



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

SEPTEMBER 16, 2020 MINUTES OF THE RESOURCE DEVELOPMENT SUB-COMMITTEE MEETING OF THE MARYLAND ATTORNEY GENERAL COVID-19 RECOVERY TASK FORCE LIFE & HEALTH PLANNING COMMITTEE

In today's meeting, the Subcommittee focused on the latest updates to the Non-Probate and House Ownership & Deeds sections.

Danielle stated that the Task Force will be hosting a Town Hall on the subject of Life and Health Planning on October 21st. She explained that the purpose of the town hall is to present educational materials to the public on life and health planning documents. There will be two town halls, one in Spanish at 4 p.m. and one at 6 p.m.

Danielle asked the Subcommittee members for volunteers for presenting at that town hall. Danielle stated that we are looking for both English and Spanish-speaking attorneys who are familiar with the field to participate in the Forum. Viewers of the town hall will have the opportunity to ask questions but may be limited due to time constraints. Danielle explained that the Committee has to complete a form and turn it in by Monday that identifies who the speakers will be for the English town hall on October 21st.

- Paul offered to speak on the Advance Directive and MOLST sections.
- Morris offered to present whatever is needed.
- Danielle offered to present as well.
- Jordana recommended Verena Meiser, a spanish-speaking estate planning attorney in Howard County. Danielle offered to reach out to her for assistance in the town hall.
- Ron offered to present the POA section.

Danielle invited everyone on the call who has yet to express their interest in participating in the town hall to email her if they wanted to participate in the town hall by this weeked.

Danielle moved on to discussing the Handbook. She began by discussing the updates to the house ownership and deeds section that she edited and Jen reviewed. Danielle asked if we needed to add something in this section addressing that when it comes to real estate in other locations outside of Maryland that there are other laws and rules that can apply. Comments by Subcommittee members;

- Should the discussion of titling be under Deeds as opposed to its own section?

- This information is important and applies to pretty much everything.
- The titling information is too long and too detailed in this section.
- Too risky to explain all that to someone who wants to try to do it themselves.
- If we are going to educate people on this matter, we risk people taking it the wrong way
- Need to emphasize that the advice of an attorney is helpful
- Danielle is opened to moving the opening and shortening the intro.
- This section reads like one needs an attorney, so we should emphasize that.
- It warns the reader of the Tangled title problems and addresses them.
- We should format this section similarly to the other sections. I.e. to the three or four paragraphs about why the subject matter is important, what the problems are, and how to address the problems.
- We should have a brief description saying there are different ways to transfer your property and briefly explain the advantages and disadvantages of them. We should leave the more detailed material to the Q&A section.

Danielle, Ron, Tim, and Morris will continue discussing this section later this week.

Danielle moved on to Wills and nonprobate transfers section.

Jordanna agreed to separate out the asset titling portion into its own subsection prior to the Wills and Deeds sections.

Jordana explained the sections she updated and asked for feedback on them. She explained that she expanded the what does a Will do question into two sections: the first section discusses assets and the second section discusses appointing a guardian for minor children. In another question, she added a comment about transferring vehicles on death with a link to the MVA website. Comments on this section;

- Add a sentence in they're emphasizing the importance of using the original will as opposed to copies.
- Include a short section of who can or should be a witness?
- Say the fee for filing a Will with the Register of Wills is modest
 - Not everyone thinks \$5 is a modest fee.
 - Can state the fee is \$5 and put in parentheses 2020.

Danielle asked if there were any additional comments anyone had on this section. *No additional comments were made.

Danielle then discussed the legislative change Ron suggested to the limited Powers of Attorney. She stated that we are looking at whether or not we would allow an agent to make a gift to himself or herself. She asked where we were on this and whether it is something we should be promoting and recommending to the Task Force.

Danielle has not received any feedback from the Estates and Trusts section yet. Morris stated that he would be discussing this in a meeting later today. Morris stated that if we are going to be including all potential recommendations then it should be included, but understand that this provision opens the door to abuse.

- Give people the choice whether or not to allow an agent to receive a gift.
- Include in other gift provisions.
- Breach of fiduciary duty concerns.

Danielle explained that the goal of the Task Force is to promote access to justice and to help situations for those in need of accessing public benefits. Danielle asked those on the call whose practice area includes applying for public benefits to know how much this provision is needed. Ron stated that he currently has cases relating to this issue and is an issue that regularly comes up.

- Some expressed the concern that they do not believe that it adds potential abuse that is not already there.

Danielle will ask the Task Force tomorrow for feedback on Ron's suggestion.

Danielle explained that two years ago the Estate & Trust Law Section's idea of advancing trust decanting legislation was dismissed and viewed as causing the care expenses of a trust beneficiary to be paid for by Maryland taxpayers instead of by a trust that could provide for the cost of that care. There could be a similar reaction to the proposed legislative change to the limited power of attorney in that it would allow the agent to transfer assets for purposes of allowing the principal to become eligible for public benefits.

Danielle will provide an update from Thursday's Task Force meeting at the next meeting on Wednesday, September 23rd at 11am. She will also provide feedback from these Estates and Trust Law Section on the proposed edit to the statutory power of attorney that was discussed during today's meeting.