's top auditors likened it to allowing students to grade themselves. A stinging report from Florida auditors concluded last month that the Department of Elder Affairs' Office of Public and Professional Guardians had virtually no method for overseeing the 566 professional guardians registered with the state between July 2022 and January 2024, the audit's time frame. The OPPG, as it is called, also failed to meet internal timelines for initiating investigations into complaints about guardians.

The findings, part of a report released last month, echo the conclusions of a similar audit conducted four years earlier, also by the state Auditor General. In comments before a joint committee of senators and representatives in the Legislature last week, Deputy Auditor General Matthew Tracy said of the report: "To be honest, in some respects it was worse the second time around." Perhaps the most damning finding: The OPPG does no meaningful routine oversight. Instead, oversight "consisted only of a self-monitoring questionnaire that private professional guardians had the option to complete upon registration renewal." The questionnaire asked, among a few other things: "basic identifying information" of the guardian, number of open guardianship cases, number of employees and number of wards. The form also required that guardians swear that they "perform the function of a professional guardian with reasonable skill," and that the information they provided was truthful. "Basically, it was like grading their own tests in the schools," Tracy said in his remarks Feb. 18.

The agency's lapses, Tracy said, amounted to "thwarting the intent of state law and the public's ability to assess the fitness of a guardian." Anyone can file a petition in probate court in Florida seeking to declare an adult incompetent to handle their own affairs, though, typically, such petitions are submitted by family members worried their elderly relatives can no longer care for themselves. If a panel of three medical or psychological experts agree, an adult can be placed in a guardianship and stripped of many, if not all, of their rights, including the right to vote, marry, write checks, or decide where to live. Wards of the state typically are placed in guardianships with close relatives. But if no family members live in the state, or if there is conflict among them, or with the ward, judges can appoint professional guardians to oversee the ward's interests. The audit listed the kinds of misdeeds alleged in recent complaints: Stealing the property of wards of the state, and mishandling their funds. Opening fraudulent bank and credit card accounts in the names of wards, and "colluding with attorneys to profit off ward assets." Phonying up legal and medical records. Acting against the wishes of wards. The report also cited complaints regarding guardians "not providing critical daily needs, removing a ward from their home against their wishes and without court approval, and isolating wards from family and friends." State Rep. Peggy Gossett-Seidman, a Boca Raton Republican who sits on the Joint Legislative Auditing Committee and heard Tracy's remarks, said the audit and others "chilled me to the bone." "I cannot imagine how the state allows guardians to submit their own evaluations and not be accountable to those in their care," she said. Gossett-Seidman said she and other members of the

committee, which includes members from both the House and Senate, intend to “hold these agencies accountable and review our statutes to strengthen them. Besides wasting taxpayer money, we are putting vulnerable populations at risk. In short, I am appalled.”

Rep. Yvonne Hayes Hinson, a Gainesville Democrat, called Tracy’s remarks to the committee “almost an indictment of a report.” Sen. Jay Collins, a Tampa Republican who is one of two lawmakers who chairs the Joint Legislative Auditing Committee, called the report “shocking.” Collins said the report on guardians was one of several the committee reviewed that involved agencies that had been criticized for the same failings again and again. “We saw many instances of repeat offenders,” Collins said. “People who are just doing this year over year. That’s a problem where they are not taking seriously their fiduciary responsibility to taxpayers. This is money granted by the state. Accountability has to go hand in hand with that.” In a letter to the Auditor General that is included in the report, the Department of Elder Affairs’ Secretary, Michelle Branham, acknowledged many of the audit’s findings, and said that most of the improvements either were in the works or would be initiated. As to the agency’s poor oversight of guardians, Branham wrote that OPPG “agrees with the Auditor General’s finding that a monitoring tool which promotes a more robust compliance assessment is needed,” She called development of such an instrument “a top priority,” and vowed that it would be done before the end of the budget year. The agency also vowed to include information about all substantiated complaints against guardians on OPPG’s website. Only Maine has a higher percentage than Florida of residents aged 65 or older, with 23 percent to Florida’s 22 percent, according to a May 2024 report by a division of the U.S. Department of Health and Human Services. A history of abuse

For decades, though, Florida has had difficulty protecting incapacitated elders from their own appointed protectors. A task force created by the Florida Court Clerks & Comptrollers in 2021 to recommend reforms to the state’s guardianship system heard of numerous abuses, the Florida Bar reported: A mother who took money from her disabled daughter to pay for “lavish” family vacations. A lawyer working as a guardian who paid himself hundreds of thousands in legal fees. A guardian who paid her friends to perform services and collected commissions from selling products to her ward. More recently, the Miami-Dade Inspector General reported that the Guardianship Program of Dade County had allowed multiple conflicts of interest in the sale of homes owned by elders declared incompetent. In one 2015 sale, investigators found an investment company bought the home of a ward for \$125,000, then sold it weeks later for \$149,000 to the girlfriend of the Guardianship Program property coordinator who helped manage the sale. The couple ended up living there, the Miami Herald reported. One of the Guardianship Program’s board members had been a title agent in four property sales involving wards of the program, reported WLRN, which sparked the investigation with a 2023 series on alleged self-dealing among program insiders. The state Auditor General’s report on the OPPG reserved its strongest criticism for the agency’s woeful oversight system. The audit’s first finding: “Contrary to State law, the OPPG had not developed and implemented an effective monitoring tool to ensure that private professional guardians complied with OPPG standards of practice designed to ensure that wards receive appropriate care and treatment, are safe, and their assets are protected.” Lawmakers set aside \$18.6 million to the OPPG during the 2023 budget year, which paid for a

staff of 11 full-time employees and funded public guardians for 4,294 wards spread across sixteen public guardian offices across the state – including two in Miami-Dade, the Guardianship Program of Dade County and The Guardianship Care Group.

Between July 2022 and January 2024, the OPPG received 174 complaints against professional guardians, including 138 against guardians who don't work for one of the 16 public guardians, the audit said. "As evidenced by the number and nature of complaints against private professional guardians, effective monitoring of private professional guardians is necessary to promote compliance with OPPG standards of practice and to ensure that wards receive appropriate care and treatment, are safe, and have their assets protected," the audit said. The audit added, though, that "the OPPG did not effectively monitor private professional guardians for compliance with OPPG standards of practice." Not only was the brief questionnaire that the OPPG used instead of a "monitoring tool" optional, and without any verification, the audit said, "the OPPG neither compiled the self-reported information for analysis nor analyzed any of the submitted data for indications of noncompliance with the standards of practice." The audit concluded "it is critical that the OPPG establish a robust monitoring tool that effectively evaluates private professional guardian compliance with the standards of practice and, consequently, reduces the risk that wards may not receive appropriate care and treatment, be safely cared for, and have their assets adequately protected." Inaccurate website information The Auditor General also criticized OPPG for failing to comply with a state law requiring the agency to maintain a searchable website enabling consumers to evaluate prospective guardians, calling such data "critical information necessary to assess the fitness of a guardian." The site was to, among other things, specify whether guardians meet requirements for education and bonding, and detail substantiated complaints and professional discipline.

For the 12 guardians who were disciplined during the audit's time frame, though, the website displayed inaccurate information for seven of them, the audit said, showing only seven of 28 substantiated complaints. One guardian, referred to only as "Guardian A," had been the subject of 15 substantiated complaints. The website only showed two. Among the substantiated complaints not reflected on the website: selling a ward's car and donating the ward's possessions to charity without a judge's order, and isolating wards from their family and friends.