

JOHN E. MARTINELLI
PROBATE JUDGE



PAUL V. JABOUR
CLERK

RENE MANOSH
DEPUTY CLERK

PROBATE COURT OF THE CITY OF PROVIDENCE
RHODE ISLAND

April 6, 2020

To the Members of the RI Bar
and Citizens of RI :

Providence Probate Court remains in a limited state of Operation because of the closing of City Hall. Attached are the Emergency Administrative Rules and Rules of Practice adopted for use during the Coronavirus crisis,

If you require an emergency matter heard , please contact one of the court clerks or me at our City e mail address set out in the **April 1, 2020** directive posted on the **Bar web page** or call me at my law office number **401-521-3110**.

Be Safe to all!

John E. Martinelli
Providence Probate Judge

**EMERGENCY ADMINISTRATIVE RULES AND RULES OF PRACTICE OF THE
PROVIDENCE PROBATE COURT**

In response to the **Coronavirus Pandemic** and pursuant **Rhode Island General Laws Title 33-22-29**, the **Providence Probate Court** establishes and adopts the following as **Emergency Administrative Rules of Practice for specific Emergency Matters**.

EMERGENCY MATTERS: After communication with Counsel for the Petitioner or the pro se Petitioner, the Judge of the Probate Court shall determine if a Temporary Adult Guardianship, Temporary Minor Guardianship or a Decedent Estate is an **Emergency Matter** and eligible for telephonic court hearing.

Examples of existing issues present for the court to schedule a telephonic hearing for a **Temporary Adult Guardianships** as an **Emergency Matter** include the following:

1. The proposed ward is in a life threatening medical or mental condition and is without advanced directives;
2. It is necessary for the proposed ward to relocate from a hospital or a long-term facility to another health care facility because of life altering conditions **and/or** to qualify for government assistance pursuant to **RIGL § 33-15-8.1**;
3. The proposed ward is being financially exploited which is or may cause dangerous life altering conditions to the proposed ward;
4. Any other severe life threatening or dangerous life altering condition that may cause serious mental or physical harm to the proposed ward;

Examples of issues necessary for the court to schedule a telephonic hearing for a **Temporary Minor Guardianships** as an **Emergency Matter** include, but are not limited to, the following:

1. The proposed ward is in a dangerous life-altering situation and the minor's parents are deceased or not in RI.

Examples of issues necessary for the court to schedule a telephonic hearing for granting **Letters Testamentary, Appointment of a Custodian or Appointment of an Administrator** or other court action(s) include, but are not limited to, the following issues:

1. Dangerous **and/or** financial life altering conditions that impact the well-being and living conditions of the surviving **heirs at law/beneficiaries**;
2. Assets of the decedent may be subject to waste or loss without a Probate Court hearing.

If you have any questions **regarding any procedures and to schedule a hearing**, please contact the Court at **401-521-3110 (Judge Martinelli)**, or **e-mail the court clerks or the Judge** at their City e-mail addresses listed in the **April 1, 2020 Providence Probate Court directive** filed on the **RI Bar Association Web page**.

TEMPORARY ADULT GUARDIANSHIP with TELEPHONIC HEARINGS

- A. Obtain pursuant to **RIGL§ 33-15-6.1** a National criminal background check on the proposed guardian;
- B. Prepare the Permanent and Temporary petition for Guardianship, Attorney of Record form (if applicable) and obtain a **DMAT**, if available. If not available and extraordinary or emergency circumstances exist, **such other competent evidence in support of** the Temporary Guardianship as available, including testimony and Affidavits from medical persons familiar with the conditions of the respondent or from non-medical persons familiar with the respondent's condition as allowed pursuant to **RIGL§ 33-15- 4-(a) (2)**
- C. **Mail** all the executed documents to the Probate Court at City Hall with the appropriate filing fees;
- D. **Electronically transmit** the executed documents via e-mail to **any one** of the court clerks at their e- mail addresses listed in the **April 1, 2020 Providence Probate Court directive** filed on the **RI Bar Association Web page**.
- E. **Notice of the filing and hearing date** for the Temporary Adult Guardianship:
 - a. **Serve** the ward at least **5** days before the hearing date unless the court authorizes less time per **RIGL § 33-15- 17.1(a)** by a duly licensed process-server and transmit evidence of service electronically prior to or on the day of the telephonic hearing and mail it to the Court.
 - b. **Notwithstanding** the above, during the **Coronavirus pandemic** and because of the restrictions in the **State** for entry into a health care facilities until further order of this Court, the Court invokes its discretionary power for modifying **Notice** to the Respondent pursuant to **RIGL 33-15- 17.1(a)** and adopts the following procedure:
 - i. If a process server is unable **or** unwilling to enter a health care facility to make service on the Respondent, this court will accept an **Affidavit of Notice in Lieu of Service**, executed by the **Petitioner**. The Affidavit shall contain the Respondent's relationship to the Petitioner, a brief statement explaining the basis for the urgency of the appointment and a representation that the Respondent is not ostensibly able to understand this proceeding to either accept or oppose it.
- F. **Notice** of the hearing date to any other interested parties shall be pursuant to **RIGL 33-15- 17.1(e)**; Evidence of it shall be mailed and transmitted electronically to the Court.
- G. If the Petition for Temporary Guardianship is approved, any bond set by the court shall be mailed and electronically transmitted to the Court;
- H. The hearing for the Permanent Guardianship will be at a date and time later when the Court becomes operational.

TEMPORARY MINOR GUARDIANSHIP with TELEPHONIC HEARINGS

- A. Obtain pursuant to **RIGL§ 33-15-6.1** a National criminal background check on the proposed guardian;

- B. Prepare the Permanent and Temporary petition for Guardianship, Attorney of Record form (if applicable) with appropriate documentation (Birth Certificate and any Power of attorney from the parent(s) of the ward authorizing the proposed guardian to care for the Minor) and any other documents explaining the reasons for the appointment of a Guardian;
- C. **Mail** the executed documents and to the court with the applicable filing fees;
- D. **Electronically** transmit the executed documents via e-mail to one of the court clerks at their e-mail addresses listed in the **April 1, 2020 Providence Probate Court directive** filed on the **RI Bar Association Web page**;
- E. **Serve** the minor if 12 or over with a citation indicating the time of the hearing on the Temporary Guardianship;
- F. If the parent(s) of the proposed minor ward are alive, they may:
 - a. Sign the Petition for Guardianship before a Notary Public consenting to the Petition,
 - b. Submit a **Power of Attorney or** appointment of Agent to the Court which allows the proposed Guardian to care for the Minor.
 - c. Receive notice of any Court hearing pursuant to **RIGL§ 33-15-1-11 or** under terms established by the Court for the appointment of a Temporary Guardian;
- G. If the **Petition for Temporary Guardianship** is approved, any bond set by the court shall be mailed and electronically transmitted to the Court;

DECEDENT ESTATES with TELEPHONIC HEARINGS

- A. After determination by the Court that the matter is an **Emergency Matter**, please **mail** all documents to the Court with appropriate filing fees , and **Electronically transmit** to any one of the court clerks at their e-mail addresses listed in the **April 1, 2020 Providence Probate Court directive** filed on the **RI Bar Association Web page**;
- B. **Documents** are:
 - a. Waivers of Notice by heirs at law and beneficiaries; together with an affidavit of Notice of the filing of the Probate matter to the Executive Office of Health and Human Services;
 - b. Death Certificate, Last Will, if applicable, with Affidavit of Proof;
 - c. Attorney of Record form;
 - d. Specific Probate Petitions for the commencement of the case; If the Petition for the appointment of a fiduciary is approved, the Court sets the amount of the fiduciary bond and it is mailed and electronically transmitted to the Court by the Petitioner or counsel;

Enter : s/John E. Martinelli
 John E. Martinelli
 Probate Judge

By Order: s/ Paul V Jabour
 Paul V. Jabour, Clerk

Date: 04/06/2020