

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

**March 2, 2022**

**1. Introductions**

**2. Approval of January 5, 2022 Minutes**

**3. Approval of February 2, 2022 Minutes**

**4. Announcements**

**a. *Email List.*** If you did not receive the SRC materials in an email from Emma then you are not on the SRC email list. Email Jonathan (JHaskell@wadeash.com.) and he'll add you to the email list.

**b. *Adoption of Notary Program Rules***

**i.** See attached Notice of Permanent Adoption of Notary Program Rules 8 CCR 1505-11

**5. Legislative Report**

**6. SRC Proposals**

**a. Active Matters Pending SRC Approval**

**i.** Amendment to Personal Representative Priority Statute, C.R.S. § 15-12-203(4) to include Agent under power of attorney who is granted "hot power" to remove and appoint fiduciaries (Gordon Williams)

**b. Inactive Matters Approved by SRC and Status**

**i. Disclosure of Fiduciary Fees §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016) (Gordon Williams);**

**1.** Probate Trial and Procedure has no objections. Information of Appointment form needs to be updated by Supreme Court. Dylan will coordinate with PTP on the form.

**ii. Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Chairs)**

**1.** Bill for the UPC 2019 Revisions has been introduced as SB092 sponsored by Sen. Gardner of the Colorado Uniform Law Commissioners. SB 092 will be presented to the Judiciary Committee on February 16, 2022.

**c. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons**

**i. Colorado Electronic Preservation of Abandoned Estate Planning Documents Act Subcommittee (Pete Bullard, Chair)**

1. The language that SRC approved was much broader (7 categories of estate planning documents) than the State Court Administrator was able to achieve (one category- Wills). Essentially the State Court Administrator created a pilot program which will be implemented on January 1, 2023 (when funding comes in) and the pilot program will only deal with Will.

2. This matter will remain on Inactive Matters until the pilot program is complete so that SRC can readdress whether to attempt to reincorporate the broader definition and whether the 6 other categories should be restored to the Act by amendment.

**d. Inactive Matters Pending SRC Approval - Reports from Subcommittees.**

**i. Child Support in Probate Subcommittee (Pat Mellen, Chair)**

**ii. Lodged Wills- Investigate issues with lodging wills and the return of lodged wills. (Bette Heller)**

**iii. Beneficiary Deeds Statute Update re Named Insureds for Casualty Coverage (Carl Stevens)**

**iv. Uniform Cohabitants Economic Remedies Act (Connie Eyster)**

**v. Uniform Community Property Disposition at Death Act (Connie Eyster)**

**7. Report from Other Sections of the Bar**

- a. Elder Law
- b. Other Sections of the Bar

**8. New Matters**

**9. New Matters**

a.

**10. Passed Proposals for Inclusion in Omnibus Bill or Stand Alone Legislation**

**a. Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Chairs)**

**i. Bill for the UPC 2019 Revisions has been introduced as SB092 sponsored by Sen. Gardner of the Colorado Uniform Law Commissioners.**

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

**February 2, 2022**

**1. Introductions**

Chair, Dylan Metzner, called the meeting to order at 1:31 pm.

We are still meeting via Zoom, there is an option to meet in person or virtual for 2022. Please participate however you feel most comfortable. Dylan and Jonathan will plan to be here in person.

**2. Approval of January 5, 2022 Minutes**

To occur at March meeting.

**3. Announcements**

**a. *Email List.*** If you did not receive the SRC materials in an email from Emma then you are not on the SRC email list. Email Jonathan (JHaskell@wadeash.com.) and he'll add you to the email list.

**b. *Adoption of Notary Program Rules***

i. See attached Notice of Permanent Adoption of Notary Program Rules 8 CCR 1505-11. Ms. Kryda attended hearing and noted questions had to deal with cultural sensitivity and some other logistical questions. No updates for SRC.

**4. Legislative Report**

Mr. Tyler Mousney is the new legislative liaison. He was unable to attend. Mr. Metzner reported that the UPC Bill was introduced as SB092 sponsored by Mr. Gardner. Mr. Brainerd said the Bill will be presented on February 16 to the judiciary committee and Ms. Daniel will present on behalf of the bar.

**5. SRC Approved Proposals**

**a. Active Matters**

**(i) Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016) (Gordon Williams);**

Probate Trial and Procedure has no objections. Information of Appointment form needs to be updated by Supreme Court. Dylan will coordinate with PTP on the form.

**(ii) Amendment to Visitor Reporting Statute, C.R.S. § 15-14-113.5 (Gordon Williams);**

Elder Law opposes the proposed language. Based upon this there is no reason to proceed on the Visitor Reporting Statute. This item will be removed from the agenda.

**(iii) Amendment to Personal Representative Priority Statute, C.R.S. § 15-12-203(4) to include Agent under power of attorney who is granted “hot power” to remove and appoint fiduciaries (Gordon Williams).**

*Proposed language:* 15-12-203(4.5) If no conservator or guardian is acting, then an agent who is authorized under a financial power of attorney to nominate a fiduciary in accordance with 15-14-724(1)(g)(ii), C.R.S., may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the principal would have if qualified for appointment.

Modified Proposal 1:

If no conservator or guardian ~~is acting~~ *has been appointed*, then an agent who is authorized under a financial power of attorney to nominate a fiduciary in accordance with 15-14-724(1)(g)(ii), C.R.S., may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the principal would have if qualified for appointment.

Modified Proposal 2:

If no conservator or guardian ~~is acting~~ *has been appointed for a principal who has executed a financial power of attorney*, then an agent who is authorized under ~~a~~*the* financial power of attorney to nominate a fiduciary in accordance with 15-14-724(1)(g)(ii), C.R.S., may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the principal would have if qualified for appointment.

The above is new language that SRC needs to approve which takes into account the possibility that a Conservator or Guardian is serving and the protected person also has a financial power of attorney that is still effective.

Please review the above 3 options and we will vote on this at the March meeting.

**b. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons**

**(i) Colorado Electronic Preservation of Abandoned Estate Planning Documents Act Subcommittee (Pete Bullard, Chair)**

- a.** The language that SRC approved was much broader (7 categories of estate planning documents) than the State Court Administrator was able to achieve (one category-Wills). Essentially the State Court Administrator created a pilot program which will be implemented on January 1, 2023 (when funding comes in) and the pilot program will only deal with Wills.
- b.** This matter will remain on Inactive Matters until the pilot program is complete so that SRC can readdress whether to attempt to reincorporate the broader definition and whether the 6 other categories should be restored to the Act by amendment.

**c. Inactive Matters Approved by SRC and Moving Forward**

**(i) Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels)**

This was approved by SRC, Council, and LPC in January 2022. It is part of SB092 sponsored by Sen. Gardner of the Colorado Uniform Law Commissioners. The Bill will be presented on February 16 to the judiciary committee and Ms. Daniel will present on behalf of the bar.

**6. Unapproved Matters under Consideration by SRC - Reports from Subcommittees**

**a. Child Support in Probate Subcommittee (Pat Mellen, Chair)**

**b. Lodged Wills- Investigate issues with lodging wills and the return of lodged wills. (Bette Heller).**

**c. Beneficiary Deeds Statute Update re Named Insureds for Casualty Coverage (Carl Stevens).** Ms. Lindsay Andrews mentioned that Keith Lapuyade presented to Probate Trial and Procedure this morning regarding insurance issues. Mr. Stevens will reach out to Mr. Lapuyade regarding his research. Mr. Metzner will reach out to business law section to see their thoughts on this issue and coordinate with Mr. Stevens.

**d. Uniform Cohabitants Economic Remedies Act (Connie Eyster).** Joint committee with family law section. Meets right after SRC on first Wednesday.

**e. Uniform Community Property Disposition at Death Act (Connie Eyster).** This committee has met 2 times and there are only 10 sections. Meets at 11am on first Wednesday.

7. **Inactive Matters**

8. **Report from Elder Law Section**

None

9. **Report from Other Sections of the Bar**

Thank you to Mr. Thiessen for his case law update and all his hard work to the bar.

10. **New Matters**

a.

11. **Passed Proposals for Inclusion in Omnibus Bill or Stand Alone Legislation**

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

**January 5, 2022**

**1. Introductions**

Chair, Dylan Metzner, called the meeting to order at 1:33 pm.

Happy New Year. If anyone was affected by the fires the T&E Section is supportive of you and please reach out to Dylan (dmetzner@joneskeller.com) or Jonathan (jhaskell@wadeash.com). Our thoughts and prayers are with you.

We are still meeting via Zoom, there is an option to meet in person or virtual for 2022. Please participate however you feel most comfortable. Dylan and Jonathan will plan to be here in person.

**2. Approval of December 3, 2021 Minutes**

Motion passed unanimously.

**3. Announcements**

a. *Email List.* If you did not receive the SRC materials in an email from Emma then you are not on the SRC email list. Email Jonathan (jhaskell@wadeash.com) and he'll add you to the email list.

b. Rulemaking Hearing – Colorado Secretary of State Meeting is being held tomorrow at 1pm. If interested in attending contact Dylan. Georgina Kryda will attend on behalf of T&E and will report in February regarding hearing.

**4. Legislative Report**

Andy White is no longer with CBA. The T&E section wishes him well. A new CBA legislative person will be announced by Council today.

**5. SRC Approved Proposals**

**a. Active Matters**

- (i) **Disclosure of Fiduciary Fees, §§ 15-10-602 and 15-12-705, C.R.S. (approved in 2015-2016) (Gordon Williams);**

Probate Trial and Procedure has no objections. Information of Appointment form needs to be updated by Supreme Court. Dylan will coordinate with PTP on the form.

Mr. Williams is not available to attend January meeting. Hold until February meeting.

**(ii) Amendment to Visitor Reporting Statute, C.R.S. § 15-14-113.5 (Gordon Williams);**

Elder Law opposes the proposed language. See November minutes that outline their position.

Mr. Williams is not available to attend January meeting. Hold until February meeting.

**(iii) Amendment to Personal Representative Priority Statute, C.R.S. § 15-12-203(4) to include Agent under power of attorney who is granted “hot power” to remove and appoint fiduciaries (Gordon Williams);**

*Proposed language: 15-12-203(4.5)* If no conservator or guardian is acting, then an agent who is authorized under a financial power of attorney to nominate a fiduciary in accordance with 15-14-724(1)(g)(ii), C.R.S., may exercise the same right to nominate, to object to another's appointment, or to participate in determining the preference of a majority in interest of the heirs and devisees that the principal would have if qualified for appointment.

The above is new language that SRC needs to approve which takes into account the possibility that a Conservator or Guardian is serving and the protected person also has a financial power of attorney that is still effective.

Mr. Williams is not available to attend January meeting. Hold until February meeting.

**b. Inactive Matters Approved by SRC but Not Moving Forward for Various Reasons**

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6. **Unapproved Matters under Consideration by SRC - Reports from Subcommittees**

a. **Child Support in Probate Subcommittee (Pat Mellen, Chair)**

No report

c. **Uniform Probate Code (UPC) 2019 Revisions (Bette Heller and Darla Daniels, Co-Chairs)**

Approved by SRC and Council. This is ready to go to LPC.

d. **Lodged Wills- Investigate issues with lodging wills and the return of lodged wills. (Bette Heller)**

Meeting on Thursday 1/13 at 9am. Thereafter, meeting will occur every month on the 2<sup>nd</sup> Wednesday moving forward 9am. Issue is lodged Wills are being sent back by some counties after probate has opened and in cases before probate has closed.

f. **Beneficiary Deeds Statute Update re Named Insureds for Casualty Coverage (Carl Stevens)**

Mr. Stevens reports that the subcommittee is considering whether we need to amend a statute based upon a Minnesota court that held insurance coverage a decedent purchased to cover the decedent's home did not insure the property after decedent's death because the property passed to a third party pursuant to a beneficiary deed.

g. **Uniform Cohabitants Economic Remedies Act (Connie Eyster)**

Ms. Eyster has been in contact with Family Law and will meet on the first Wednesday each month. It will be a joint committee with family law. This is a potential change in policy to give cohabitants more rights regarding economic relief options. Ms. Willoughby brought up that family law does not want to get rid of common law marriage.

h. . **Uniform Community Property Disposition at Death Act (Connie Eyster)**

17 Sections to be reviewed. Goal is to review by end of 2023. Meeting occurs at 11am to 12:30 on the first Wednesday of each month.

7. **Inactive Matters**

8. **Report from Elder Law Section**

Ms. Blattner reported that the Elder Law retreat is scheduled August 25-27 in Vail, CO. It will be a hybrid event. The next meeting is on 1/20 and reach out to Kayla Nelson with any questions you may have.

9. **Report from Other Sections of the Bar**

Ms. Kryda – Case law update is on 1/12. Mr. Patrick Thiessen will report on behalf of T&E.

10. **New Matters**

a. None

11. **Passed Proposals for Inclusion in Omnibus Bill or Stand Alone Legislation**