



Maryland
Hospital Association

March 30, 2020

The Honorable Mary Ellen Barbera
Chief Judge
Court of Appeals of Maryland
361 Rowe Boulevard
Annapolis, MD 21401

Dear Judge Barbera:

In just three days, the number of COVID-19 cases in our state more than doubled.ⁱ The Maryland Hospital Association and our members—all the hospitals of our state—are working non-stop to make room for patients needing treatment for COVID-19 and other serious conditions. Unfortunately, these efforts are stymied because patients across the state are unable to transition from their inpatient beds—despite being medically ready for discharge. Many patients are awaiting a guardianship determination. The inability to move these patients hinders hospitals' ability to handle the surge of COVID-19 patients.

We applaud the measures you have taken to preserve the health and safety of the public and court personnel while balancing the need to continue essential operations such as emergency issues of guardianship. Unfortunately, there is variation across the state for cases of guardianship due to administrative judges' decisions on whether a hearing happens in person or remotely, if it is rescheduled, or can be resolved without a hearing.ⁱⁱ Some jurisdictions are allowing guardianship matters to be handled through virtual hearings, thereby expediting the discharge process. However, other jurisdictions have cancelled hearings until further notice. This puts a strain on patients currently in the hospital, but no longer in need of medical care. Patients should be quickly moved to more appropriate settings, keeping them distanced from COVID-19 patients and freeing up hospital staff to care for critically ill Marylanders.

We respectfully request that you require all courts to hold virtual hearings for emergency issues of guardianship. Five states mandated the use of tele-hearings or tele-conferences broadly.ⁱⁱⁱ In fact, last Monday the Supreme Court of New Mexico amended their initial order that granted judges “expanded discretion to authorize telephonic and audio-visual attendance for court appearances”^{iv} to now *require* the use of telephonic or audio-visual attendance.^v

We also recommend all courts allow cases to be initiated by submitting documentation electronically. Some Maryland courts have set up dedicated email accounts to facilitate this process, but others require documents to be left in a box outside the courthouse. Recognizing the Governor's urging of Marylanders to reduce their travel, plus the inefficiency of this manual process, our hospitals have concerns complying with such procedures.

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We are uncertain when this pandemic will end, but one thing we do know is that we cannot succeed in saving our residents without your support. Please implement these critical changes to ensure the appropriate and safe transition of Maryland's most vulnerable citizens. By doing so, we can preserve space for those who truly need life-saving care within our hospitals.

Sincerely,



Bob Atlas
President & CEO

ⁱ The Office of Governor Larry Hogan. (March 27, 2020). *Maryland Reports 194 New Cases of COVID-19; Cases In National Capital Region More Than Quadruple Over The Last Week*.

<https://governor.maryland.gov/2020/03/27/maryland-reports-194-new-cases-of-covid-19-cases-in-national-capital-region-more-than-quadruple-over-the-last-week/>

ⁱⁱ Court of Appeals of Maryland. (March 25, 2020). *Administrative Order Extending the Length of Statewide Judiciary Restricted Operations Due to the COVID-19 Emergency*.

<https://www.mdcourts.gov/sites/default/files/admin-orders/20200325extendinglengthofrestrictedoperations.pdf>

ⁱⁱⁱ National Center for State Courts. (March 27, 2020). *National Center for State Courts Data Visualizations: Statewide Virtual Hearings*.

<https://public.tableau.com/profile/ncscviz#!/vizhome/StateCourtResponsestoCOVID-19/Story1>

^{iv} Supreme Court of the State of New Mexico. (March 17, 2020). NO. 20-8500-002: In the Matter of Precautionary Measures For Court Operations in the New Mexico Judiciary During the COVID-19 Public Health Emergency.

<https://www.nmcourts.gov/uploads/FileLinks/a6efaf23676f4c45a95fdb3d71caea83/Order No. 20 8500 002 Precautionary Measures for NM Court Operations During COVID 19 Public Health Emergency 3 17 20 .pdf>

^v Supreme Court of the State of New Mexico. (March 23, 2020). NO. 20-8500-006: In the Matter of Additional Precautionary Measures for Court Operations in the New Mexico Judiciary During the COVID-19 Public Health Emergency.

<https://cms.nmcourts.gov/uploads/FileLinks/a6efaf23676f4c45a95fdb3d71caea83/Order No. 20 8500 006 Additional Precautionary Measures for Court Operations 3 23 20 Amending Order No. 20 8200 002 .pdf>