State of New Hampshire
Circuit Court
Administrative Order 2020-8

PROTOCOLS FOR EMERGENCY EXPEDITED GUARDIANSHIP OVER AN ADULT PERSON

Pursuant to Circuit Court Administrative Order 2020-7, filing of an *Emergency Expedited Guardianship Petition Over an Adult Person* (the "*Emergency Petition*") was authorized in limited circumstances to respond to the unique health and safety needs of proposed wards and the public as a result of the COVID-19 pandemic. In furtherance of those goals, a process has been established whereby an expedited petition for a guardianship over the person of an incapacitated adult, see RSA 464-A:4; :5-9, may be more promptly addressed on an emergency basis in the Probate Division. In order to most efficiently and justly address an *Emergency Petition*, the following protocols are established, pursuant RSA 490-F; Supreme Court Rule 54(4); and the *Renewed And Amended Order Suspending In-Person Court Proceedings Related to New Hampshire Circuit Court and Restricting Public Access to Courthouses* (New Hampshire Supreme Court March 27, 2020)(the "Supreme Court Renewed Order").

- All *Emergency Petitions* must be electronically filed. Petitioners are encouraged to use the *Petition and Affidavit for Expedited Hearing* (NHJB-2169-Pe)(01/01/2018) and *Petition for Guardian of Incapacitated Person* (NHJB-2165-Pe)(01/01/2018) forms available on the Probate Division's website. The Petitioner SHALL indicate that the form is being submitted as an *Emergency Expedited Guardianship Petition*. On the *Petition and Affidavit for Expedited Hearing*, the Petitioner SHALL additionally indicate the reasons why an *Emergency Petition* should be authorized.

- The Petitioner must nominate a proposed guardian in the *Emergency Petition*.

- In addition to the information requested in Paragraph 7 of the *Petition for Guardian of Incapacitated Person*, see generally RSA 464-A:4, II; RSA 464-A:5, IV-a, the Petitioner SHALL include an email address and telephone number for each person named as is known or reasonably ascertainable.

- Where possible, the Petitioner must endeavor to secure assents, see Form NHJB-2121-FPe (05/01/2019), from each party listed in Paragraph 7 of the *Petition for Guardian of Incapacitated Person*.

- Pursuant to Paragraph 10 of the Supreme Court Renewed Order, and to protect the health and safety of the proposed ward, counsel and the parties, the Circuit Court "will accept electronic signatures on pleadings and will allow litigants' signatures to be electronically signed by attorneys . . . with a statement that they have communicated with the litigant who has authorized them to do so" in all documents submitted.

- Submission of the *Request for Waiver of Personal Appearance* form is waived provided the physician's affidavit submitted along with the other required pleadings allows the Court to conclude that the proposed ward should be excused from attending the hearing because his or her overall physical, emotional or psychological condition is such that he/she is likely to suffer harm if required to attend, or that attendance may expose others to the COVID-19 virus.

- When submitting e-filed forms, the Petitioner shall indicate that the venue is the 6th Circuit-Probate Division- Concord pursuant to Administrative Order 2020-07.

- Pursuant to RSA 464-A:5, IV-a, when all the required information has been submitted to the Court, it shall then "determine whether the proposed ward may require urgent medical treatment [including transfer to another facility due to COVID-19 concerns] or whether any other circumstance is alleged to exist which requires an expedited hearing," and if the emergency protocols are required to ensure the health and safety of the proposed ward and it is in the interest of public safety to further expedite the process. If the Court, in its discretion, determines that the emergency process is unnecessary, then the matter will proceed as is the normal course under RSA 464-A:5. Otherwise, it will grant the *Emergency Petition* and appoint counsel for the proposed ward. See RSA 464-A:6.

- The Court will make all reasonable efforts to appoint counsel within twenty four hours of receiving a completed petition. The Court will serve copies of all documents upon counsel for the ward via electronic mail, see RSA 464-A:5, IV-a, and counsel's acceptance will be considered service on the ward pursuant to RSA 464-A:5, IV-a.

- The hospitals shall use reasonable efforts to allow counsel access to the proposed ward and the medical record, using available technology to avoid counsel having to enter the healthcare facility or otherwise protect counsel's health and safety.

- Upon acceptance of appointment of counsel for the proposed ward, see RSA 464-A:6, a video or telephonic hearing will be scheduled at the 6th Circuit Probate Division within two business days of service of the appointment on counsel for the proposed ward. All hearings SHALL be recorded.

- A decision on the merits of the *Emergency Petition* will be issued as soon as practicable following the hearing and sent via electronic mail to all parties.

- Pursuant to Administrative Order 2010-7, hearings will be permitted to proceed pending completion of a background check on the proposed guardian, however, the Court may make inquiries of the proposed guardian on the record relative to background, and shall review the records upon receipt and may hold a further hearing to address the fitness of the guardian should any issues later arise.

- This Administrative Order shall expire on May 4, 2020, unless specifically extended by the Administrative Judge.

April 7, 2020

/s/ David D. King
David D. King
Circuit Court Administrative Judge