



THE FLORIDA BAR
ELDER LAW SECTION

The Elder Law Section cultivates and promotes expertise and professionalism in the practice of law affecting people as they age and individuals with special needs.

May 9, 2019

CHAIR

Jason Waddell
Waddell & Waddell, P.A.
1108 N. 12th Avenue #A
Pensacola, FL 32501
(850) 434-8500
jason@ourfamilyattorney.com

CHAIR-ELECT

Randy C. Bryan
The Law Offices of Hoyt & Bryan, LLC
254 Plaza Drive
Oviedo, FL 32765-6431
(407) 977-8080
randy@hoytbryan.com

ADMINISTRATIVE VICE CHAIR

Steven E. Hitchcock, Esq.
Hitchcock Law Group
635 Court Street, Suite 202
Clearwater, FL 33756
(727) 223-3644
hitchcocklawyer@gmail.com

SUBSTANTIVE VICE CHAIR

Carolyn Landon
5707 Dixie Hwy., Ste. B
West Palm Beach, FL 33405-3693
(561) 588-1212
carolyn@landonlaw.net

SECRETARY

Howard S. Krooks
Elder Law Associates, P.A.
7284 W. Palmetto Park Rd., Ste. 101
Boca Raton, FL 33433-3406
561-750-3850
hkrooks@elderlawassociates.com

TREASURER

Victoria Elizabeth Heuler
Heuler-Wakeman Law Group, P.L.
1677 Mahan Center Blvd.
Tallahassee, FL 32308-5454
(850) 421-2400
victoria@hwelderlaw.com

IMMEDIATE PAST CHAIR

Collett P. Small
Law Offices of Collett P. Small, P.A.
2400 N. University Dr., Ste. 209
Pembroke Pines, FL 33024-3629
(954) 437-4603
csmall@small-collinslaw.com

BOARD LIAISON

Robin I. Bresky
Boca Raton, FL

PROGRAM ADMINISTRATOR

Leslie Reithmiller
The Florida Bar
(850) 561-5625
lreithmiller@floridabar.org

Governor Ron DeSantis
State of Florida
The Capitol
400 S. Monroe Street
Tallahassee, FL 32399-0001

RE: House Bill 409

Dear Governor DeSantis:

I am writing on behalf of the 1700 members of the Florida Bar's Elder Law Section regarding House Bill 409 titled Electronic Legal Documents. This bill allows for an individual to execute wills, trusts, deeds and other legal documents electronically and with remote witnesses and notary; not in the physical presence of each other. This bill was introduced the past two Florida legislative sessions. Both of the prior two sessions saw the Elder Law Section strongly oppose those bills, but we are pleased to report we are in support of the final version of HB 409 as the sponsors provided certain safe guards we requested to protect vulnerable adults.

Thanks to the leadership of Senator Brandes and Representative Perez the stakeholders were encouraged to work together this past year and our primary concerns were addressed by the proponents of HB 409. From the beginning the Elder Law Section has been concerned about the risks and exposures of this system and technology on the most vulnerable Floridians. We feared that failure to build in appropriate safeguards would expose our vulnerable elders to exploitation, coercion or undue influence.

The proponents and sponsors of HB 409 agreed, at the suggestion of the Elder Law Section, to completely remove vulnerable adults from the class of individuals permitted to execute electronic legal documents with remote witnesses. For the protection of these individuals the witnesses must be physically present. Additionally, the final version of this bill removed the ability to have delegable powers within a power of attorney when signed remotely. These powers are perceived to put the principal at greatest risk to exploitation. Again, this helped to address the Elder Law Section's concerns about protecting our citizens from exploitation.

Working with the proponents of HB 409, we were able to strengthen the protections afforded by requiring the execution of electronic legal documents be adequately recorded and safely stored. By asking very pointed questions and having a

www.eldersection.org

clear, uninterrupted recording of the answers, we believe the electronic record will work to protect the sanctity of the execution of legal documents such as wills, trusts and powers of attorney.

The Elder Law Section recognizes the ability to execute legal documents electronically and with remote witnessing and notarization, as introduced to Floridians by HB 409, puts Florida at the forefront of this new and largely untested technology. We believe there is still a lot of work to do to properly implement all of the requirements found in HB 409, but the safeguards built into this bill are adequate to protect Florida's most vulnerable citizens. As such, we are asking you to sign this bill.

Sincerely,



Jason A. Waddell

Chair Elder Law Section of the Florida Bar

CC: Senator Brandes
Representative Perez