



Maryland Attorney General's **COVID-19 Access to Justice Task Force**

SEPTEMBER 9, 2020 MINUTES OF THE RESOURCE DEVELOPMENT SUB-COMMITTEE MEETING OF THE MARYLAND ATTORNEY GENERAL COVID-19 RECOVERY TASK FORCE LIFE & HEALTH PLANNING COMMITTEE

Committee Co-Chair Danielle Cruttenden welcomed everyone to the Resource Development Subcommittee meeting of the Life and Health Planning Committee.

Attending: Danielle Cruttenden, Jen Yeagle, Jordana Gruzman, Justin Devault, Karren Pope-Onwukwe, Tim Chance, Sharon Goldsmith, Ron Landsman, Morris Klein, and Shelby McCloskey.

Danielle asked if anyone had any changes to last week's minutes. *No changes were made. The minutes from the August 26th meeting were also approved.

The focus of today's meeting will be on the remaining of the Handbook. The Subcommittee began with the Homeownership and Deeds section. Danielle informed the Subcommittee that she had sent portions of the Handbook to the Printed Material Committee and has received comments on the POA and AD sections. She explained that she hopes to go over those comments today, but that we may not get to them until the next meeting.

Comments on the House Ownership and Deeds section;

- In the fourth paragraph starting with "The main advantage," the second sentence should say give your house to your heirs instead of our heirs.
- Perhaps we could expand on what is meant by "and to go through all the minuses as well as all the pluses." This may be confusing to the lay person.
- For question 2, the information under *a* should be further explained.
- Unclear as to why this section goes immediately into life estate deeds after the Caution.
 - There should first be an explanation of how to change the title of one's home and what happens to their home when they pass. This discussion would include the different types of deeds and possibly an explanation of the different types of ownership.

- We are including life estate deeds because it is a problem many clients bring up and the public is curious about them. We are trying to educate people about the benefits and risks of Life Estate Deeds. These deeds are viewed as a way to allow the transfer of one's home to family members without going through the probate process, which is considered to be a barrier for a lot of low-income communities.
- It is beneficial to include this information as a tool people can use to help offset the costs that people occur upon one's death.
- Make sure to be clear that people should seek advice from an attorney before utilizing this tool.
- We should also spend time explaining joint ownership, joint tenants with the right of survivorship, and tenants in common.
 - This will help with the life estate section and the section on wills. This information can either go before the Wills section or we can include a reference to the life estate section in the Wills section.
- Number 5 is very beneficial and an issue that is frequently brought up with clients.
- Use the short paragraph in the beginning to explain why it's important to think about the transfer of title of your property and the pitfalls that happen if either there is no transfer when you die, if it's just held in the deceased person's name, and if someone is subject to tax issues (i.e. tax sale). We should state the issues and discuss what people can do to overcome them.
 - Emphasize the need to talk to an attorney to draft a new deed
 - Identify that there are registers that are allowed to give fee waivers in certain situations.
 - Explain what could happen if the proper steps are not taken.
- Refer people to the Directory
- Does the sentence that says "If your home is valuable to you, you really should find a way to spend a little to work with a lawyer who can craft the deed to serve your particular circumstances" mean spend less money?
 - Yes. This should be reworded to make clear.

Danielle agreed to remove the information in red, which was the first draft under the House Ownership & Deeds section of the Handbook.

Tim agreed to write a few paragraphs addressing the pitfalls of the tangle title and probate options. Danielle agreed to rework the beginning of this section to include a discussion on joint ownership. Jen will review and edit Danielle's work. Danille also offered to have someone from her office review this section from a real property point of view.

The Subcommittee then moved on to the Wills and Non-probate Transfers section. Comments from the Subcommittee members on this sections;

- In question 3, where it talks about a revocable trust, we should mention the existence of the MVA form that allows you to add or name a beneficiary.
 - Should this come before the Wills and Life Estates section?
 - Include with the explanation on joint ownership of real estate.
 - Include the link to the form.
- Once we have the asset titling section, Jordana will go back and look at the Wills section to make sure she cross-referenced this information properly.
- For question one, take out the first sentence about guardians and have a separate question that addresses that topic (i.e. what else can a will do).
 - Explain how a Will can be used to name a guardian of your minor children and to appoint a personal representative who's responsible for administering your estate.
- Perhaps add a paragraph of what happens if one does not have a Will.
- When discussing filing the Will, maybe add that it is a nominal fee. We do not want people to think that the fee is much larger than it is.
 - For some people, a \$5 fee may not be a nominal fee.
 - The fee schedule may change and then we would have to go back and change the amount.

Danielle asked if anyone had a chance to review Justin's updates to the guardianship provisions of the handbook. Justin informed everyone that he had implemented Morris's edits to the document already.

Danielle moved on to the stand-by guardian section. Jen informed everyone that she had implemented the changes we discussed over the last two weeks.

Danielle asked everyone to look over the Handbook prior to the next weekend so that we can have a complete draft to send to the Communication Committee. We hope to have the Handbook in its final stage, so that we can inform the Task Force on September 17th.

Danielle informed everyone that the town hall for the Life & Health Planning Committee will be held on October 21st. Ideally, we hope to have the Handbook completed by the town hall so that we can share it with the participants.

Danielle discussed the feedback we received from the Printed Materials Committee and said that she would send out the comments via email to the Subcommittee members.

Ron Landsman stated that he presented the draft additions to the statutory powers of attorney to the elder law section and their main comment was to add a provision to specify whether or not the agent could be among the entities who could be a beneficiary or recipient of the gift.

- This may be a little tricky because there are two places where that is an issue. Is there a subpart where they would also initial whether the agent would be able to participate?
- The other comment was that the citation to the sections might be considered words of limitation.
- Suggested that the draft could undergo some more wordsmithing to make it a little more readable.

Danielle said that we need to think about our next steps in presenting this in order to get feedback from the Task Force during the September 17th meeting. Ron will review the language of this proposal and share it with Morris for Danielle to review.

Danielle asked if there should be some legislative change that would allow the remote signing of medical directives and eliminate the attorney certification provision. She explained that this would allow someone to remote sign an Advance Directive without a supervising attorney. Danielle asked if we should have the governor enact a new executive order or make it a permanent legislation that we want the general assembly to consider the next time they meet.

- Several members expressed that the current process does prevent them from doing some of their work. They believe this change would be beneficial.
- Danielle stated that we would continue this discussion during the next meeting.

Danielle thanked everyone for their continued hard work on the various projects and discussions for the Subcommittee.

Danielle asked for everyone to take a look at the Handbook over the weekend and for those who agreed to make some edits to do so prior to the weekend so that everyone could review by the next meeting.

During the next meeting (September 16th), we will go through all the comments and work to finalize this project.