



Maryland Attorney General's
COVID-19 Access to Justice Task Force

MINUTES

Life & Health Planning Committee

September 1, 2020 Meeting

Item	Subject	Time Allotted	Notes
1.	Call to Order, Introductions and Approval of Agenda	5 minutes - JB	<p>Committee Co-Chair Juliana Bell welcomed everyone to the Access to Justice Task Force’s Life and Health Planning Committee meeting. She explained that the Committee is focused on assisting people with Wills, Powers of Attorneys, and Advanced Directives and ensuring that those who have been affected or had problems exacerbated by covid-19 have access to Estate Planning tools.</p> <p>Juliana asked if there were any proposed changes to the agenda. *Julie moved up Angus’s discussion after the meeting minutes discussion.</p> <p>Attendees present at the beginning of the meeting included:</p> <ul style="list-style-type: none"> ● Committee Co-Chair Juliana Bell, Assistant Attorney General ● Committee Co-Chair Danielle Cruttenden, Private Attorney ● Josie Yuzuik, Assistant Attorney General ● Paul Ballard, Assistant Attorney General ● Angus Derbyshire, Maryland Legal Aid pro bono coordinator ● Brenda Gruss, Assistant Attorney General, Criminal Appeals Division ● Bruce Villard, outgoing Chair, Wills for Heroes ● Morris Klein, outgoing chair, MSBA Elder Law; Disability Rights Section

			<ul style="list-style-type: none">● Ron Landsman, Elder law attorney● Shelby McCloskey, law clerk, University of Maryland Law● Margaret Henn, Director, program management, Maryland Volunteer Lawyers Service (MVLS)● Del. Terry Hill, Gov't Ops. Subcommittee, practicing physician● Viola Woolums, Director, Senior Legal Services, Baltimore City● Byron MacFarlane, Register of Wills for Howard County● Tim Chance, Tangled Title Staff Attorney, Maryland Volunteer Lawyers Service (MVLS)● Rexanah Wyse, Chief of Staff, U.S. Interagency Council on Homelessness● Meredith Lathbury Girard, Managing Attorney, Mid-Shore Pro Bono● Allison Harris, Home Preservation Project Director, Pro Bono Resource Center of Maryland● Justin Devault, Chair, Montgomery County Bar Association: Estates & Trusts Section● Marlene Clark, SEEDCO, work and family supports● Matthew Limskey, Elder Law & Disability Rights Section, Maryland State Bar Association.● Perneita Farrar, MSBA Student Ambassador, University of Baltimore, School of Law● Roberto Veloso, Private Practice
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2.	Call for Discussion of Meeting Minutes from 2020.08.18 Meeting	5 minutes - JB	Julie asked if anyone had any changes to last meeting's minutes. *No changes were suggested.
3.	Quantifying the Number of Additional Pro Bono Lawyers Needed to Service L&HP Priority Projects.	5 minutes - AD	<p>Julie introduced Angus, who is the liaison to the Pro Bono and Reduced Fee Legal Services Committee.</p> <p>Angus discussed how the PBRFLS Committee has asked for an estimation of the additional number of volunteer lawyers that may be needed to do the work the Life and Health Planning committee and other committees of the A2JTF are planning. The PBRFLS Committee plans on scaling up the organizations that are already in place to do pro bono and low bono work. Angus discussed the survey he sent out last week and asked everyone to send him the amount of volunteers their organization would need as soon as possible. So far, only MVLS, Legal Aid, and Community Legal Services of Prince George's County (CLS) have responded.</p> <p>Angus recirculated the survey via email during the meeting.</p>
4.	Prioritization of Preliminary L&HP Recommendations to be presented to the Task Force on 9.17 for its Feedback.	25 minutes - DC	<p>Julie provided an update from the Policy and Equity Race Committee, which consists of the co-chairs from the various committees that review the recommendations that will be presented to the Task Force as a whole. On September 17th, co-chairs from each A2JTF committee will present preliminary recommendations to the Task Force and obtain feedback</p> <p>Danielle directed everyone to the document she circulated with a list of legislative proposals the Committee might recommend to the Task Force.</p>

			<p>Danielle first discussed how we've been primarily focusing on small estate solutions that Registers of Wills have proposed or been assisting with.</p> <p>The list currently being discussed may not include all proposed ideas, so Danielle asked if people had any additions to let her know during the meeting. She then discussed the need to prioritize their current legislative ideas, so she asked the Committee to focus on the ideas that they feel strongly about not recommending at this time and removing it from the list.</p> <ul style="list-style-type: none">● The first proposal on the list is <i>No Letters of Administration/No Probate for "small estates"</i> - See Pennsylvania model. Danielle discussed how in Pennsylvania, if one has an estate less than \$10,000 *(i.e. just a bank account with less than \$10,000 or a final paycheck) there is a process where a spouse, a child, a parent, or sibling can go directly to the employer, the bank, the nursing home facility, or so on to get the funds paid directly to that person. Unlike the similar Maryland law that applies to a decedent's estate that consists of no more than 2 cars and a boat worth less than \$5,000, the Pennsylvania law addresses money - a final paycheck, health equity account, bank account or life insurance funds.. The person collecting the funds has to prove that the funeral has already paid for. Comments from Committee members;<ul style="list-style-type: none">○ Concern with the fact that financial institutions have no additional liabilities after the money is dispersed.○ Concern with how the beneficiaries who do not collect the money directly would have to start a legal action against the person who did receive the funds.○ Pro: Allows the person who paid for the funeral to be reimbursed.○ The benefits of this law may not outweigh the problems Danielle discussed.○ Concern with setting up an additional court proceeding that is trying to be avoided.○ What problems are the Registers of Wills experiencing in PA? i.e. fraud or people not paying the bills?
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			<p>navigate the Medicaid process. Currently, the Maryland Power of Attorney form does not include specific kinds of authorities that each agent would need to do to help that principle apply for and receive Medicaid benefits.</p> <ul style="list-style-type: none">● The language should be in both English and Spanish and should be reviewed by the PACE Committee for readability.● Overall, the idea seems feasible, but where would a principal go to get this agent to help them navigate this process? Would the state provide an agent or a nonprofit organization?<ul style="list-style-type: none">○ The principal would choose who they want their agent to be. It is often a spouse or a child or some other trusted family member or friend. The agent is selected by the person who completes and signs the power of attorney document.● Several members expressed their support for this idea.● There is a concern if someone is not a good fiduciary, there is the greater risk of abuse that the gifting authority could be used to harm the principal (this applies not to just these amendments but to the Powers of Attorney generally). <p>**This proposal will remain on the list.</p> <p>Danielle moved to the 7th proposal on the list because several members have already expressed their support for this idea, which is described as <i>Small Probate Estates - The Registers of Wills have drafted proposed legislation to remove the small estate probate fees and bond filing requirements. They are interested in exploring the elimination of the publication of small estate notice in newspapers. The Registers already have notices available for viewing on their website. Legislation would be needed to remove the requirement to publish in a local newspaper.</i></p> <ul style="list-style-type: none">● Danielle asked if there was still consensus to include this idea and if anyone disapproved to speak now or put their disapproval in the chat. *No disapproval was given and this idea will remain on the list. <p>Danielle then discussed the idea that <i>all heirs of an estate receive the homeowner's tax credit.</i> Danielle expressed there was not really a downside to this except that the Comptroller's office might have an</p>
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additional fiscal note if it passes. Danielle asked if anyone had any objections to it. *No objections were made and it will remain on the list.

Danielle moved on to the next idea: *Transfer on Death Deeds - This idea is controversial and likely would not have the support of many estate and trust attorneys in the Maryland bar, unless there was a requirement for attorney certification. Life estate deeds, which also can be used to place a “beneficiary” on a deed, present complicated issues, can have adverse consequences on Medicaid planning if not done correctly. There has also been concern raised about causing title problems and the increase of financial exploitation of the elderly if a TOD off the shelf form is readily available to the public.* Feedback from members;

- Some lawyers on the call shared that they do prepare life estate Deeds, which has the effect of a beneficiary arrangement. Some Ron Landman advises that he has used the TOD deed option for a client in the District of Columbia. The TOD form would be a statutory form.
- Several members had reservations about this idea.
 - Do not like the idea of people not seeking counsel with preparing deeds.
 - Tim is still doing research on this idea.
 - The idea may not be fleshed out enough to present by the September 17th deadline.
- Beneficial in assisting with the transfer of generational wealth.
 - This may not be the right vehicle to address this barrier, but we want to make sure this transfer of wealth is as seamless and cost effective as possible.

*We will keep it on the list to hear from the advocates, but make sure that the Access to Justice Task Force knows that there are caveats that we are looking at.

Danielle then discussed how she would be including the following idea on the list: *Ratification of the Governor’s Executive Order on remote witnessing of Wills, Powers of Attorneys and Advance Medical Directives - the MSBA Estate & Trust Law Section have drafted legislation for the*

			<p><i>2021 legislative session. What, if anything, would be needed from this committee?</i> Feedback from members;</p> <ul style="list-style-type: none"> ● Concerned that the bill requires an attorney to be involved with witnessing electronic Advanced Medical Directives. <ul style="list-style-type: none"> ○ An attorney certification is required during remote witnessing. <p>*We will keep it on the list, but make sure that the Access to Justice Task Force knows that there is concern on the committee regarding the requirement that an attorney be involved and the Committee may have suggested changes to the proposed bill.</p>
5.	Community Outreach Subcommittee Update – Town Hall Meetings	10 minutes - JY	<p>Julie asked Josie to provide an update on the town hall meetings.</p> <p>Josie began by discussing that the community outreach subcommittee held its last meeting on August 25th and spent a good part of that meeting discussing the legislative proposals and the outreach event that it is planning. Josie then provided a brief background on how the outreach event has evolved. She discussed how the Subcommittee had come to a consensus that it wished to hold a general town hall type forum where people could provide their stories and/or the challenges they have experienced in terms of life and health planning during the pandemic. She then discussed the need to partner with a community-based organization and stated that we had talked about doing that with BUILD. Josie will reach out to connect with BUILD.</p> <p>Josie then informed the Committee that the Resource Development Subcommittee was close to finalizing their Handbook and could present the Resource Directory and Handbook during the town hall meeting.</p> <p>She discussed how the Task Force held its first town hall event on August 31st and asked if anyone else had tuned into that town hall meeting.</p> <p>Feedback of yesterday’s town hall event;</p> <ul style="list-style-type: none"> ● The L&HP Committee could use experts during the Q&A portion of the event to answer the public’s questions.

			<ul style="list-style-type: none"> • The powerpoint was easy to follow and the L&HP Committee could do something similar. • The town hall was really well done and the presentation was easy to follow. • If the L&HP Committee wants to do more of a feedback session, it will need to make sure the platform allows for it. • Have more time for Q&A. • The L&HP Committee should incorporate satellite locations during their town hall meeting to encourage more interaction during the session. <p>*Brenda will circulate the Youtube link to watch the recording of the town hall meeting.</p>
6.	Public Comment Period and Adjourn	10 minutes - JB	<p>Julie invited the individuals who are on the call but not on the Committee to provide comments on today's discussion *No additional comments were made by non-committee members.</p> <p>Julie thanked everyone for joining and stated that the next full-committee meeting would be two weeks from today at 9am.</p>

Guide:

AD = Angus Derbyshire, Liaison to Pro Bono and Reduced Fee Legal Services Committee

DC = Danielle Cruttenden, Co-Chair

JB = Juliana Bell, Co-Chair

JY = Josie Yuzuik, Community Outreach Subcommittee Facilitator