

# UVM Project ECHO: Enhanced Diagnosis and Management of Dementia by the Primary Care Team

Course Co-Directors: Mary Val Palumbo, DNP, APRN, GNP-BC  
John Steele Taylor, MD

ECHO Director: Elizabeth Cote

Series Faculty: John Coffin, MSW  
Allegra Miller, M.Ed, Family Caregiver  
Heather Zuk, OTR, CDRS, CDI  
Tiffany Smith, MA, CRTS, CDP  
Lori McKenna, MSW, LICSW  
Jackie Rogers, PhD  
Zail S. Berry, MD, MPH  
Doug Franzoni, PharmD, BCGP  
Michael LaMantia, MD (UVM Geriatric Services)  
Amelia Gennari, MD (UVM Geriatric Services)



- RECORDING OF SESSION TO BEGIN

# Agenda

- Introductions
- Objectives
- Didactic Presentation (~20-30 min)
- Case presentation
  - Clarifying questions
  - Participants – then faculty panel
- Discussion
- Recommendations
- Summary
- Closing Announcements
  - Submission of new cases
  - Completion of evaluations



# Series Objectives

## **Learning objectives for this ECHO series include being able to:**

- Describe current standard of care for diagnosis, treatment, and care of patients with cognitive impairment, Alzheimer's disease (AD), and dementias – evidence-based review and approaches.
- Name non-pharmacological resources for family caregivers including caregiver supports and assistance in management of caregiver stress.
- List pharmacologic approaches to sleep and behavioral issues.
- Discuss side effects of pharmacologic approaches to sleep and behavioral issues.
- Identify Vermont-specific rules regarding driving and guardianship.



# CME Disclosures

University of Vermont (UVM) Office of Continuing Medical and Interprofessional Education (CMIE) is approved as a provider of Continuing Medical Education (CME) by the ACCME. UVM designates this internet live activity for a maximum of 1.5 AMA PRA Category 1 Credits. Participants should claim only the credit commensurate with the extent of their participation in the activity.

# CME Disclosures

**Interest Disclosures:** As an organization accredited by the ACCME to sponsor continuing medical education activities, UVMCMIE is required to disclose any real or apparent conflicts of interest (COI) that any speakers may have related to the content of their presentations.

**Meeting Disclaimer:** Regarding materials and information received during this educational event, the views, statements, and recommendations expressed during this activity represent those of the authors and speakers and do not necessarily represent the views of the University of Vermont.



# ***Legal Issues of Guardianship, Competency and Power of Attorney***

Jackie Rogers, PhD

*Office of Public Guardian*

*Montpelier, VT*

*Jackie.rogers@vermont.gov*

*[I have no conflicts to disclose.]*



# ***Legal Issues of Guardianship, Competency and Power of Attorney***

## Session Objectives:

1. Increase understanding of adult guardianship in Vermont, particularly medical guardianship.
2. Enhance appreciation of limitations of guardianship and reasons guardianship should be avoided.
3. Increase awareness of alternatives to guardianship and the role health care providers can play in avoiding the need for guardianship.





# Office of Public Guardian- Brief Overview

- Housed within the Department of Disabilities, Aging, and Independent Living (DAIL) with staff of 28 (24 full time guardians)
- Serves “persons in need of guardianship” when there is no private guardian available:
  - ❖ Adults with DD (about 600 people) and
  - ❖ “Elders” who are 60+ with some other impairment such as dementia, mental illness, stroke, etc. (about 130 people)
- Provides:
  - ❖ Guardianship
  - ❖ Education about guardianship and alternatives
  - ❖ Representative Payee service
  - ❖ Assistance to private guardians
- Manages/pays for Guardianship Evaluations



# Vermont Law Protects the Right of Self-Determination

## Title 14

### • § 3060. Policy

Guardianship shall be utilized **only as necessary** to promote the well-being of the individual and to protect the individual from violations of his or her human and civil rights. It shall be designed to encourage the development and maintenance of **maximum self-reliance and independence** in the individual and only the **least restrictive** form of guardianship shall be ordered to the extent required by the individual's actual mental and adaptive limitations. The State of Vermont recognizes the **fundamental right** of an adult with capacity to determine the extent of health care the individual will receive.



# Why Should Guardianship Be Avoided If Possible?

- Restriction of rights
- Disempowering for the individual
- May negatively impact relationships
- Burdensome and expensive legal process
- Requires continuous interactions with court
- Guardianship doesn't actually solve every problem



# Alternatives to Guardianship

- Supported Decision Making
- Advance Directive/Naming Health Care Agent
- Case Management Services
- Services and Supports
- Representative Payee
- Power of Attorney for Financial
- Establishing a Trust

## Alternatives to Guardianship, continued

- **Supported Decision Making:** a formal or informal circle of family or friends who can assist person in making decisions about personal or financial affairs
- **Advance Directive/Naming Health Care Agent:** a legal document that is signed in the presence of two witnesses that allows person to designate a decision maker(s) and document goals and values for future care and treatment
- **Case Management Services:** service coordinator/case manager through social service agency provides supports, advocacy and assistance



# Alternatives to Guardianship, continued

- **Services and Supports:** right living situation can sometimes negate need for guardianship
- **Representative Payee:** individual or organization appointed by Social Security Administration to assist with managing money
- **Financial Power of Attorney:** notarized document, generally drafted by an attorney, authorizing person to act on behalf of individual
- **Establishing a Trust:** Legal plan for placing funds in control of a trustee (can be Medicaid Qualifying)



# What is Guardianship?

- The appointment of a guardian for an adult is a **legal proceeding** that restricts an individual's rights to make decisions and practice self-determination.
- The appointment is made when the court determines that (a) the individual's **decision-making capacity is impaired** and (b) the need to protect the individual's personal and/or financial safety and well-being **outweighs his or her fundamental right** to autonomy in exercising choices and making critical life decisions.
- The guardian becomes a **substitute decision-maker** charged with making decisions that protect the individual's personal and/or financial wellbeing while affording as much self-determination as is feasible.



# Powers of Guardianship

- Orders may include some or all of the following powers
  - General Supervision
  - Medical Dental
  - Financial
  - Contracts
  - Sale and Encumbrance of Property
  - Legal



# Duties and Responsibilities of a Guardian

- Respect wishes, values, preferences of person
- Exercise least restrictive approach
- Maintain close contact
- Assure all benefits and services are received
- Keep court informed of changes in health status and living arrangements; obtain permission as required
- File annual and other reports required by court



# Types of Adult Guardianship

- There are 2 separate statutes governing adult guardianship and 2 separate courts in VT, but for the sake of clarity will focus on Title 14 VSA Chapter 111, in Probate Court
  
- Other Distinctions:
  - Involuntary vs voluntary
  - Private vs public
  - Plenary vs limited



# Basic Guardianship Process

1. Petition is filed in Probate Court (filing fee \$150)
2. Probate Court orders guardianship evaluation and appoints a lawyer for the person (petitioner does not generally need a lawyer)
3. Guardianship evaluation makes recommendations to the court
4. May be a series of Status Conferences and then a Hearing to determine if guardianship is needed and proposed guardian is acceptable
5. Court issues Guardianship Order or dismisses the case
6. Process usually takes 2 – 4 months. \*Emergency process available
7. Need for guardianship reviewed annually- can be modified/terminated



# Who is in need of guardianship?

According to 14 V.S.A, “a person in need of guardianship” is defined as a person who:

- *(A) is at least 18 years of age; and*
  - *(B) is **unable to manage**, without the supervision of a guardian, some or all aspects of his or her personal or financial affairs as a result of:*
    - *(i) **significantly subaverage intellectual functioning** which exists concurrently with deficits in adaptive behavior; or*
    - *(ii) a **physical or mental condition** that results in significantly impaired cognitive functioning which **grossly impairs judgment, behavior, or the capacity to recognize reality.***
  - *(2) "**Unable to manage his or her personal care**" means the inability, as evidenced by recent behavior, to meet one's needs for medical care, nutrition, clothing, shelter, hygiene, or safety so that physical injury, illness, or disease has occurred or is likely to occur in the near future.*
  - *(3) "**Unable to manage his or her financial affairs**" means **gross mismanagement**, as evidenced by recent behavior, of one's income and resources which has led or is likely in the near future to lead to financial vulnerability.*
- ❖ Eccentricity or poor judgment alone are **NOT** criteria for guardianship, nor is guardianship appropriate if less invasive solutions to a person's well-being can be implemented.



# Capacity vs Competency

- The term “competency” is not used in VT guardianships.
- “Capacity” is the term used in VT guardianship statutes.
- A determination by the court of capacity or incapacity is a legal not a medical finding.
- **“Capacity to make medical decisions”** means an individual's ability to make and communicate a decision regarding proposed health care based upon having a basic understanding of the diagnosed condition and the benefits, risks, and alternatives to the proposed health care.

# How is Capacity Assessed?

1. Does the individual understand the need for—and have the ability to obtain—requisite knowledge to make reasoned decisions?
2. Does the individual appreciate the consequences of making decisions? Is he or she able to appraise *realistically* the outcome of a decision and justify his or her choice?
3. Does the individual express his or her decisions in a way that is consistent and aligns with his or her values and preferences?
4. Does the individual evidence the capacity to identify the actions that are necessary to achieve his or her goals when making a decision?



# Sources of Information for Guardianship Evaluation

- Clinical interview with person
- Information gathered from persons with knowledge of the individual such as family, friends, neighbors, service providers, etc.
- Review of medical records, previous evaluations, etc.



# Who May Act as Guardian?

- Must be at least 18 and competent
- Cannot be person who is paid to operate home of person
- Must undergo background checks
- Court considers
  - ✓ Preferences of person
  - ✓ Geographic location (although can be out of state)
  - ✓ Relationship with person
  - ✓ Ability to carry out duties
  - ✓ Willingness to communicate with/respect wishes of person
  - ✓ Potential conflict of interest
- Does not need to be able to be primary caregiver
- OPG is guardian of last resort (use sparingly)





# What Adult Guardianship Is Not!

- Unlike child custody, guardians have no compulsory authority over the adults they serve
  - i.e., Guardians cannot compel people to do/not do anything against their will
  
- VT law requires that adult guardianship be provided in the least restrictive manner possible, and with maximum input from the person
  
- Guardianship does not include the powers of:
  - Magic
  - Force
  - Involuntary treatment or medication



# What Guardianship Is Not, continued

- Guardianship does not include any automatic structures or expectations for residential placement. Living circumstances depend on the individual. Examples include:
  - Staying at home with support
  - Residential care facilities
  - Adult Family Care home
- Guardians can't force a noncompliant person to live in a specific place or manner
- Guardianship is rarely the “answer”



# Medical Guardianship Defined & Limited

(2) The power to **seek, obtain, and give or withhold consent** to the initiation or continuation of medical or dental treatment, subject to the provisions of section 3075 of this title and any constitutional right of the person under guardianship to refuse treatment, provided that the **court in its discretion may place limitations** on the guardian's powers under this subdivision if appropriate under the circumstances, including requiring prior court approval for specific surgeries, procedures, or treatments.

# Additional Limitations on Medical Power

## § 3074. Commitment, sterilization, involuntary treatment, and involuntary medication

Nothing in this chapter shall give the guardian of a person authority to:

- (1) place that person in a State school or **hospital** except pursuant to 18 V.S.A. § 7601 et seq. or 18 V.S.A. § 8801 et seq.
- (2) consent to an **involuntary treatment or medication** petition pursuant to 18 V.S.A. chapter 181.
- (3) consent to sterilization or to a petition for involuntary sterilization pursuant to 18 V.S.A. chapter 204.
- (4) consent to a petition for custody, care, or habilitation filed pursuant to 18 V.S.A. chapter 206.



# End of Life Decision-Making for People Under Guardianship

- Individuals under guardianship, or being evaluated for guardianship, cannot complete Advance Directive forms
- If the person under guardianship executed a medical Advance Directive before becoming mentally disabled, the authority of the agent/guardian and the instructions contained therein shall remain in effect unless the court orders otherwise
- Individuals must be involved in decision making to the greatest extent possible
- For those individuals under Title 14 guardianship, all requests for DNR/DNI's must be approved by the Probate court, unless there is advance directive in place which indicates person's choice DNR/DNI

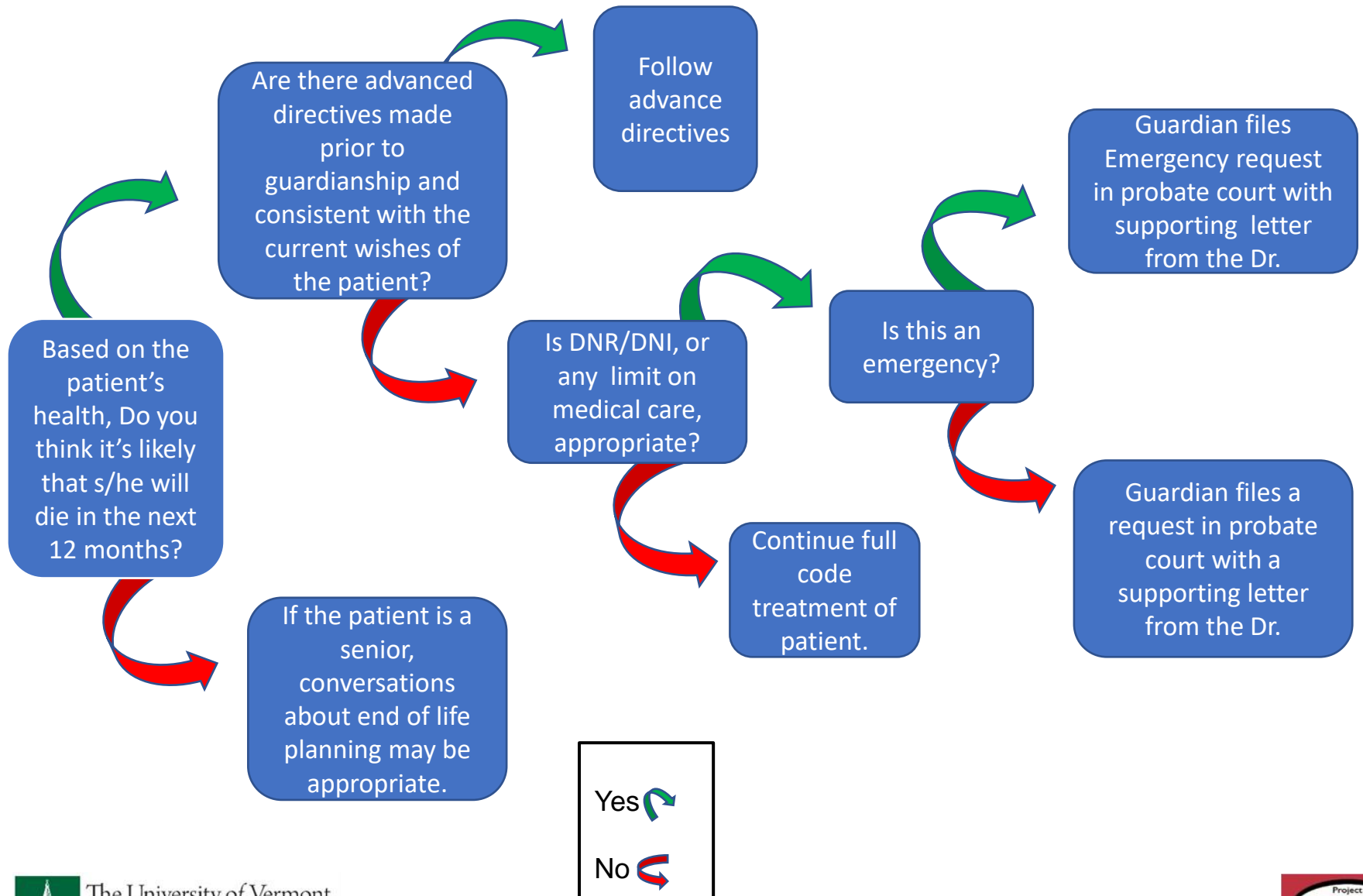


# Physician Letter to the Court re: DNR/DNI

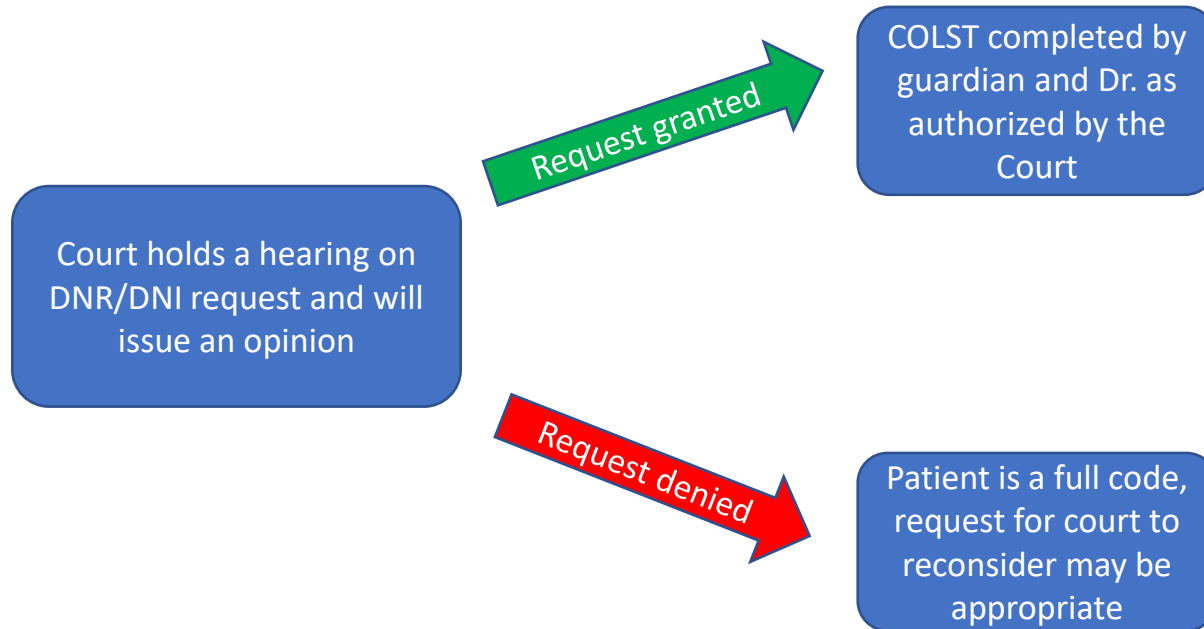
Probate Courts require a **Statement from the patient's physician(s)**, including the:

- **Nature of person's medical conditions** and determination of whether the person has an **irreversible and/or terminal condition**;
- **Physician's recommendation re: code status** (meaning, the use of, or foregoing of, CPR upon cessation of heartbeat and respiratory function) and the **reasons for this recommendation**, including a description of what the effects of a **particular intervention** may be on this **specific person** and **why the intervention would be appropriate or inappropriate**;
- **Physician's recommendation re: the use of other life-sustaining treatments** that might reasonably be considered for a person with this condition, which might include the use of mechanical ventilatory support (ventilator, BiPap), hospitalization, use of a feeding tube, dialysis, and others; description of what the **effects of a particular intervention** may be on this specific person and why intervention would be appropriate or inappropriate.

# Getting a DNR/DNI in place for a patient with a guardian



# Getting a DNR/DNI in place for a patient with a guardian, cont.





# Petitioning for Guardianship- Questions to Ask Yourself

- Will guardianship actually make any difference in this situation?
- Is guardianship the right tool to address the issues?
- Have we assisted the person to develop the skills to make choices and decisions for themselves?
- Is it too late for POA and AD/HCA?
- Have we tried every alternative?

# Requesting Emergency Guardianship If Absolutely Necessary

- Only applicable if the absence of a guardian will cause serious and irreparable harm to the individual
- All requests for emergency guardianship should be sent to the local District Probate Court
- If seeking a Public Guardian, contact the Office of Public Guardianship prior to submitting the petition



# Helping Your Patients Avoid Guardianship (Jackie's wish list)

- Start conversations early
- Insist on Health Care Agent for patients of all ages (agent must agree to role)
- Assist with Advance Directives
- Urge Power of Attorney for finances
- Encourage completion of Long Term Care Medicaid Application
- Be transparent about diagnosis & prognosis
- Review ADs, HCA, and POA regularly for continued relevance given advancing age/disease



# Resources

- <https://www.vermontjudiciary.org/sites/default/files/documents/Guardian%20Booklet.2018.pdf>
- [Public Guardianship for Adults with Developmental Disabilities \(18 VSA Chapter 215\)](#)
- [Public Guardianship for Mentally Disabled Adults age 60 or over \(14 VSA Chapter 111\)](#)
- [Private Guardianship for Mentally Disabled Adults and Adults with Developmental Disabilities \(14 VSA Chapter 111\)](#)
- [Voluntary Guardianship 14 VSA 111/2671](#)
- <https://vtethicsnetwork.org/>



# Discussion and Q & A

# Cases/HIPAA

## DO NOT INCLUDE:

- Names
- Address
- DOB
- Phone/Fax #
- Email address
- Social Security #
- Medical Record #



The discussion and materials included in this conference are confidential and privileged pursuant to 26VSA Section 1441-1443. This material is intended for use in improving patient care. It is privileged and strictly confidential and is to be used only for the evaluation and improvement of patient care.



# Case Presentation Format

Case presentation from a participant (a *real-world case, from the field*)

Then

Clarifying questions about the case from group to case presenter

Then

Ideas, suggestions, recommendations from participants

Then

Ideas, suggestions, recommendations from ECHO faculty team

Then

Additional discussion, if any (All)

Then

Summary of case discussion

(course co-directors: Mary Val Palumbo, DNP, APRN, GNP-BC and John Steele Taylor MD)



- RECORDING TO BE STOPPED FOR CASE PRESENTATION



# Questions and Discussion from the group....



The University of Vermont  
LARNER COLLEGE OF MEDICINE  
OFFICE OF PRIMARY CARE & AHEC PROGRAM



# Prep for Next Session

Prior to each session, if you have specific questions for our faculty expert(s), please let us know and we will pass along ahead of time.

**\*\*SESSIONS ARE ON THURSDAYS FROM 7:30AM TO 9:00AM\*\* (3rd Thursday of each month)**

DATES	SESSION	DIDACTIC TOPICS (in addition to case review)
<b>Sep 16</b>	TeleECHO Session 1	<b>Importance of Early Evaluation of Cognitive Complaints</b> (John Taylor, MD, UVMMC Memory Program Co-Director)
<b>Oct 21</b>	TeleECHO Session 2	<b>Living Alone with Dementia – Challenges for PC teams</b> (Mary Val Palumbo, DNP, APRN, GNP-BC, UVMMC Memory Program)
<b>Nov 18</b>	TeleECHO Session 3	<b>Care Giver Supports &amp; Services</b> (John Coffin, MSW; Allegra Miller, Family Caregiver)
<b>Dec 16</b>	TeleECHO Session 4	<b>Dementia and Driving</b> (Heather Zuk, OTR, CDRS, CDI, UVMMC Driver Rehab)
<b>Jan 20</b>	TeleECHO Session 5	<b>Community Programming for People With Dementia and Care Partners</b> (Tiffany Smith, MA, CRTS, CDP, Program Administrator State Unit on Aging)
<b>Feb 17</b>	TeleECHO Session 6	<b>Non-pharmacological approaches to behavioral issues for caregivers</b> (Lori McKenna, MSW, LICSW, UVMMC Memory Program)
<b>Mar 17</b>	TeleECHO Session 7	<b>Legal Issues of Guardianship, Competency and Power of Attorney</b> (Jackie Rogers, PhD, DAIL Public Guardian Program)
<b>Apr 21</b>	TeleECHO Session 8	<b>End Of Life Planning and Palliative Care</b> (Zail S. Berry, MD, MPH, UVMMC Geriatrics)
<b>May 19</b>	TeleECHO Session 9	<b>Managing Behavioral Issues and Sleep – Pharmacological Approaches</b> (Doug Franzoni, PharmD, BCGP, Meds To Beds Supervisor, UVMMC Outpatient Pharmacy. Geriatric Consultant Pharmacist)





## Dementia Clinical Consults

45 min slots available

2<sup>nd</sup> and 4<sup>th</sup> Wednesdays

2- 4 PM

Sign up at: [https://](https://www.signupgenius.com/)

[www.signupgenius.com/](https://www.signupgenius.com/)

[go/5080B4AACAE2FA6FC1-corner](https://www.signupgenius.com/go/5080B4AACAE2FA6FC1-corner)



Or Email :

[Mary.Palumbo@med.uvm.edu](mailto:Mary.Palumbo@med.uvm.edu)

## Diagnosis & Management of Dementia



For Primary Care and other  
healthcare providers.



Online Learning via Vermont  
Health Learn

(CMEs at your own pace)

Register at [https://catalog.vthl.org/  
product?catalog=Dementia-Diagnosis-  
Treatment-Management](https://catalog.vthl.org/product?catalog=Dementia-Diagnosis-Treatment-Management)



# Conclusion

- Slides are posted at [www.vtahec.org](http://www.vtahec.org)
- Volunteers to present cases (this is key to the Project ECHO model)
  - Please submit cases to [Mary.Palumbo@med.uvm.edu](mailto:Mary.Palumbo@med.uvm.edu)
- Please complete evaluation survey after each session
- Once your completed evaluation is submitted, CE information will be emailed to you.
- Please contact us with any questions, concerns, or suggestions
  - [Mary.Palumbo@med.uvm.edu](mailto:Mary.Palumbo@med.uvm.edu)
  - [Elizabeth.Cote@uvm.edu](mailto:Elizabeth.Cote@uvm.edu)

