



marylandnonprofits.org

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Remote Board Meetings During COVID-19 Pandemic

The Center for Disease Control (CDC) has published interim guidance for businesses and employers to reduce the spread of COVID-19 by managing risks of potential exposure. One measure the CDC is recommending is social distancing (remaining out of congregate settings, avoiding mass gatherings, and maintaining distance from others when possible). However, nonprofit boards must continue to govern, and meetings may be even more critical for direct service providers during these difficult times. It is important to understand what your bylaws provide for remote meetings, and how Maryland law should guide your bylaws.

To facilitate remote participation in Board meetings, Maryland Nonprofits' **Model Bylaws** provide as follows:

Telephone and Electronic Participation: Directors may participate in Board meetings and vote on matters discussed therein, by means of a conference telephone or similar communications equipment by means of which all persons participating in such meeting can hear each other at the same time. **Participation by such means shall constitute in person presence of the Director at the meeting.**

Action without Meeting: Any action which may be properly taken by the Board assembled in a meeting may also be taken without a meeting, if **unanimous consent in writing setting forth the action taken is signed by all of the Directors** entitled to vote with respect to the action. Such consent shall have the same force and effect as a vote of the Directors assembled and shall be filed with the minutes.

These provisions track the language of Maryland law related to board meetings. See:

MD Corporations & Associations §2-409, which provides for **Meetings of Directors:**

- (a) Place of meeting; remote communication.- Unless the bylaws of the corporation provide otherwise, a regular or special meeting of the board of directors may be held at any place in or out of the State or by means of remote communication...
- (d) Telephone meetings.-
 - (1) Unless restricted by the charter or bylaws of the corporation, members of the board of directors or a committee of the board may participate in a meeting by means of a conference telephone or other communications equipment if all persons participating in the meeting can hear each other at the same time.
 - (2) Participation in a meeting by these means constitutes presence in person at the meeting.

Further, MD Corporations & Associations §2-505 provides for **Informal Action by [Directors]:**

- (a) Actions by unanimous consent. -- Except as provided in subsection (b) of this section, any action required or permitted to be taken at a meeting of the [directors] may be taken without a meeting if a unanimous consent which sets forth the action is:
 - (1) Given in writing or by electronic transmission by each [director] entitled to vote on the matter; and
 - (2) Filed in paper or electronic form with the records of [director's] meetings...

Essentially, your board can meet remotely using telephone conferencing or other technology (Skype, zoom, etc.), as long as everyone can speak and be heard simultaneously (as if meeting in person). Additionally, the board can act without meeting as long as the vote is unanimous and recorded in writing.

