

**Memorandum to Electronic Estate Planning Documents Committee Members,
Advisor, and Observers**

February 17, 2022

Dear Friends,

Here are some of the issues we would like you to consider when you review the new draft, which incorporates the changes we discussed during our January 24, 2022 meeting. It also reflects the style review that Nat Sterling provided on the fly for us—thank you, Nat!

- We threw a few different names together on the cover page. See what you think and feel free to suggest others.
- We divided the act into two articles, so that you can better visualize and consider what that would mean. Article I contains this act (governing inter vivos estate planning documents), and Article II would contain the Uniform Electronic Wills Act. (More about the issues that creates, later.)
- We provided several options for the definition of the estate planning documents covered by Article I. These are in Sec. 102(9). The first (Option 1) is the laundry list approach, and the second two (Option 2) both attempt to broadly define the inter vivos documents covered by Article I.
- We have not previously discussed whether we want to narrow the type of record that can be electronically signed under this act. Please review the definition of record with that in mind. UEWA requires that an electronic will must be a record *that is readable as text at the time of its signing*. If we do not narrow the definition of a record in this act, I think that means that an estate planning document can be a video or audio recording. In any case, I think we must consider this carefully.
- If we want to include UEWA as our Article II, then we have to coordinate the two articles and that raises a number of issues. For example:
 - Are the proposed names of the Act still sufficient?

- Must we reconcile the different approaches of the two acts? UEWA proscribes how you make an electronic will, and it covers every aspect of it including revocation, choice of law and remoteness. This act, on the other hand, simply provides an option for electronically signing all other estate planning documents and contains no mandates or limitations.
- Do we want the effective dates of the two acts to be the same?
- What do we do with the definitions, if they do not align?

We look forward to discussing the draft and these issues at our virtual meeting on Tuesday, February 22, 2022.

Gerry Beyer

Suzy Walsh