

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT OF NEW HAMPSHIRE

O R D E R

Pursuant to Part II, Article 73-a of the New Hampshire Constitution and Supreme Court Rule 51(A)(7), the Supreme Court of New Hampshire approves, on a temporary basis, amendments to the following court rules.

**I. Parental Notification Prior To Abortion**

*(RSA 132:32-36, effective January 1, 2012, requires parental notification before abortions can be performed on unemancipated minors. The statute provides that a minor may petition “a court of competent jurisdiction” for an order authorizing an abortion without notification. If a court denies the petition, the minor may file an expedited confidential appeal to the New Hampshire Supreme Court. The following rules amendments relate to the filing of a petition for waiver of parental notice prior to abortion in superior court, and for the filing of an appeal if the petition is denied).*

1. Adopt Superior Court Rules 215-222, regarding petitions for waiver of parental notice prior to abortion pursuant to RSA 132:34, on a temporary basis, as set forth in Appendix A.
2. Amend Supreme Court Rule 7, regarding appeals from trial court decisions on the merits, on a temporary basis, as set forth in Appendix B.
3. Adopt Supreme Court Rule 7-B, regarding appeals from lower court decisions on parental notification prior to abortion, on a temporary basis, as set forth in Appendix C.
4. Adopt Supreme Court Rule 32-B, regarding counsel in appeals from lower court decisions on parental notification prior to abortion, on a temporary basis, as set forth in Appendix D.
5. Amend Supreme Court Rule 48, regarding counsel fees and expenses in other indigent cases, on a temporary basis, as set forth in Appendix E.
6. Amend Supreme Court Rule 48-A, regarding guardians ad litem fees in indigent cases, on a temporary basis, as set forth in Appendix F.

**Effective Date**

These amendments shall take effect on January 1, 2012, and shall be referred to the Advisory Committee on Rules for its recommendation as to whether they should be adopted on a permanent basis.

Date: December 30, 2011

ATTEST: \_\_\_\_\_  
Eileen Fox, Clerk of Court  
Supreme Court of New Hampshire

**APPENDIX A**

Adopt Superior Court Rules 215-222, on a temporary basis, as follows:

**PETITION FOR WAIVER OF  
PARENTAL NOTICE PRIOR TO ABORTION  
PURSUANT TO RSA 132:34**

215. COMMENCEMENT OF ACTION. A request for waiver of parental notice prior to abortion, pursuant to RSA 132:34, shall be filed in the superior court in the form of the “Petition for Waiver of Parental Notice For Abortion Requested by a Minor,” as approved by the supreme court. The minor must provide her legal name and date of birth in the petition, but she may request that the petition be titled using a pseudonym or her initials. The minor must provide information in the petition about how she can be contacted confidentially, unless she is represented by counsel, in which case she shall provide contact information for her counsel. If the minor is unrepresented and is unable to provide the court with a confidential means to contact her, the minor must file the petition with the court in person and wait at the court for notice of the scheduled hearing. See Rule 216.

The petition for waiver of parental notice shall be signed by the minor. If a petition is filed by e-mail, the minor’s name may be typewritten in lieu of a signature.

All proceedings pursuant to these rules shall be held in closed court, shall be confidential and shall ensure the anonymity of the minor. All court proceedings shall be sealed. All documents related to the petition shall be confidential and shall not be available to the public.

216. FILING. No filing fee shall be required for a petition for waiver of parental notice prior to abortion filed pursuant to RSA 132:34.

A petition shall be deemed filed upon the court’s receipt of the completed petition for waiver of parental notice. Filing may be accomplished in any of the following ways:

- (1) by delivery to the office of the clerk of the superior court during normal court hours;
- (2) by depositing in a drop box at a superior court location, but in such circumstances, the petition shall be deemed filed

when opened by the court staff, but in any case, no later than 8:00 a.m. the following business day;

(3) by first-class mail to the office of the clerk of the superior court; or

(4) by e-mail to the following e-mail address: [parentalnotice@courts.state.nh.us](mailto:parentalnotice@courts.state.nh.us). If a petition is filed by e-mail, the minor or her counsel shall also call the telephone number listed on the judicial branch website to inform the office of the clerk through the court's answering service that a petition for waiver of parental notice has been filed. In addition to advising the answering service that a petition under RSA 132 has been filed by e-mail, the minor or her counsel shall identify the superior court location selected for filing, and provide a telephone number so that the minor or her counsel can be contacted in the event the court does not receive the e-mail filing.

217. RIGHT TO COUNSEL; GUARDIAN AD LITEM. A minor filing a petition for waiver of parental notice has a right to court-appointed counsel. A minor requesting the appointment of counsel shall indicate in the petition for a waiver of parental notice whether she is requesting the appointment of counsel by the court. The court shall appoint counsel for the minor as soon as possible after the filing of the petition for waiver of parental notice in which counsel is requested, but in every case in which counsel is requested, counsel shall be appointed prior to the hearing on the petition. The court may also appoint a guardian ad litem for the minor.

218. SCHEDULING A HEARING. A hearing on a petition for waiver of parental notice shall be scheduled as soon as practicable, but in every case, within 48 hours of filing, unless such time period is waived by the minor. At the court's discretion, the hearing may be held in person, telephonically, or electronically, at any location chosen by the court.

The minor and her counsel are obligated to make themselves available for a hearing, which may be scheduled with short notice at any time after the filing of the petition for waiver of parental notice. Failure on the part of the minor to make herself available for a hearing may result in the denial of the petition without prejudice.

Notice of the date and time of the hearing shall be given to the minor or her counsel through the means of contact provided by the minor or her counsel in the petition, or through another means agreed upon by the minor or her counsel and the clerk. Every attempt shall be made to provide the minor or her counsel with notice of the hearing at least two hours prior to the time of the hearing. Nevertheless,

transmittal of notice to the minor or her counsel of the scheduling of the hearing through the means of contact provided in the petition or agreed upon with the clerk shall be deemed sufficient notice of the hearing, whether the minor or her counsel receives the notice prior to the hearing.

219. **RULING ON PETITION.** The court shall rule upon the petition for waiver of parental notice within 48 hours of filing, and a copy of the court's order will be provided to the minor or her counsel within the same time period. A copy of the order may be provided in hand, or provided by another means agreed upon by the minor or her counsel and the clerk. An electronically signed order shall have the same force and effect as a paper order containing an original signature and conventionally signed order. An electronically signed order shall include, but is not limited to, the signatory's name (i) preceded by a "/s/", (ii) typed in the document, or (iii) inserted in the document as an imaged signature. A person who relies upon a court order issued pursuant to this rule as evidence that the minor has obtained a judicial waiver of notice pursuant to RSA 132:34, II shall not be held liable under RSA 132:35.

The clerk shall make a Notice of Decision available to the minor by the next business day. The Notice of Decision may be provided in hand at the court to the minor or provided by another means agreed upon by the minor or her counsel and the clerk. The Notice of Decision shall be mailed to the minor's counsel and to the guardian ad litem, if any, by the next business day.

220. **CERTIFICATE.** If the petition for waiver of parental notice is granted, the court shall issue a Certificate to Allow Medical Provider to Perform an Abortion without Notifying a Minor's Parents or Guardian. This certificate shall set forth the minor's legal name and her date of birth, but shall not include the court's factual findings and legal conclusions supporting its decision. The certificate shall be issued under court seal. The certificate shall be made available to the minor in hand at the court, or by another means agreed upon by the minor or her counsel and the clerk, no later than the next business day. A person who relies upon a certificate issued pursuant to this rule as evidence that the minor has obtained a judicial waiver of notice pursuant to RSA 132:34, II shall not be held liable under RSA 132:35.

221. **APPOINTMENT OF COUNSEL.** If the minor requests the appointment of counsel, the court shall appoint an attorney to represent the minor.

Whether retained by the minor or appointed by the court, trial counsel shall be responsible for representing the minor in an appeal to

the supreme court pursuant to RSA 132:34, II (c), unless the superior court, prior to the filing of the appeal, permits counsel to withdraw due to exceptional circumstances. A motion to withdraw as counsel in such a matter must state the exceptional circumstances that would warrant the grant of leave to withdraw. If a motion to withdraw as counsel is granted, the court shall appoint new counsel to represent the minor for the remainder of the proceedings, or for the purpose of an appeal, if any.

A minor who seeks to appeal the denial of a petition for waiver of parental notice and who was not represented by counsel in superior court may request that the superior court appoint counsel to assist the minor on appeal. In such a case, the minor shall file with the superior court a "Request for Court-Appointed Counsel in Expedited Confidential Appeal From Lower Court Decision on Parental Notification Prior to Abortion" form. Such a request shall be filed with the superior court prior to filing a notice of appeal in the supreme court, and shall be brought to the attention of the court for immediate ruling. See Supreme Court Rule 32-B.

222. COUNSEL AND GUARDIAN AD LITEM FEES. All bills related to fees and expenses pursuant to petitions filed under RSA 132 by court appointed counsel or guardians *ad litem* must be itemized as to the time spent and expenses incurred. There shall be no separate charge for overhead or travel time. The expense of telephone calls shall not be reimbursed. The maximum fee for representation of a minor in the superior court is \$1000. All bills related to fees and expenses must be submitted to the court no later than sixty days after disposition. The court may allow late filing for good cause shown, when justice so requires.

## APPENDIX B

Amend Supreme Court Rule 7 on a temporary basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

### **Rule 7. Appeal from Trial Court Decision on the Merits**

#### (1)(A) *Mandatory appeals.*

Unless otherwise provided by law or by these rules, a mandatory appeal, **[other than an appeal in a parental notification case under RSA 132:34,]** shall be by notice of appeal in the form of notice of appeal approved by the supreme court for the filing of a mandatory appeal. ~~The form of notice of appeal for the filing of a mandatory appeal appears in the appendix to these rules~~ ("Notice of Mandatory Appeal" form). Such an appeal shall be filed by the moving party within 30 days from the date on the clerk's written notice of the decision on the merits.

#### (B) *Other appeals from trial court decisions on the merits.*

The supreme court may, in its discretion, decline to accept an appeal, other than a mandatory appeal, or any question raised therein, from a trial court after a decision on the merits, or may summarily dispose of such an appeal, or any question raised therein, as provided in Rule 25. Unless otherwise provided by law or by these rules, an appeal from a trial court decision on the merits other than a mandatory appeal shall be by notice of appeal in the form of notice of appeal approved by the supreme court for the filing of such an appeal. ~~The form of notice of appeal for the filing of an appeal from a trial court decision on the merits other than a mandatory appeal appears in the appendix to these rules~~ ("Notice of Discretionary Appeal" form). Such an appeal shall be filed by the moving party within 30 days from the date on the clerk's written notice of the decision on the merits.

(C) The definition of "decision on the merits" in Rule 3 includes decisions on motions made after an order, verdict, opinion, decree or sentence. A timely filed post-trial motion stays the running of the appeal period for all parties to the case in the trial court including those not filing the motion. Untimely filed post-trial

motions will not stay the running of the appeal period unless the trial court waives the untimeliness within the appeal period. Successive post-trial motions will not stay the running of the appeal period. See *Petition of Ellis*, 138 N.H. 159 (1993).

In criminal appeals, the time for filing a notice of appeal shall be within 30 days from the date of sentencing or the date of the clerk's written notice of disposition of post-trial motions, whichever is later, provided, however, that the date of the clerk's written notice of disposition of post-trial motion shall not be used to calculate the time for filing a notice of appeal in criminal cases if the post-trial motion was filed more than 10 days after sentencing.

(2) An appeal shall be deemed filed when the original and all copies of the notice of appeal in proper form, together with the filing fee, are received by the clerk of this court within 30 days from the date on the clerk's written notice of the decision.

(3) An appeal permitted by law on a different form and by a different procedure shall be deemed timely filed when it is received by the clerk of this court on the form and by the procedure prescribed by law.

(4) All parties to the proceedings in the court from whose decision on the merits the appeal is being taken shall be deemed parties in this court, unless the moving party shall notify the clerk of this court in writing of his belief that one or more of the parties below has no interest in the outcome of the transfer. The moving party shall mail a copy of the letter first class, or give a copy, to each party in the proceeding below. A party thus designated as no longer interested may remain a party in this court by notifying the clerk of this court, with notice mailed first class or given to the other parties, that he has an interest in the transfer. Parties supporting the position of the moving party shall meet the time schedule provided for that party.

(5) If a timely notice of appeal is filed by a party, any other party may file a notice of cross-appeal within 10 days from the date on which the first notice of appeal was filed and shall pay a filing fee therewith.

(6)(A) The appealing party in a mandatory appeal shall attach to the notice of appeal the decision below, the clerk's written notice of the decision below, any order disposing of a timely-filed post-trial motion, and the clerk's written notice of any order disposing of a timely-filed post-trial motion.



(B) The appealing party in an appeal other than a mandatory appeal shall attach to the notice of appeal the decision below, the clerk's written notice of the decision below, any order disposing of a timely-filed post-trial motion, and the clerk's written notice of any order disposing of a timely-filed post-trial motion. Any other pleadings and documents that the appealing party believes are necessary for the court to evaluate the specific questions raised on appeal and to determine whether the appeal is timely filed shall be filed as a separate appendix. The appendix shall contain a table of contents referring to numbered pages, and only 8 copies shall be filed. Note: *Also see* Rule 26(5). If a ground for appeal is the legal sufficiency of the evidence, the question in the notice of appeal form raising that ground shall contain a succinct statement of why the evidence is alleged to be insufficient as a matter of law.

## APPENDIX C

Adopt Supreme Court Rule 7-B on a temporary basis as follows:

### **Rule 7-B. Appeal from Superior Court Decision on Parental Notification Prior to Abortion**

RSA 132:32-36, effective January 1, 2012, requires parental notification before abortions can be performed on unemancipated minors. The statute provides that a minor may petition a court of competent jurisdiction for an order authorizing an abortion without notification. The statute also provides that if a court denies the petition, the minor may file, as provided by supreme court rule, an expedited confidential appeal to the New Hampshire Supreme Court. The following provides the procedures for filing such an appeal:

(1) Notwithstanding anything in these rules to the contrary, the following procedures shall apply to an appeal filed pursuant to RSA 132:34 by a pregnant minor for whom the superior court denies an order authorizing an abortion without notification.

(2) An expedited confidential appeal shall be available to any pregnant minor for whom the superior court denies an order authorizing an abortion without notification. Any such appeal shall be filed on the form of notice of appeal approved by the supreme court for the filing of an appeal under RSA 132:34 (“Notice of Expedited Confidential Appeal from Lower Court Decision on Parental Notification Prior to Abortion” form). An order authorizing an abortion without notification shall not be subject to appeal.

All proceedings pursuant to this rule shall be confidential and shall ensure the anonymity of the minor. All court proceedings shall be sealed. All documents related to the appeal shall be confidential and shall not be available to the public.

(3) An appeal under this rule shall be filed by the minor within 30 days from the date on the clerk’s written notice of the decision on the merits. A timely filed post-trial motion stays the running of the appeal period. Untimely filed post-trial motions will not stay the running of the appeal period unless the lower court waives the untimeliness within the appeal period. Successive post-trial motions will not stay the running of the appeal period. *See Petition of Ellis*, 138 N.H. 159 (1993).

(4) No filing fee shall be required for an appeal under this rule.

(5) Filing of an appeal under this rule may be accomplished by any of the following methods:

(A) By delivery of the original notice of appeal in proper form to the office of the clerk of the supreme court during normal business hours of the court.

(B) By depositing the original notice of appeal in proper form in the drop box at the supreme court, but in such circumstances, the notice of appeal shall be deemed filed when opened by the court staff, but in any case, no later than 8:30 a.m. the following business day.

(C) By e-mailing the notice of appeal in proper form to the following e-mail address: [7BAppeals@courts.state.nh.us](mailto:7BAppeals@courts.state.nh.us). At the time that the notice of appeal is e-mailed to the aforesaid e-mail address, the appealing party shall also call the telephone number provided on the “Notice of Expedited Confidential Appeal from Lower Court Decision on Parental Notification Prior to Abortion” form, to inform the clerk of the supreme court through the court’s answering service that a notice of appeal under RSA 132:34 has been e-mailed to the office of the clerk of the supreme court. The appealing party need not give any information other than that a notice of appeal under RSA 132:34 has been filed by e-mail, but must provide a confidential telephone number so that the party can be reached in the event that the court has not received the notice of appeal by e-mail. The appealing party shall also either: (i) send the original notice of appeal, on or before the next business day, by first class mail addressed to the clerk of the supreme court; or (ii) deliver the original notice of appeal to the office of the clerk of the supreme court on the next business day. The date and time that the notice of appeal is received by e-mail, however, shall be the date and time of filing.

A minor who files her appeal by e-mail is urged to telephone the office of the clerk of the supreme court at (603) 271-2646 on the next business day to confirm that her notice of appeal was received.

(D) By sending the original notice of appeal in proper form by first class mail addressed to the clerk of the supreme court. The date and time that the notice of appeal is received by the court shall be the date and time of filing. A filing shall not be timely unless the papers are received by the clerk within the time fixed by rule or law. Filings postmarked at least two days prior to the time fixed by rule or law shall be deemed timely.

(6) Copies of the original notice of appeal shall, at or before the time of filing in the supreme court, be served by the minor or person acting for her on the clerk of the court from which the appeal is taken. Service may be personal or by e-mail. Upon receiving notice that an appeal has been filed pursuant to this rule, the superior court shall immediately transmit a copy of the recording of the hearing in the superior court to the supreme court, along with all pleadings and exhibits filed and considered in the proceedings in the lower

court, if it has not already done so. For the purposes of an appeal under this rule, the recording of the hearing in the superior court will be deemed to be the record of the proceeding, and a transcript is not required.

(7) The appealing party shall attach to the notice of appeal the decision below, the clerk's written notice of the decision below, any order disposing of a timely-filed post-trial motion, and the clerk's written notice of any order disposing of a timely-filed post-trial motion.

(8) The appealing party shall file a memorandum of law not to exceed 15 pages in length in support of her appeal with her original notice of appeal. The memorandum of law need not comply with the requirements of a brief set forth in Supreme Court Rule 16, including the requirements that briefs be bound in pamphlet form and have covers. The first page of the memorandum of law, however, shall contain: (i) the name of this court; (ii) the title of the case; (iii) the nature of the proceeding in this court and the name of the court below; (iv) the title of the document; and (v) the names, addresses, and New Hampshire Bar identification numbers of counsel representing the party on whose behalf the document is filed. The memorandum of law shall contain: (i) the questions presented for review, expressed in terms and circumstances of the case but without unnecessary detail; (ii) a concise statement of the case and a statement of facts material to the consideration of the questions presented; (iii) the argument, exhibiting clearly the points of fact and of law being presented, citing the authorities relied upon; (iv) a conclusion, specifying the relief to which the party believes herself entitled; and (v) a statement as to whether the party requests oral argument.

The notice of appeal or memorandum of law may be accompanied by an appendix containing copies of relevant documents that were filed in the superior court.

(9) Oral argument shall be held only upon order of the supreme court. Oral argument may be scheduled on short notice.

(10) The supreme court shall make a ruling within 48 hours from the time that the notice of appeal containing all of the materials required by subsections (7) and (8) of this rule is filed pursuant to this rule. If the superior court decision is vacated or reversed, the mandate will be issued immediately.

## **APPENDIX D**

Adopt Supreme Court Rule 32-B on a temporary basis as follows:

### **Rule 32-B. Counsel in Parental Notification Cases**

(1) Whether retained by the pregnant minor or appointed by the superior court, trial counsel in a parental notification case pursuant to RSA 132:34 shall be responsible for representing the pregnant minor in the supreme court unless the superior court, prior to the filing of the appeal, permits counsel to withdraw due to exceptional circumstances. See Superior Court Rule 221. Counsel appointed to represent the pregnant minor in the trial court shall be deemed appointed to represent the pregnant minor in the supreme court.

(2) Trial counsel shall continue to participate until and unless the motion to withdraw is approved by the superior court.

(3) A pregnant minor who wishes to appeal the denial of a petition for an order authorizing an abortion without notification who was not represented by counsel in the superior court but who wishes to be represented in the supreme court by court-appointed counsel must file a "Request for Court-Appointed Counsel in Expedited Confidential Appeal From Lower Court Decision on Parental Notification Prior to Abortion" form with the superior court, prior to the filing of the appeal.

## APPENDIX E

Amend Supreme Court Rule 48 on a temporary basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~striketrough~~ format):

### **Rule 48. Counsel Fees and Expenses – Other Indigent Cases [and Parental Notification Cases]**

The provisions of this rule shall apply only to preparation for and proceedings in all courts in which counsel is appointed to represent indigent persons, other than criminal defendants, indigent witnesses in appropriate circumstances**[, and minors (whether or not indigent) in parental notification cases under RSA 132:34]**. This rule refers to, but is not limited to, juvenile cases in the district court, guardianships under RSA chapter 464-A, termination of parental rights (TPR) under RSA chapter 170-C, and involuntary admissions under RSA chapter 135-C in the probate court and district court.

(1) *Itemization of Bills.* All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment of Counsel order on appointment or other supporting document must be attached to the bill with each submission.

(2) *Fees.* Maximum compensation is limited as follows:

(a) Time properly chargeable to case: \$60 per hour. The paralegal hourly rate shall not exceed \$35.00 and shall be included with fees of counsel for the purposes of determining the maximum fee on any case. Travel time is not a compensable event unless expressly authorized by the court in advance for exceptional circumstances.

(b) Maximum fee for all juvenile cases pursuant to RSA chapters 169-B, C, and D: \$1,700.

(c) De novo appeal of juvenile cases pursuant to RSA chapter 169-C: \$1,400.

(d) Maximum fee for guardianships under RSA chapters 463 or 464-A:

- (i) RSA chapter 463: \$1,200;
- (ii) RSA chapter 464-A: \$900.

(e) Maximum fee for annual review hearings for guardianships: \$300.

(f) Maximum fee for TPR cases pursuant to RSA chapter 170-C: \$1,700.

(g) Maximum fee for involuntary admissions under RSA chapter 135-C: \$600.

(h) Appeals to the supreme court, **[other than parental notification cases,]** in all juvenile cases and any matters within the subject matter jurisdiction of the probate court: \$2,000.

(i) Maximum fee for court review hearings of juvenile cases pursuant to RSA 169-B and D: \$300.

**[(j) Maximum fee for parental notification cases pursuant to RSA 132:34, excluding any appeal to the supreme court: \$1,000.]**

**[(k) Maximum fee for appeals to the supreme court in parental notification cases pursuant to RSA 132:34: \$500.]**

Only upon express, written finding for good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized.

In any case filed before July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.

In any case filed on or after July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded. In any such case, fees in excess of the maximum compensation in this rule will be paid only if the administrative judge of the circuit court or the chief justice of the superior court, as the case may be, certifies the good cause and exceptional circumstances justifying the excess fees.

When counsel represents more than one client on any particular day, the hours spent shall be allocated accordingly. Representation of more than one client on the same day and in the same court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules.

(3) *Expenses - Reimbursable.* Investigative, expert, or other necessary services may be compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court, made prior to said expense being incurred.

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing agency or professional association in approving fees for services specified above.

(b) Rates for stenographers and deposition services shall be established by the supreme court. The cost of copies of depositions and transcripts shall be fifty cents (.50) per page.

(c) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(d) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(e) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(f) Attorneys shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(g) The expense of telephone calls shall not be reimbursed.



(h) In cases appealed to the supreme court, attorneys shall be reimbursed for the actual reasonable costs (not including labor) of reproducing and binding the notice of appeal or other appeal document, any appendix and briefs, whether done in-house or by an outside printer.

(i) No reimbursement will be paid for overhead expenses including photocopies (other than as provided in subdivision (3)(h) of this rule), postage, fax and secretarial services.

(4) *Deadline for Filing Bills with Court.* All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.

## APPENDIX F

Amend Supreme Court Rule 48-A on a temporary basis as follows (new material is in **[bold and in brackets]**; deleted material is in ~~strikethrough~~ format):

### **Rule 48-A. Guardians Ad Litem Fees – Indigent Cases [and Parental Notification Cases].**

(1) *Itemization of Bills.* All bills related to fees and expenses must be itemized as to the time spent and expenses incurred on each case, and there shall be no separate charge for overhead. A copy of the Notice of Appointment order on appointment or other supporting document must be attached to the bill with each submission.

(2) *Fees.* The provisions of this rule shall only apply to proceedings within the original jurisdiction of the district and probate courts, in which guardians ad litem are appointed, and the party responsible for payment is indigent-**[, and parental notification cases under RSA 132:34.]**

Maximum guardian ad litem compensation as authorized by the administrative justice shall be limited as follows:

(a) Time properly chargeable to case: \$60 per hour. Travel time is not a compensable event unless expressly authorized by the court in advance for exceptional circumstances.

(b) Maximum fee for abuse and neglect cases through conclusion of dispositional hearing pursuant to RSA 169-C:19: \$1,400.

(c) Maximum fee for CHINS cases (169-D) or delinquency cases (169-B) through conclusion: \$900.

(d) Maximum fee for court review hearings in guardianship of minor or adult cases or abuse and neglect case: \$300.

(e) Maximum fee for TPR case (170-C): \$1,400.

(f) Maximum fee for appeals to the superior court: \$900.

(g) Maximum fee for guardianship cases pursuant to RSA chapters 463 or 464-A: \$1,400.

**[(h) Maximum fee for parental notification cases pursuant to RSA 132:34, excluding any appeal to the supreme court: \$1,000;**

**(i) Maximum fee for appeals to the supreme court in parental notification cases pursuant to RSA 132:34: \$500.]**

Only upon express, written finding for good cause and exceptional circumstances by the court will the maximum fees be exceeded or will additional fees be authorized.

In any case filed before July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded; provided, however, that the court may waive the requirement for prior approval when justice so requires.

In any case filed on or after July 12, 2011, any petition to exceed the maximum fee guidelines must be approved prior to the guidelines being exceeded. In any such case, fees in excess of the maximum compensation in this rule will be paid only if the administrative judge of the circuit court or the chief justice of the superior court, as the case may be, certifies the good cause and exceptional circumstances justifying the excess fees.

When a guardian ad litem represents more than one client on any particular day, the hours spent shall be allocated accordingly. Representation of more than one client on the same day and in the same court shall be noted on the bills submitted. All bills shall be reviewed by the judge who presided over the case, if practicable.

The adequacy of the rates prescribed by this rule may, upon request of the supreme court, be reviewed periodically by the advisory committee on rules.

(3) *Expenses - Reimbursable.* Investigative, expert, or other necessary services may be compensated only upon a finding of necessity and reasonableness by a justice of the appropriate court, made prior to said expense being incurred.

(a) Except for those services for which rates are established by the supreme court, the presiding justice may consider, but shall not be bound by, the prevailing rates or any rates established by a licensing

agency or professional association in approving fees for services specified above.

(b) Rates for the services of interpreters for all parties and the court shall be established by the supreme court.

(c) No cost for investigative, expert, or other necessary services as initially approved may be exceeded prior to a subsequent finding of necessity by a justice of the appropriate court.

(d) All bills for investigative, expert, or other necessary services shall be reviewed by the judge who presided over the case, if practicable.

(e) Guardians ad litem shall be reimbursed for the mileage expenses incurred in representing their client at the standard mileage reimbursement rate currently allowed by the Internal Revenue Service. Requests for reimbursement of mileage expenses shall specify the actual number of miles traveled.

(f) The expense of telephone calls shall not be reimbursed.

(4) *Deadline for Filing Bills with Court.* All bills related to fees and expenses must be submitted no later than sixty days after the close of the case. The court may allow late filing for good cause shown, when justice so requires.