

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

Dear Friends,

As those who participated in our initial zoom meeting on January 24, 2022 may recall, the committee asked us to prepare a draft of a mini, or alternative, UETA designed to apply to estate planning documents *other than wills*. The draft act attempts to do that. Our reporter set a land-speed record and produced the draft in under two weeks, but he would be the first to tell you that by definition it is a “rough” draft that has not been styled in any way.

Here are some of the issues we would like you to consider when you review the draft.

- We tried to include all conceivably relevant definitions, reasoning that it’s easier to delete them than to add new definitions later. Please review these both for substance and to determine if the list is complete. In particular, we wondered if we ought to include a catch-all definition for documents that relate to estate planning documents. If so, is it feasible to include those that relate to wills, or should we limit them to ones that relate to those covered by this act?
- Similarly, we need to determine how to define health care documents in light of the wide variation in the state laws governing them, and the fact that the uniform act is being updated, but is not near completion.
- Do we think that Section 3(c)’s deference to underlying state laws applicable to electronic EP docs is sufficient to cover execution and revocation requirements and choice of law? Or, do we think those requirements must expressly be included (and if included, tailored to this act)? We realize the committee answered this question with a no, but we should reconsider it as we review the draft. Finally, please look at Section 5(d) and consider if it overlaps with Section 3 (c), as both refer to other applicable law and defer to it.
- We added a “papering out” section, entitled Certification of Paper Copy, based on the one in UEWA.

- Finally, as noted in the draft Comments to Sections 9 and 10, we are not addressing remoteness in this act.

We look forward to discussing the draft and these issues at our virtual meeting on Monday, February 7!

Gerry Beyer

Suzy Walsh