



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

MINUTES

Life & Health Planning Committee Meeting September 29, 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.</p> <p>Juliana asked if there were any proposed changes to the agenda. *No changes were made.</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• Angus Derbyshire, Maryland Legal Aid pro bono coordinator• Brenda Gruss, Assistant Attorney General, Criminal Appeals Division

			<ul style="list-style-type: none">● Morris Klein, outgoing chair, MSBA Elder Law; Disability Rights Section● 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● Tim Chance, Tangled Title Staff Attorney, Maryland Volunteer Lawyers Service (MVLS)● Rexanah Wyse, Chief of Staff, U.S. Interagency Council on Homelessness● Allison Harris, Home Preservation Project Director, Pro Bono Resource Center of Maryland● Roberto Veloso, Private Practice● C.P. Hoffman, Legal Director, FreeState Justice● Jessica Quincosa, Executive Director of Community Legal Services● Karren Pope-Onwukwe, Attorney, Law Offices of Karen Pope-Onwukwe, LLC● Meredith Lathbury Girard, Managing Attorney, Mid-Shore Pro Bono● Wanda Calvin Caliboor, Executive Director of Bar Association of Montgomery County● Jade McClary, Staff Attorney, Pro Bono Resource Center of Maryland● Marlene Clark, SEEDCO, work and family supports
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2.	Call for Discussion of Meeting Minutes from 2020.09.15 Meeting.	2 minutes - JB	<p>Julie asked if anyone had changes to the minutes. **No changes were made.</p>
3.	<p>Update on the September 29th Listening Session</p> <ul style="list-style-type: none"> i. English Listening Session at 6:00 p.m. ii. Spanish Listening Session at 7:30 p.m. 	5 minutes - JY	<p>Julie invited Josie to provide an update on tonight's listening session.</p> <p>Josie explained that during the last Community Outreach Subcommittee meeting, the subcommittee members worked to finalize the flyers promoting the listening session. Josie thanked Brenda and Delegate Hill for staying after to finalize the wording for the flyer. Josie explained that the flyer has since been publicized and asked that everyone put a reminder out to their networks about tonight's event (English at 6pm and Spanish at 7:30pm). Josie and Julie thanked all those who have helped put on this event, especially tonight's moderators.</p>
4.	Prioritization of the L&HP Recommendations	40 minutes - DC, JB	<p>Julie explained to the Committee members that our deadline for our final recommendations has moved up to this Friday, October 2nd. Julie stated that we will be able to update our recommendations after the listening sessions if we learn new information. Julie then discussed how we now need to prioritize our recommendations and answer the new questions provided by the Task Force. Julie stated that some members have been asked to assist in writing answers to these new questions and to keep an eye out for an email from her, Danielle, and/or Josie.</p> <p>Julie explained that the focus of today's call will be on prioritizing the recommendations and determining if there</p>

		<p>is anything on our preliminary recommendations that we do not want to pursue.</p> <p>Josie began with the Transfer on Death deeds. Danielle explained that a ToD deed is a statutory form deed that can be done without consulting an attorney and gets recorded in land records. The beneficiary of the property obtains ownership upon the homeowner's death. One benefit of this type of deed is that it is a cost-effective way for a homeowner to pass along their most valuable asset without incurring the expense of probate or hiring a lawyer. The negative is that it may be easily susceptible to abuse, meaning that a homeowner could easily just sign a document put before them, thereby signing away their most valuable asset to a person that they did not intend. Danielle explained that the Estates and Trusts Section of the Maryland Bar Association has not decided to move forward on this statutory form deed, because they believe it is better for attorneys to be involved in this process and Maryland already has a deed that accomplishes the same thing, a Life Estate Deed. Victoria Heyliger reached out to a title company and was told that some jurisdictions are still requiring probate to be opened before a title company will allow the transfer to occur, and therefore, are ignoring the ToD deeds. Julie opened up the discussion to the Committee members to determine if this should remain on the list, and if so, how should it be prioritized. Discussion:</p> <ul style="list-style-type: none">• In D.C., ToD deeds can be recorded without a clean lien record. More research needs to be done to determine if this is just for ToD deeds and what other jurisdictions do this. If we adopted the statute and it would not require a clean lien certificate, then it would decrease a major barrier people face.
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			<ul style="list-style-type: none">● There is concern with older adults being taken advantage of with ToD Deeds.<ul style="list-style-type: none">○ Some states, like Ohio, require designation and confirmation affidavits to be completed with the ToD Deed.○ Some prefer to make the ToD deed available in Maryland, but strongly urge for education and assistance with these deeds.● Several members agreed that it is important to get title insurers on board.● It's premature at this time to deal with the ToD deeds.● Some members are not opposed to taking it off the list, or at least, putting it last until we have more research on it.<ul style="list-style-type: none">○ Some members expressed that their clients would benefit from ToD deeds due to the current clean lien certificate requirement● Some members still believe that it should stay on because our other recommendations do not address the transfer of property. We should keep it on and work with the title insurers to see how it can be successful.● We have identified a problem/barrier that we need to address. ToD Deeds may be the solutions or they may not. We could also look into reforming the life estate process. In the recommendation form, we could focus on identifying the problem and saying we need to do more research on the potential solutions. <p>**Following discussion, the Committee decided by consensus to keep the ToD deed on the list of recommendations and discuss the oppositions in the</p>
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		<p>issues and the research he and his colleagues have done.</p> <p>Discussion on these recommendations:</p> <ul style="list-style-type: none">● Since these initiatives will be funded by increasing the probate fees for larger Estates, we should note that in our report. <p>**The Committee decided by consensus to keep these recommendations on the list.</p> <p>Julie asked Danielle to provide an overview on the recommendation regarding the ratification of remote witnessing and notarization. Danielle explained that the governor issued an executive order allowing for remote signing so long as there is a supervising attorney who then prepares a certificate to say that they oversaw the entire process. The purpose of this legislation is to ensure that any of those documents that were executed in accordance with the governor's order are ratified. Danielle stated that she is looking into whether or not there could be an elimination of the requirement for this supervising attorney certification with medical directives. Danielle asked if we want to propose some new legislation that would allow remote execution of medical directives without the supervising attorney.</p> <ul style="list-style-type: none">● One already has the ability to do an AD online (MyDirective). <p>**No concerns were made regarding removing it from the list. Following discussion, the Committee decided by consensus that this recommendation will remain on the list.</p> <p>Julie then asked the Committee members to help prioritize the recommendations.</p> <ul style="list-style-type: none">● Several members posted their votes in the chat.
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5.	Public Comment Period and Adjourn	8 minutes - JB	<p>Julie thanked everyone for their hard work and continued commitment.</p> <p>The next L&HP meeting will be October 20th at 9am, the Tuesday after the October 15th Task Force Meeting.</p>

Guide:

DC = Danielle Cruttenden, Co-Chair

JB = Juliana Bell, Co-Chair

JY = Josie Yuzuik, Community Outreach Subcommittee Facilitator