



March 30, 2020

(via email through Diane.Frazier@pacourts.us)

The Honorable Thomas G. Saylor, Chief Justice
Supreme Court of Pennsylvania
Fulton Building, 16th Floor
200 North Third Street
Harrisburg, PA 17101

Re: Response to request from the Pennsylvania Association for Justice and the Pennsylvania Defense Institute

Dear Chief Justice Saylor:

We the undersigned organizations are writing to you in response to a letter sent to you by the Pennsylvania Association for Justice and the Pennsylvania Defense Institute (the Petitioners). It has come to our attention that your Court may be deciding this week whether pre-trial civil proceedings against healthcare practitioners and providers may continue during the COVID-19 pandemic. We would like to offer our stance on this matter and to request that this Court suspend all pre-trial proceedings against healthcare practitioners and providers, as well as other healthcare professionals (including administration and staff), for a period of 90 days or until the Governor lifts the emergency declaration for the COVID-19 response.

We understand that the judicial branch is a separate and equal branch of the government, and that irrespective of the disaster declaration issued by Gov. Wolf, the judicial branch may decide to continue civil litigation proceedings against health care practitioners. However, we would argue that this is a time when all branches of government must come together and recognize the new reality that we as a Commonwealth are facing.

Respectfully, the Petitioners refer to the tremendous economic pressures that trial lawyers are facing during this pandemic. With all due respect to them, the entire Commonwealth is facing economic pressures, and this fact should not serve as the impetus to allow civil litigation to continue as though we are not dealing with this horrific pandemic. We, as healthcare providers, are not immune to the economic pressures being felt, as many private practice offices are faced with the prospect of having to reduce staff or close their offices entirely and hospitals and healthsystems are



canceling elective surgeries and making enormous investments to deal with the anticipated surge of COVID-19 patients.

As you are aware, the New Jersey Supreme Court has suspended, for approximately 30 days, depositions of, and all required appearances for, any doctors, nurses, or other healthcare professionals who are involved in the COVID-19 health emergency except for specific instances. New Jersey has recognized the need to allow healthcare professionals to focus on this pandemic for the near future and to not be distracted or have their time taken away by other matters such as pre-trial proceedings. We feel that 30 days is not enough time, and rather than revisiting this issue in one month, we are asking this court to consider a longer timeframe.

We are asking this Court to likewise suspend pre-trial proceedings for a time period, but not just for frontline practitioners. Those on the second line and beyond should be provided this reprieve as well. Even practitioners and providers not in areas largely affected by the Governor’s closure order are indispensable at this time, as they also are dealing with medical supply shortages, layoffs, debt, trying to implement telehealth, and a myriad of other issues. Moreover, trying to parse out who is truly “involved” in this pandemic is not as simple as it sounds; all healthcare practitioners and providers are involved, whether directly or indirectly.

Healthcare in Pennsylvania needs to be focused on healthcare right now. Financial implications of law firms should not take precedence over this health crisis that we are all confronting. Practitioners are stressed, scared, being asked to perform in situations unimaginable, all while worrying about their own health and safety. At this time, practitioners should not be taking time away from caring for people to meet with lawyers, prepare for depositions, and be questioned about a case that is not at the forefront of their minds right now.

We are not minimizing any plaintiff’s allegations against a practitioner or provider, nor are we seeking dismissal of any claims. We are simply asking that the Court recognize these unprecedented times and provide a temporary cessation of proceedings against practitioners and providers. The more practitioners can focus on this pandemic, the better the Commonwealth will be.

The Petitioners argue the constitutional provision that the courts shall be open. This Court has recognized that in these times, that provision is not black and white. The courts can still be open. Complaints and responses can be filed electronically, attorneys can still speak to each other about cases, and general motions practice can proceed. All sides need to recognize that business cannot continue as usual and it would be disappointing for the judiciary to not provide this short-term relief.



Pennsylvania Chapter



As Secretary of Health Rachel Levine has indicated throughout this pandemic, we cannot distract from the imperative at hand which is to save and protect the lives of the citizens of Pennsylvania. In a time when Secretary Levine, per Gov. Wolf's order, is urging every citizen in the Commonwealth to "stay calm, stay home, stay safe," we cannot ignore the critical role of physicians and all healthcare practitioners who are putting their lives on the line to affect matters of life and death.

On behalf of healthcare practitioners and providers across the Commonwealth, thank you for considering our request of this short-term relief to the very individuals working tirelessly on the frontlines and behind the scenes to mitigate this pandemic.

Respectfully,

The Pennsylvania Medical Society

The Hospital and Healthsystem Association of Pennsylvania

Bucks County Medical Society

Dauphin County Medical Society

Erie County Medical Society

Montgomery County Medical Society

Chester County Medical Society

Cumberland County Medical Society

Delaware County Medical Society

Lancaster County Medical Society

Lehigh County Medical Society

Northampton County Medical Society

Philadelphia County Medical Society

PA Chapter of the American College of Physicians

PA Chapter of the American College Obstetricians and Gynecologists

Pennsylvania Rheumatology Society

Pennsylvania Society of Anesthesiologists

Pennsylvania Society of Oncology and Hematology

Robert H. Ivy Society Plastic Surgery Society

Washington County Medical Society

Pennsylvania Chapter of the American Academy of Pediatrics

Pennsylvania Academy of Dermatology and Dermatologic Surgery

Pennsylvania Academy of the Family Physicians Foundation

The Pennsylvania Academy of Otolaryngology – Head and Neck Surgery

Pennsylvania Association of Pathologists

Pennsylvania Psychiatric Society

Pennsylvania Ambulatory Surgery Association

Pennsylvania Health Care Association

The Pennsylvania Society for Post-Acute and Long-Term Care Medicine

Pennsylvania Osteopathic Medical Association