

**CBA TRUST AND ESTATE SECTION
STATUTORY REVISIONS COMMITTEE
AGENDA**

October 19, 2017

- 1. Introductions**
- 2. Approval of September 14, 2017 Minutes**
- 3. Announcements**
- 4. SRC Approved Proposals**
 - a. Active Matters - Work to Finalize Required**
 - (i) Deposit of Original Documents Subcommittee (Timothy Bounds, Co-Chair, and Peter W. Bullard, Co-Chair)**
 - (ii) Public Administrator Subcommittee (Melissa R. Schwartz, Chair)**
 - (iii) UTC Subcommittee (Dennis N. Whitmer, Chair)**
 - b. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons**

None.
- 5. Legislative Report – Jeremy Schupbach**
- 6. Unapproved Matters under Consideration by SRC - Reports from Subcommittees**
 - a. Uniform Directed Trust Act Subcommittee (Kevin Millard, Co-Chair, and Kelly Cooper, Co-Chair)**
 - b. Legislation Review Joint Subcommittee (Michael D. Holder, Chair)**
 - c. Proposed Amendment to Comply with IRC 1.643(a)(3) (Eugene P. Zuspann, Chair)**

- d. **Advance Legislative Response Team (Spencer J. Crona, Chair)**
 - e. **ADR Legislation (C. Jean Stewart, Chair)**
7. **Inactive Matters**
- a. **Authorize Revisor to Publish Comments to Uniform Acts (Sonny Wiegand, Co-Chair, and Susan L. Boothby, Co-Chair)**
8. **Report from Elder Law Section – Arlene Barringer**
9. **Report from Other Sections of the Bar**
10. **New Matters**
11. **Passed Proposals for Inclusion in Omnibus Bill or Stand Alone Legislation**
- a. **Bankruptcy/Inherited IRAs (approved in 2015-2016)**
 - b. **Changes to the Uniform Power of Appointment Act (approved in 2015-2016)**
 - c. **Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016)**

**CBA TRUST AND ESTATE SECTION
STATUTORY REVISIONS COMMITTEE
MINUTES**

September 14, 2017

1. Welcome and Introduction

Leia Ursery called the meeting to order at 1:39 p.m. There were welcome and introductions from members in attendance and on the phone. Leia reminded all those in attendance to be sure to update their contact info on the attendance sheet if it is incorrect for any reason.

2. Approval of Minutes

The minutes from the August 17, 2017 of the Statutory Revisions Committee (“SRC”) were unanimously approved.

3. Announcements

Kelly Dickson Cooper asked all subcommittees that normally conduct their meetings at the CBA offices to inform Elizabeth Akalin as soon as possible if a meeting space will not be needed in any given month; there have been a number of instances of reserved space but no meeting.

David Kirch said he still needs articles and article topics for the Colorado Lawyer.

Michael Kirtland announced that a second opinion on C.R.P.C. 1.14 will be published on September 16, 2017 and provided background on the same. The Ethics Committee will start taking up advisory opinions on the Rule, which are unofficial guidance to practitioners on ethical probate practice, but it will be some time before any official guidance is issued.

4. SRC Approved Proposals

a. Deposit of Original Documents Subcommittee – Pete Bullard and Tim Bounds (Co-Chairs)

Pete and Tim updated SRC that the subcommittee will be meeting with the Secretary of State (“SOS”) and Judicial to discuss the issues in the SOS’s memorandum. Pete and Tim plan to present the issues formally to SRC at the October meeting in an effort to get further feedback from Committee members. The primary concern appears to be whether SOS should have the authority to destroy original estate planning documents.

b. Public Administrator Subcommittee – Melissa Schwartz (Chair)

Melissa updated the Committee that the audit of Public Administrators has been issued, but has not been publicly disseminated yet. Melissa also informed SRC of the upcoming hearing on the Legislative Service committee on Monday, September 18, 2017 at 10:00 a.m. At that hearing, the auditors will present their reports, and the Judiciary Committee will then issues their responses to the audit reports. Melissa is planning to attend the hearing on Monday, and will update SRC in October.

c. UTC Subcommittee – Dennis Whitmer (Chair)

Darla Daniel will be presenting the proposed Colorado Trust Code (“CTC”) to the Elder Law Section of the CBA in October. The Business Law Section of the CBA is still reviewing the proposed CTC. David Kirch updated SRC that the Real Estate Section of the CBA approved (or will be approving) the proposed CTC. Jeremy Schupbach will be circulating the proposed CTC to other interest groups in October.

Steve Brainerd also updated SRC regarding the question of whether the proposed CTC will be submitted for approval by the Colorado Uniform Law Commissioners or if it will be submitted through the CBA. Steve said a decision on that will be coming soon, and Jeremy Schupbach is working with the Committee to come to a final resolution on which avenue to take. Steve also updated SRC that the Uniform Law Commission is reviewing the proposed CTC; the proposed CTC must contain at least 85 percent of the UTC provisions to be considered uniform.

5. Legislative Update – Steve Brainerd substituting for Jeremy Schupbach

Steve updated SRC that the Colorado Uniform Law Commission will be meeting on September 22, 2017 to set agenda items for the upcoming year. Tentatively, the agenda for the upcoming year will include the Uniform Directed Trust Act and the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act but we are requesting additional time to review such proposed acts before they are presented for approval.

Steve specifically addressed the Revised Uniform Law on Notarial Acts that passed during the last session of the Colorado General Assembly. Several sections of the CBA have formed a working group to review the Act and suggest improvements.

6. Unapproved Matters Under Consideration by SRC & Subcommittee Reports

a. Uniform Directed Trust Act – Kevin Millard (Co-Chair) and Kelly Dickson Cooper (Co-Chair)

Kelly announced the Subcommittee meets every Super Thursday at 9:00 a.m. Kelly said the Subcommittee has completed its review of one-half of the Act, in its current form, so far and hopes to have a final draft of the Act in October.

b. Legislative Review Joint Subcommittee – Michael D. Holder (Chair)

No report.

c. Proposed Amendment to Comply with IRC 1.643(a)(3) – Eugene P. Zuspann (Chair)

No report. Gene will have a report for SRC in October or November.

d. Advance Legislative Response Team – Spencer J. Crona (Chair)

Spencer Crona reported that it is very likely the Uniform Directed Trust Act and the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act will be introduced during the upcoming legislative session.

Kelly Dickson Cooper updated SRC that the Real Estate Section is taking the lead on a sample LLC operating agreement for use in the Address Confidentiality Program that is being pursued by Representative Carver. Leia Ursery indicated there are other issues, such as finding an agent for service of process when registering an LLC and complying with current lending standards. There are no other meetings scheduled. The LLC issue will need to be resolved before moving forward.

e. ADR Legislation – C. Jean Stewart (Chair)

The Subcommittee meets during SRC. The Subcommittee is going to finalize a survey to circulate to Trust and Estate Section members to get feedback on ADR provisions in estate planning documents. The Subcommittee is currently focused on the UTC and the proposed CTC provisions regarding ADR and is working with the Orange Book Committee to draft ADR language to include in the Orange Book forms.

7. Inactive Matters

a. Authorize Revisor to Publish Comments to Uniform Acts – Sonny Wiegand (Co-Chair) and Susan L. Boothby (Co-Chair)

Catherine Seal updated SRC that a compromise was reached. The default rule would be that no official or Colorado comments will be published as part of Uniform Acts. This may be addressed at the meeting of the Uniform Law Commission on September 22, 2017. Leia Ursery and Arlene Barringer will attend that meeting and report back to SRC in October.

b. HSA Funds Subcommittee – Gordon Williams (Chair)

No report.

8. Report from Elder Law Section – Arlene Barringer

Arlene recapped the Elder Law Retreat, which was held in Breckenridge in late August. The retreat had over 200 attendees this year. The retreat will be held in Vail next year on the weekend before Labor Day.

Arlene announced a half-day CLE on conservatorship reports and audits that will be held at the Arapahoe County Courthouse; it will be hosted by Arapahoe “probate team” as well as the State Court Administrator’s office. The fee to attend is \$25-\$35, and the CLE will be held on Tuesday, October 26, 2017. Arlene announced there will be another upcoming CLE based on the chapters in the Senior Law Handbook; it will be in a Ted Talk format.

Arlene updated SRC that the Office of Public Guardianship Pilot Program, which passed the Legislature in 2017, is in need of funding and sponsors. Shari Caton is leading the effort to seek fundraising. Marco Chayet was appointed by Governor Hickenlooper to serve on a committee for the program.

Darla Daniel will be presenting the proposed CTC to the Elder Law Section in October.

Arlene mentioned that the Senior Law Handbook needs sponsors for the 2018 edition since the CBA will not be able to sponsor the handbook going forward.

9. Report from Other Sections

No reports.

10. New Matters

Catherine Seal updated SRC that Michael Kirtland will attend the October drafting meeting on electronic wills as a NAELA representative.

Leia Ursery adjourned the meeting at 2:09 p.m.

Respectfully submitted,

Tim Bounds