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June 28, 2021

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The Honorable Janet DiFiore  
Chief Judge of the State of New York  
New York State Unified Court System  
25 Beaver Street  
New York, NY 10004

The Honorable Lawrence K. Marks  
Chief Administrative Judge  
State of New York Unified Court System  
25 Beaver Street  
New York, NY 10004

Dear Chief Judge DiFiore and Chief Administrative Judge Marks:

The Healthcare Association of New York State, on behalf of our member nonprofit and public hospitals, nursing homes, home health agencies and other healthcare providers, strongly urges the Unified Court System to continue allowing providers to use video technology for Mental Hygiene Law proceedings beyond the expiration of the COVID-19 public health emergency.

The state has made tremendous progress in its battle against the COVID-19 pandemic, as reflected in continuous declines in transmission and hospitalization rates. When combined with increasing vaccination rates, there is reason for optimism that court proceedings will soon more readily occur in person.

But important lessons were learned from the COVID-19 pandemic. While Administrative Order 72 (effective March 20, 2020) and Administrative Order 144 (effective May 11, 2021) were initially promulgated to minimize the risk of COVID-19 transmission, “tele-court” and “tele-remote” hearings have provided immeasurable value to both patients and providers and should be allowed to continue.

For patients, remote hearings have minimized disruptions to treatment and progress toward recovery. They have been able to avoid unnecessary stressors associated with travel and exposure to unfamiliar settings. Instead, they can remain in a stable, therapeutic environment with immediate access to emergency interventions only available in the hospital. The risk of elopement and harm to self or others presented by removing acutely ill patients from the safety of the hospital has also been eliminated.

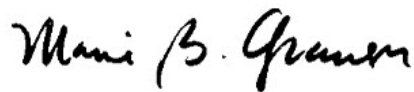
For hospitals, the benefits have been equally important. Historically, physicians, nurses, social workers, security and other staff have accompanied patients and/or appeared in court for what may be a full day in many cases. This has exacerbated workforce shortages and increased travel and labor costs. By remaining onsite at the hospital, psychiatrists and other clinicians are more readily available to treat patients and focus on their care. This is particularly important given the rise in behavioral health needs in the wake of COVID-19.

Hospitals have also been able to minimize or fully eliminate technological issues associated with virtual proceedings. For example, they have put in place creative solutions to engage patients and families, such as a “court room” within the facility.

HANYS firmly believes that flexibility to continue virtual MHL hearings will help ensure that patients have a best chance at recovery. We welcome the opportunity to work together to achieve our shared goal of protecting patients’ due process rights, while also ensuring their safety.

If you have questions, please contact Sandi Toll, general counsel, at [stoll@hanys.org](mailto:stoll@hanys.org) or (518) 431-7838 or Victoria Aufiero, senior director, insurance, managed care and behavioral health, at [vaufiero@hanys.org](mailto:vaufiero@hanys.org) or (518) 431-7889.

Sincerely,



Marie B. Grause, RN, JD  
President

cc: Commissioner Ann Sullivan, OMH  
Mark Noordsy, OMH General Counsel