

**THOMAS J. DONOVAN, JR.**  
ATTORNEY GENERAL

**JOSHUA R. DIAMOND**  
DEPUTY ATTORNEY GENERAL

**SARAH E.B. LONDON**  
CHIEF ASST. ATTORNEY GENERAL



TEL: (802) 241-0196  
FAX: (802) 241-0214

<http://www.ago.vermont.gov>

**STATE OF VERMONT**  
**OFFICE OF THE ATTORNEY GENERAL**  
280 STATE DRIVE – HC 2 NORTH  
WATERBURY, VT  
05671-2080

March 20, 2020

***SENT VIA EMAIL***

Honorable Brian J. Grearson  
Chief Superior Judge  
Vermont Supreme Court  
109 State Street  
Montpelier, VT 05609-0701

Becky Penberthy, COM  
Vermont Superior Court  
Addison Unit, Family/Probate  
Division  
7 Mahady Court  
Middlebury, VT 05753

Nicole Conety, COM  
Vermont Superior Court  
Bennington Unit, Probate Division  
207 South Street  
Bennington, VT 05201

Wendy Dickie, COM  
Vermont Superior Court  
Bennington Unit, Family Division  
200 Veterans Memorial Dr., Suite 4  
Bennington, VT 05201

Shari DeMarzo, COM  
Vermont Superior Court  
Caledonia Unit, Family/Probate  
Divisions  
1126 Main St., Suite 1  
St. Johnsbury, VT 05819

Liam Page, COM  
Vermont Superior Court  
Chittenden Unit, Family Division  
32 Cherry St., Suite 200  
Burlington, VT 05401

Jill Mongeon, COM  
Vermont Superior Court  
Chittenden Unit, Probate Division  
P.O. Box 511  
Burlington, VT 05402

Margaret Villeneuve, COM  
Vermont Superior Court  
Essex Unit, Family/Probate Divisions  
P.O. Box 75  
Guildhall, VT 05905

Mary Mossey, COM  
Vermont Superior Court  
Franklin Unit, Family Division  
17 Church St.  
St. Albans, VT 05478

Gina Lumbra, Esq. COM  
Vermont Superior Court  
Franklin Unit, Probate Division  
17 Church St.  
St. Albans, VT 05478

Mary Mossey, COM  
Vermont Superior Court  
Grand Isle Unit, Family Division  
P.O. Box 7  
North Hero, VT 05474

Gina Lumbra, Esq. COM  
Vermont Superior Court  
Grand Isle Unit, Probate Division  
P.O. Box 7  
North Hero, VT 05474

Linda LaClair, COM  
Vermont Superior Court  
Lamoille Unit, Family/Probate  
Divisions  
P.O. Box 570  
Hyde Park, VT 05655

Samantha Spinella, COM  
Vermont Superior Court  
Orange Unit, Family/Probate  
Divisions  
5 Court St.  
Chelsea, VT 05038

Julie Bronson, COM  
Vermont Superior Court  
Orleans Unit, Family/Probate  
Divisions  
247 Main St.  
Newport, VT 05855

Sheri McNeil, COM  
Vermont Superior Court  
Rutland Unit, All Divisions  
83 Center St.  
Rutland, VT 05701

Donna Waters, COM  
Vermont Superior Court  
Washington Unit, Probate Division  
65 State St.  
Montpelier, VT 05602

Cheri Goldstein, COM  
Vermont Superior Court  
Washington Unit, Family Division  
255 N Main St.  
Barre, VT 05461

Suzanne Borichevsky, COM  
Vermont Superior Court  
Windham Unit, Family/Probate  
Divisions  
30 Putney Road, 2<sup>nd</sup> Floor  
Brattleboro, VT 05301

Dawn Hudson, COM  
Vermont Superior Court  
Windsor Unit, Family Division  
82 Railroad Row  
White River Junction, VT 05001

Angela Anderson, COM  
Vermont Superior Court  
Rutland Unit, Family Court  
9 Merchants Row  
Rutland, VT 05701

Carla Wright, COM  
Vermont Superior Court  
Windsor Unit, Probate Division  
12 The Green  
Woodstock, VT 05091

RE: COVID-19 related impacts on completion of guardianship evaluations and Office of Public Guardian operations

Dear Honorable Judges:

I write on behalf of the Commissioner of the Department of Disabilities, Aging and Independent Living (DAIL) to update the courts on a few specific operational measures the Department is taking—and planning for—in an effort to both protect the health of vulnerable Vermonters and mitigate the spread of the COVID-19 virus during this public health crisis.

Under certain circumstances in guardianship cases, pursuant to 14 V.S.A. § 3067 and 18 V.S.A. § 9306, the courts order DAIL to retain qualified professionals to administer guardianship evaluations to assist in the determination of whether a person requires a guardian. Each evaluation process necessarily includes at least one in-person interview of the respondent by the evaluator. To accomplish this, the evaluator will arrange to meet with the person wherever the person currently resides, whether at home, at a residential care facility or at a hospital.

In an attempt to safeguard the health of all Vermonters, we are instructing our evaluators to cease all activity related to the completion of court-ordered evaluations, effective immediately and until further notice. Due to the emergency restrictions on visitors at residential care facilities and hospitals, some evaluators have recently been prohibited from conducting scheduled visits. More importantly, however, it is the judgment of DAIL that this temporary suspension of evaluation-related activity is in the best interest of respondents and all Vermonters. We expect to keep this prohibition in place at least for as long as Administrative Order 49 remains in effect.

We are cognizant that the statutory provisions cited above do impose deadlines for the filing of guardianship evaluations. We anticipate being unable to meet these deadlines in many pending cases. Due to the high quantity of cases in which orders for guardianship evaluations are currently pending and due to administrative constraints, we do not plan on filing motions for deadline extensions in each individual case. However, statute does permit the Court to extend these filing deadlines “for cause.” 14 V.S.A. § 3067; 18 V.S.A. § 9306. We will address on a case-by-case basis any issues that may be raised related to this issue by the courts or by other parties, but as mentioned, we are taking this action out of what we view as urgent necessity to protect our most vulnerable citizens.

Finally, we would like to assure the courts that DAIL is strategizing and acting around the clock to mitigate the effects of this crisis on our clients to the maximum degree possible. We do anticipate that other practical and logistical challenges may arise in the coming weeks. The Office of Public Guardian in particular may experience new operational difficulties, especially in the context of new emergency guardianship appointments. We are taking all possible steps to minimize non-essential in-person contact with our vulnerable clients.

Some public guardians have already been forced to discontinue in-person visits with clients, either due to restrictions on visitation at facilities or due to the guardians' own prior exposure to the virus. We are constantly brainstorming about ways to keep everyone safe and accomplish visits remotely, but we are required to limit personal contact as much as possible in order to ensure safety and preserve OPG's ability to do their job.

In light of the above, for the duration of this crisis, I would ask that the Probate Division notify me personally as soon as possible after the filing of any emergency petition for OPG guardianship. Emergency guardianship filings are often made by hospitals and residential care facilities, sometimes without advance notice to OPG. We do plan to continue accepting these emergency appointments as we are able and as the courts deem it necessary, but effective communication and planning will be more critical than ever.

I plan on representing OPG in all such emergency guardianship proceedings for the duration of this crisis. I would request the assistance of the courts in ensuring that I get timely notice.

We appreciate the patience and understanding of the courts in the coming weeks as we continue to manage these realities to the best of our ability. Please do not hesitate to reach out to me with any questions or concerns you may have.

Thank you very much.

Sincerely,

A handwritten signature in black ink that reads "Ben Chater". The signature is written in a cursive, slightly slanted style.

Benjamin Chater  
Assistant Attorney General  
Dept. of Disabilities, Aging &  
Independent Living

cc: Office of Public Guardian  
Vermont Legal Aid