

Memorandum 91-28

Subject: Study L-3044 - Comprehensive Power of Attorney Statute
(Procedure for Consideration of Bar Comments)

The draft of a comprehensive power of attorney statute attached to Memorandum 90-122 has been on the Commission's agenda for several meetings. The length of the draft (over 160 pages), as well the complexity of the issues it raises, has required a significant investment of time by bar representatives who are reviewing it. We recently received 41 pages of review material from Harley J. Spitler (who addressed this subject at the Commission's January meeting), consisting mainly of his memorandum to Team 4 of the Executive Committee of the State Bar Estate Planning, Trust and Probate Law Section. We have also received some preliminary comments from Janice Fogg on behalf of the Legislative Committee of the Probate, Trust and Estate Planning Section of the Beverly Hills Bar Association. This group is also continuing its consideration of the draft.

At this stage, it does not appear that the bar groups have been able to make sufficient progress in reviewing the draft and coming to their conclusions to enable the Commission to make much progress at its upcoming meeting. It would be better if the Commission could get the complete comments from Team 4 of the State Bar and the Beverly Hills Legislative Committee, and anyone else who intends to comment, before undertaking the task of going through the draft. At the same time, we note that most of the issues that have been raised so far are highly technical -- many are of the sort that the staff could probably work out in meetings with the bar groups. The Commission would then only need to spend time on the policy issues and to consider the technical problems that the staff and bar were unable to resolve.

Accordingly, the staff has removed the draft comprehensive power of attorney statute from the agenda for the April meeting. We anticipate meeting with the bar groups and any other interested persons in working sessions designed to resolve technical issues. The staff

would then revise the draft and present it at a future meeting, hopefully no later than June or July at the latest. If those most interested in the power of attorney statute are able to reach a consensus on the technical issues, the Commission's task of reviewing the draft will be streamlined.

Respectfully submitted,

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