

STATEWIDE PUBLIC GUARDIANSHIP OFFICE

Annual Report 2004

Executive Summary

The Statewide Public Guardianship Office (SPGO) had a busy first year since becoming part of the Department of Elder Affairs (DOEA). The year 2004 was a year of preparation for the future of guardianship in the state of Florida.

Much needed surveys took place, including a cost analysis of the Offices of Public Guardian as well as a survey of the need for public guardianship. It was determined that, at a minimum, 10,000 Floridians *each year* require the services of a public guardian. Based upon the ever-increasing need, funding for public guardianship was closely examined, especially in light of the constitutional amendment that removed the counties' ability to have a portion of court filing fees fund local public guardian

offices. This year, the Joining Forces Matching Grant Program for Public Guardianship was created and Governor Jeb Bush requested \$5 million to start this exciting initiative; unfortunately, the Legislature was not able to provide the \$5 million appropriation. The Office will work towards finding a permanent source of funding for public guardianship in Florida.

SPGO has ventured on another new endeavor and contracted with the National Guardianship Foundation to create and implement the first mandatory professional guardian competency examination in the United States. In 2004, the intricacies of guardianship were thoroughly examined in conjunction with the Guardianship Task Force. SPGO provided complete administrative support to the Task Force during their tenure.

Further, in an effort to increase awareness about the alternatives to guardianship, partnerships were formed in 2004. By joining with the Elder Law Section of the Florida Bar, SPGO will continue educating Floridians on alternatives to guardianship, specifically advance directives. SPGO also began a partnership with the new Agency for Persons

with Disabilities and conducted a continuing education program for the judiciary on guardian advocacy.

The Statewide Public Guardianship Office enjoyed many additional accomplishments in 2004. They have ranged from revising our Policies and Procedures Manual for the local Offices of Public Guardian, creating a Handbook for Guardians, as well as distributing a new brochure highlighting the responsibilities of SPGO which includes our top ten frequently asked questions. SPGO began implementation of a formal evaluation process of the public guardian offices and focused on expanding professional guardian education.

The Office is fulfilling its obligation and ensuring every Floridian that needs a guardian receives the services of a qualified guardian. Without the support of Governor Bush and Secretary White, the Office would not have all these accomplishments or have been this successful. The Office must also acknowledge the tremendous support of both public and professional guardians during this transition year filled with changes.

*Michelle R. Hollister, Esq.
Executive Director*



Aspire Higher

Mission:

To ensure that every Floridian that requires the services of a guardian has access to a qualified guardian.



Statewide Public Guardianship Office Annual Report 2004

Funding, Expenditures and Need Analyses

Early in 2004, SPGO recognized the need for determining the number of vulnerable Floridians requiring a public guardian and the costs associated with providing them with public guardianship services. SPGO requested DOEA's Office of Program Evaluation and Planning to conduct an analysis of funding and expenditures of the local Offices of Public Guardian across Florida for the fiscal year 2003-2004. This report provided SPGO with the cost and cost effectiveness of the operations of each individual office.

Highlights included that the average monthly cost per ward was found to be \$2,363 per year. This survey, although quite informative on its own, became of even greater importance to SPGO when read in conjunction with the "Assessment of Need" also done by DOEA's Office of Program Evaluation and Planning.

The "Assessment of Need" study conducted by DOEA's Office of Program Evaluation and Planning measured the need for public guardianship in Florida.

The survey proved challenging for the evaluation team primarily because it was the first of its kind in Florida and most of the country. In addition, much of the data required to evaluate the need is not kept in an easily accessible manner, i.e. electronically. Initially, the survey reached Department of Children & Families' Adult Protective Services Investigators (APS), hospital social workers or discharge planners, DOEA's (CARES) employees and Community Care for the Elderly (CCE) lead agency directors. Upon analysis of this first group of respondents it became evident that there may be some redundancy among the replies. After a substantial amount of research, it was determined that the best source of the needed information was the Department of Children & Families' Adult Protective Services Investigators, as most individuals in need of public guardianship are brought to the attention of DCF. After a more extensive interview of DCF's APS employees, it was estimated that at a minimum 5,000-10,000 people annually need the services of a public guardian. This figure does not include the projected increase in the number of probable Alzheimer's cases and baby boomers.

Medicaid Funding

In order to explore all possible funding opportunities, Florida Statutes require SPGO to report on the availability and efficacy of seeking Medicaid matching funds. SPGO had previously submitted an application to begin Medicaid Administrative Claiming in Florida for public guardianship. This application is still pending approval from the Centers for Medicare & Medicaid Services (CMS) in Baltimore, Maryland. SPGO is working with the Agency for Health Care Administration in determining what further actions, if any, need to be undertaken in facilitating this request.

The Department of Elder Affairs estimates that a minimum of 5,000 to 10,000 people annually need the services of a public guardian.

Aspire Higher

Joining Forces for Public Guardianship Matching Grant Program

Specifically, Senate Bill 1782 contained an innovative funding mechanism for public guardianship. The Joining Forces for Public Guardianship Matching Grant Program not only provided for funding existing offices of public guardianship but also allowed for expansion of public guardianship. This legislation passed and is now codified in Florida Statutes, Chapter 744.712 - 744.715.

The purpose of the Joining Forces program is to provide startup funding to encourage communities to develop and administer locally-funded and supported public guardianship programs to address the needs of indigent and incapacitated residents. The matching grants are to encourage counties that have no Office of Public Guardian to establish one, or as initial startup funding to open an additional office where public guardianship needs require more than one office. In addition, the Matching Grant Program serves as support funding to operational Offices of Public Guardian that demonstrate a necessity for funds to meet the public guardianship needs of a particular geographic area in the state that the office serves. The initiative is also to assist counties that have an operating public guardianship program

but that propose to expand the geographic area or population of persons they serve, or to develop and administer innovative programs to increase access to public guardianship in this state.



The matching grant requires an agreement or confirmation from a local funding source, such as a county, municipality, or any other public or private organization. The local funding source will contribute matching funds to the public guardianship program totaling not less than one dollar for every dollar of grant funds awarded. The match can consist of in-kind contributions, such as office space. It is important to note that although the matching grant program was passed during the 2004 legislative session, and Governor Bush recommended \$5 million for the project, the Legislature was not able to allocate any funds for this purpose. SPGO is grateful for

Governor Bush's strong support of guardianship and is pleased that the Legislature created a funding mechanism for public guardianship. The Office will continue to develop and ascertain public guardianship funding mechanisms in order to ensure every person that needs the services of a guardian, has access to one.

Guardianship Task Force

During the second half of 2003 and all of 2004 SPGO dedicated a significant amount of time and effort to the vital work of Florida's Guardianship Task Force. SPGO provided the

The purpose of the Joining Forces program is to provide startup funding to encourage communities to develop and administer locally-funded and supported public guardianship programs to address the needs of indigent and incapacitated residents.

Statewide Public Guardianship Office Annual Report 2004

Guardianship Task Force administrative support during its tenure. The Guardianship Task Force spent a considerable amount of time traveling the state of Florida to receive input from rural and urban counties alike regarding guardianship and incapacity. It heard from concerned citizens in Dade City, Fort Lauderdale, Tallahassee, Gulfport, Miami, St. Augustine and Orlando. The Task Force worked diligently to identify best practices and make recommendations for specific statutory changes for achieving citizen access to quality guardianship services. At the time of writing this report, the Guardianship Task Force is finalizing its own final report to Governor Bush, Secretary White and the Legislature.

Professional Guardian Competency Examination

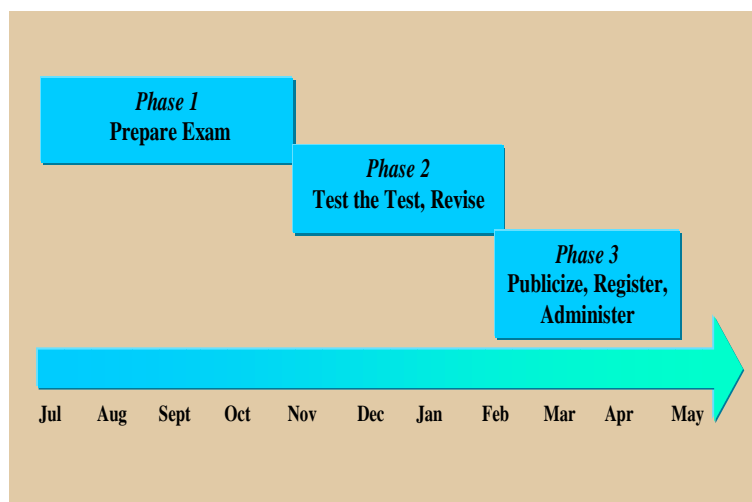
In February of 2004, SPGO began addressing the professional guardian competency examination provision of Senate Bill 2568 (2003). This legislation requires all professional guardians to demonstrate competency to act as a professional guardian by taking an examination approved by the Department of Elder Affairs. Although there is one method of waiver for this new requirement, it is anticipated that the majority of professional guardians in Florida will be required to take the examination. The passage of this new regulation left SPGO with an

enormous challenge: implementing a competency examination. The Office issued a Request for Proposals (RFP).

The RFP required the contractor to provide a written examination that will demonstrate the competency of professional guardians. The RFP further stipulated that the examination contain a section on Florida law and procedure, and that the contractor must be able to administer the examination at various times and sites throughout the year in the state of Florida. The contractor must also set up testing sites around the state, grade and proctor the examination, maintain the integrity of the examination, refresh the examination by updating it for changes in Florida law and national standards of practice, and maintain examination records for each individual tested.

The challenge for SPGO, and more importantly for prospective respondents, was the fact that no funds were to be allocated to the

award with the request for proposal. The National Guardianship Foundation (NGF), an allied foundation of the National Guardianship Association, submitted a proposal. NGF's proposal covered all of the required areas, did not require the state to provide any funding, and provided an examination fee of \$250 (half of the amount allowed under Florida Statutes). NGF was awarded the contract in the spring of 2004 and has since been working diligently to develop all aspects of the examination process. The exam will be a three-hour multiple-choice test that will have two equal parts. Part A will cover national guardianship ethics and practices and Part B will focus on Florida guardianship law and procedure. It is the intent of the Office to offer the exam at four locations geographically dispersed throughout Florida. The exam will be offered on more than one weekend so professional guardians may pick a preferred location.



Aspire Higher

Professional Guardian Registration Increase

A related issue to the professional guardian competency examination is professional guardian registration. Effective July 1, 2004, the court could only appoint professional guardians that had registered with the Statewide Public Guardianship Office. This translated into the SPGO ensuring that each registered professional guardian working in Florida had a recent criminal background investigation as well as credit history investigation. It also required the SPGO to ensure that each registered professional guardian was bonded, had taken the required 40 hours of initial education and has met their continuing education requirements. As Chart A indicates, a significant majority of professional guardians in the state met the July 1st registration date. Annual registration is now due on or before every January 1st.

Expanding Professional Guardian Education

Although, Florida has approximately 285 registered professional guardians, the Office is aware that this number is insufficient to meet the needs of our elderly and disabled populations. It seems there may be a direct correlation to the lack of professional guardian education and training across Florida. It is a goal of the Statewide Public Guardianship

Chart A
Professional Guardian Registration Increase During 2004

Month	Complete Registrations	Change
January	23	-
February	47	+24
March	85	+38
April	116	+31
May	178	+62
June	219	+41
July	242	+23
August	275	+33
September	283	+8
October	283	-
November*		
December*		
Total	283	+260

**Not available at the time of publication*

Office to expand the availability of professional guardian training across the state. In conjunction with the Florida Guardianship Foundation, the Statewide Office is currently exploring the possibility of professional guardian education becoming part of the community college curriculum either as an audit (non college credit course) or as a college credit certificate program.

Guardian Advocacy

Another legislative change from the 2004 session, facilitated through Senate Bill 1782, focused on guardian advocacy. Governor Bush's Work Group on Guardianship and the Developmentally Disabled included in its report a

recommendation to place the definition of guardian advocacy into the guardianship portion of Florida Statutes, Chapter 744. It was clear to the Governor's work group that many families, attorneys and court personnel were not aware of guardian advocacy as a lesser restrictive alternative to guardianship for the developmentally disabled. It is hoped that by adding the definition to Florida Statutes Chapter 744, more people will utilize this alternative. In addition, SB 1782 eased the annual reporting requirements for those persons only receiving social security benefits when the guardian is also the representative payee for the social security. Many guardians, in particular, guardian advocates who are usually the person's

Statewide Public Guardianship Office Annual Report 2004

parents, are held to rigorous reporting requirements. It was determined that in instances where the individual only receives social security benefits and the guardian or guardian advocate is also the representative payee for those benefits, then some of those requirements can be eased.

Further, SPGO in conjunction with the new Agency for Persons with Disabilities (APD) presented a continuing education course to Florida's Circuit Court Judges Conference. The presentation focused on guardian advocacy with an emphasis on options other than guardianship for the developmentally disabled, including client advocates, durable powers of attorney and representative payees.

Elder Law Month Project

In celebration of Elder Law Month in May 2004, the Department of Elder Affairs, SPGO and the Elder Law Section of the Florida Bar hosted workshops on advance directives throughout the state of Florida. These workshops were designed for elders, individuals with special needs, case managers and caregivers and were free to the public.

Topics for the advance directives workshops included - what is an advance directive, how to designate someone to make your medical decisions in the event you become incapacitated and are unable to do so, and where

"Celebrating Elder Law Month provides Floridians the opportunity to become more educated on important legal issues that arise as they age. Elder law is critical to the preservation of independence."

Terry White, Secretary

Florida Department of Elder Affairs

to find resources on advance directives and related topics. These well-publicized workshops were attended by hundreds of Floridians statewide.

The response was outstanding from the public and speakers alike. The Elder Law Section was pleased that the sessions across the state were well attended. The Elder Law Section and SPGO have agreed to make this an annual event.

Hurricane Season 2004

Along with millions of other Floridians that were affected by Hurricanes Charley, Frances, Ivan and Jeanne many of the public guardianship offices across the state suffered both personal and professional losses. Some of the offices were affected by at least two of the four horrific storms and sustained thousands of dollars in damage to their offices and equipment.

In the central part of Florida, the Offices of Public Guardian were hit twice. The landfall of the second storm exacerbated the extensive damage from the first.

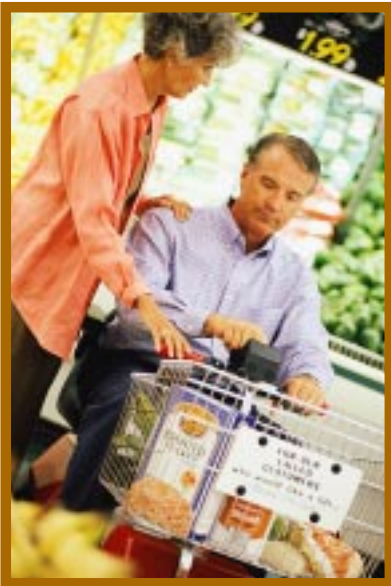
In addition to the building damage, staff members worked for days without any electricity or phones while still caring for their wards. Further, many staff members had to leave their own families and dealt with personal loss during this trying time. In spite of all the professional and personal damage they suffered, all public guardians can be proud that all wards were safe during and after this unprecedented hurricane season.

In addition to the destruction of property, another consequence of the 2004 hurricane season is the increase in the need for public guardians. Although not yet documented, anecdotally, it appears that many elderly and disabled that were surviving in mobile homes with the assistance of neighbors and caregivers have found themselves homeless and without any support. Public guardians are assisting these people as best as they can within available resources.

Aspire Higher

National Guardianship Month

October 2004 was the first time the state of Florida celebrated National Guardianship Month. In his proclamation, Governor Jeb Bush recognized the professional guardians and family guardians serving those in need as well as the countless hours these guardians spend each year ensuring their ward's needs are met. The Statewide Public Guardianship Office in conjunction with the Florida State Guardianship Association, worked with many state newspapers in educating Floridians about guardianship during this month of recognition.



Policies & Procedures Manual/Standardized Reporting Forms/Performance Measures

2004 also brought some standardization to assist SPGO with administration of the local Offices of Public Guardian. All public guardians are appointed by SPGO, which in turn has the responsibility of oversight of the respective programs. In an effort to provide guideposts for operation, the Statewide Public Guardianship Office provided each public guardian with a revised policies and procedures manual. The manual allows the local public guardians to have direct access to valuable information that may assist in the day-to-day operation of the office.

In an effort to ensure that public guardians are serving those vulnerable persons in most need a standardized form was developed for reporting this information to SPGO as well as the circuit court. This form assists the public guardians with fulfilling their statutory obligation of reporting their efforts to locate a family member or friend to serve as guardian and to report on the ward's potential to be restored to capacity. Using a standardized form allows SPGO to more efficiently accumulate data in our database system for immediate retrieval of information and statistics.

Last year, SPGO developed strategic goals and performance measures. The annual reports submitted in September 2004 were the first to contain this important programmatic data. The data submitted by the public guardians illustrated the strengths of the local offices. Florida's public guardians conduct thorough assessments to ensure that there is no willing or able family or friend to serve prior to being appointed on a case. Only 14 public wards were later discovered to have a family member or friend able to serve. Further, public guardians conduct visitation well in excess of the minimum four times a year as required by statute. One hundred percent of wards were visited within the statutory requirement and 88 percent of all wards served by a public guardian were visited more than the statutory requirement. The performance measures also provided SPGO with areas that need improvement. SPGO will work with the local offices to increase the number of evaluations for restoration of capacity and SPGO will work with the public guardians in developing procedures to decrease the amount of time required to initiate activity on referrals. SPGO having access to this information on an annual basis will assist us with our new program evaluation process.

Statewide Public Guardianship Office Annual Report 2004

Program Evaluations

A result of the standardization was the development of the program evaluation process that was also implemented within the past year. Program evaluation will provide the Statewide Public Guardianship Office with a standardized assessment of the successes of each public guardian as well as highlight areas of improvement that can be monitored by SPGO. The program evaluation process provides a specific methodology for choosing which offices will be chosen in a given year for evaluation. After a program has been chosen for evaluation, the Statewide Office will utilize a computer program to determine the number of ward files required for a statistically sound sampling. A second computer program will be used to randomly select the individual files that will be reviewed.

The on-site evaluation process will consist of interviews with staff members, inventory of property, an examination of documents and a collection of data obtained through the review of ward files. The program evaluation tool, created to assist with structuring the visit while providing standardized guideposts that require a response, has a total of 77 indicators measuring 13 separate categories. After completion of the on-site visit, a report is generated to highlight the findings of the on-site visit and provide a guidepost for future activities.

General Information Tools

The Statewide Office realized very early the importance of effective communication between guardians, the courts and the public at large. In order to provide accurate up-to-date information in a user-friendly manner, SPGO distributed an informative brochure as well as a handbook for guardians.

In an effort to help raise awareness on the Statewide Public Guardianship Office and our responsibility of ensuring that every Floridian in need of a guardian receives the services of a qualified guardian, an informational six-page color brochure was designed and printed with information specific to both public guardianship and professional guardians. These brochures have since been mailed to organizations working with the incapacitated and provided at meetings, seminars and other gatherings throughout the state related to incapacity and guardianship. The brochure includes a program overview as well as the top ten frequently asked questions which range from “how is a person determined to be incapacitated?” to “what are the requirements to become a professional guardian?”

The development of “Guardianship Basics, A Handbook for Guardians” was completed and published in June 2004. The handbook is a great resource for

all guardians: family, professional and public. The easy to read guide includes a step by step explanation of the guardianship process, a breakdown of the reports that guardians are required to file with the courts, a section of frequently asked questions and a complete directory of the Florida Clerk of Courts’ offices. Copies were also sent to every Florida clerk’s office for distribution. In addition, SPGO has many requests from different groups across Florida for additional copies. It has even been distributed to graduates of many the professional guardianship courses given around the state.

SPGO maintains a comprehensive Web site within DOEA’s domain. This Web site is updated weekly with information for family, public and professional guardians as well as the judiciary, clerks of court and the general public.

The area receiving the most traffic this year was our new “Registered Professional Guardian List.” As of July 1, 2004, changes in the Florida Statutes mandated judges to only appoint professional guardians that are registered with SPGO. In order to allow the court, and other interested persons, with accessibility to the most current registration lists we have placed this list on the Web site that is updated every Friday afternoon. This assists the court in ensuring only qualified professional guardians are appointed.

Aspire Higher

A great benefit to professional guardians is the continually updated list of dates, locations and providers of Continuing Education Units (CEUs); particularly the 40-hour required Professional Guardianship Course. This feature assists professional guardians in obtaining their required continuing education and staying current with guardianship law and procedure.

In addition, SPGO's Handbook for Guardians, annual reports and informative brochures are all available on the Web site. There are links to other useful information and websites, including materials on advance directives, aging parents, and information for persons with developmental disabilities.

The Web site can be viewed by visiting:

<http://elderaffairs.state.fl.us>
and clicking on the Statewide Public Guardianship Office button.

Looking Ahead

In closing, the Statewide Public Guardianship Office looks forward to 2005 and its many opportunities. Our "to do" list is long and SPGO will continue to strive toward achieving all of our goals; they include finding adequate funding for public guardianship; standardizing and increasing the accessibility of professional guardian education; and implementing Florida's first professional guardian competency examination. We look forward to the upcoming year.

For additional information on the areas covered in this report and to view current SPGO information, please visit our Web site or call the SPGO office at 850-414-2381 or (**<http://elderaffairs.state.fl.us>**).