

Expanded: Executing Estate Planning Documents During the Pandemic and the Slow Return to the “New Normal”

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- Arizona – Yaser Ali, Esq. Ali Legal, PLC
- California – Matt Brown, Esq., Brown and Streza
- Connecticut – Daniel L. Daniels and Erin D. Nicholls, Wiggin and Dana LLP
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Expanded: Executing Estate Planning Documents During the Pandemic and the Slow Return to the “New Normal”

1. **Introduction.** a. The current COVID-19 pandemic has made it more important than ever for individuals to establish (or update) their core estate planning documents. These core documents will generally include a will (and often a revocable living trust) for testamentary dispositions as well as a durable power of attorney for financial matters while the client is living. For health care matters this may include a health care power of attorney (i.e. a health care proxy), living will, HIPAA (Health Insurance Portability and Accountability Act) release that allows a named agent to view protected Private Health Information (“PHI”), DNR (do not resuscitate order), and perhaps a POLST (physician order for life sustaining treatment).

— b. Clients often neglect to update their core documents. The fears of effects of COVID-19 and the horrifying number of deaths from the virus may drive many clients to update, or create for the first time, critical estate planning documents. Apart from the general reasons to update documents, COVID-19 itself raises special circumstances that might warrant a client revising documents. These might include: i. If a blanket prohibition against intubation is included in various health care documents it could prevent the client from being placed on a ventilator, if necessary, to survive COVID-19. Any such prohibitions should be discussed with the client and modified accordingly to comport with current concerns and comfort level.

— ii. The need to revise a springing power of attorney to make it effective immediately in light of the current difficulty of the client being examined by one or two physicians to confirm incapacity (or otherwise triggering whatever springing mechanism is contained in the documents). With the current stress healthcare providers are under, it may prove difficult if not impossible to find a physician(s) to make the determination required in a springing power thereby effectively rendering that power inoperable, unless it is modified as indicated.

— iii. Providing express permission for an agent under a durable or health care power of attorney to communicate with institutions and individuals by telephone or electronically, such as via Zoom, FaceTime, GoToMeeting or similar systems, and to hold harmless the third parties relying on such communications.

— iv. To shift the client’s dispositive documents to a revocable trust to avoid probate, not only because of the historic concerns with costs and time delays of probate, but because of the reality that many surrogate or probate courts have closed during the COVID-19 shutdown and may have incredible backlogs when they reopen.

— c. Clients should also review and update, as necessary, beneficiary designation forms for life insurance, IRAs, other qualified retirement plans and other assets that will have property pass by such designations. With the recent enactment of the SECURE Act in December 2019, many clients have not had time to respond

and update beneficiary designations or create, where now appropriate, conduit or accumulation trusts. These changes may be quite important, but clients and practitioners will need to grapple with the issues of how to properly execute a new beneficiary designation and trust during COVID-19.

— d. The IRS has provide leniency with respect to beneficiary designations. IRS provides relief to retirement plan participants to sign elections remotely i. The recent Notice provides lenience for signatures of the individual making the election to be witnessed in the physical presence of a plan representative or notary public, including a spousal consent (“the physical presence requirement”).¹

— ii. Participants, beneficiaries, and administrators of qualified retirement plans were provided temporary relief from the physical presence requirement for any participant election: (1) witnessed by a notary public in a state that permits remote notarization, or (2) witnessed by a plan representative using certain safeguards. The guidance accommodates local shutdowns and social distancing practices and is intended to facilitate the payment of coronavirus-related distributions and plan loans to qualified individuals, as permitted by the CARES Act.

— iii. If a participant election witnessed by a notary public, for the period from Jan. 1, 2020, through Dec. 31, 2020, the individual may use an electronic system facilitating remote notarization if executed via live audio-video technology that otherwise satisfies the requirements of participant elections and that is consistent with state law requirements that apply to the notary public. For the same period, in the case of a participant election witnessed by a plan representative, the individual may use an electronic system using live audio-video technology if the following requirements are satisfied: 1. The individual must be effectively able to access the electronic medium used to make the participant election;

— 2. The electronic system must be reasonably designed to preclude any person other than the appropriate individual from making the participant election;

— 3. The electronic system must provide the individual making the election with a reasonable opportunity to review, confirm, modify, or rescind the terms of the election before it becomes effective; and

— 4. The individual making the election, within a reasonable time, must receive confirmation of the election through either a written paper document or an electronic medium under a system that satisfies the applicable notice requirements.

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— e. Before COVID-19, the client would simply visit an attorney’s office in order to sign core documents under the attorney’s supervision and with the lawyer providing the witnesses and/or a notary public. In many instances, attorneys would have two witnesses and a notary on all documents, because it would meet most, if not all, state statutory requirements to sign the various documents and it was easy to do so. It was also easier from an administrative perspective to have all

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¹ Notice 2020-42 June 3, 2020.

documents signed with the same formalities, regardless of what the actual requirements were for any specific document. a. The strict requirements for valid execution of certain core documents will often present a problem during the COVID-19 pandemic due to the social distancing and stay-at-home orders that prevent clients from visiting their attorneys' offices to execute their documents.

b. Practitioners should not assume that these issues will resolve near term as restrictions are relaxed. As noted above, many clients will remain concerned about close quarter signings, and a resurgence may occur.

c. Beyond the legal mandates and executive orders, many clients, particularly the elderly and infirmed, are and may remain appropriately reluctant to place themselves within the orbit of perceived risk of contracting the COVID-19 virus. In many instances, it may be impossible to arrange for multiple individuals to witness the client's will or other core document or to have a client meet with a notary in person.

d. Practitioners must also consider that many of the legal leniencies provided for by various states may only apply while a state of emergency remains in effect. These leniencies may then lapse. Further, even if a document is signed in conformity with a temporary measure enacted to address COVID-19 restrictions, is that first time special rule a comfortable signing arrangement to rely on once the temporary measures are no longer in effect after the state of emergency is rescinded? There may be little or no law interpreting the temporary measures. Thus, if a client is well following relaxation of the COVID-19 restrictions, might prudence suggest

f. However, the current situation is anything but normal, with the COVID-19 pandemic requiring social distancing, sheltering-in-place and an associated lockdown of non-essential businesses. Even as restrictions are beginning to lift, clients who are older or have underlying health conditions may continue to be concerned about close contact that in the past had been taken for granted as part of any estate planning signing ceremony.

g. This article will provide an overview of different approaches to signing documents that various practitioners have considered or used in the current environment. In addition, a discussion of some of the general concepts of state law requirements for the valid execution of these core documents will be provided. Several checklists and samples will be provided to assist practitioners. Finally, a summary of the laws in several states prepared by practitioners in those jurisdictions will be provided. It is hoped that the general and various state discussions, and sample documentation, will be a practical aid to practitioners dealing with these challenging times.

h. Even if the social distancing and other restrictions are lifted, there is no assurance that that a resurgence of COVID-19 will not occur at a later date and the same issues arise again. Finally, even if COVID-19 is contained and a vaccine discovered, client comfort and preferences for signings may change forever. Hopefully, there will be a movement towards more flexibility in the signing of documents, including electronic and virtual signings that will provide permanent, practical and technically sound solutions for the long term.

2. The Challenges of Signing.

having the client resign the documents with more traditionally accepted procedures?

- a. Each state has different laws governing signing formalities.
- b. These differences are further compounded by different approaches taken, or not, by various states to address the practical difficulties of signing documents during COVID-19.
- c. Exhibit 4 provides a summary of the laws of different states so that practitioners can compare what different states have done, and perhaps elucidate how they choose to handle a signing in their home state.
 - a. For a table of all states with links to relevant statutes see the ACTEC commentary at <https://www.actec.org/resources/emergency-remote-notarization-and-witnessing-orders/>
 - b. The National Notary Association provides information on remote notarization. See <https://www.nationalnotary.org/knowledge-center/news/law-updates>.
 - c. For information on planning during COVID-19 including information on remote signings and notarization see <http://www.naepcjournal.org/>. Also, thanks to the NAEPC Board of Directors for assistance with identifying information and authors for this article.
- a. There are often significant differences between the execution requirements for the various core documents. These differences create additional challenges for practitioners and clients, especially during COVID-19.
- b. There seems to be little logic in requiring witnesses for a will, no witnesses for a trust, and requiring either witnesses or a notary for a power of attorney, when all of those documents govern the administration of a person's property. But that is the way it currently is structured in most states.
- c. The witnesses to a will are supposed to ensure that the testator has the requisite capacity to sign the will and is not being coerced or unduly influenced. While those are certainly proper objectives, how many witnesses, in reality, truly know the testator and have the requisite level of knowledge to provide this kind of protection? Further, might a recorded web signing that permanently documents the events surrounding the signing be a better protection than the memory of witnesses, such as paralegals who might witness more than a hundred signings every year and have no actual recollection of any particular signing?
- d. Consider whether there should be a single set of standards for all of these estate planning documents, and consistent execution requirements. Moreover, those execution requirements need to be updated for the 21st century and reengineered to balance the protection of the client from potential wrongdoers with making the execution requirements reasonable and approachable.
 - a. Many states have enacted emergency legislation, or their governors have issued executive orders, authorizing remote online notarizations and other leniencies to formalities normally required to execute certain documents. As noted above, practitioners should be cautious as many of these modifications are only effective

3. Different Standards by State.

4. Resources.

5. Different Requirements for Each Document Even within the Same State.

6. Emergency Legislation and Actions.

for a short duration of time specified, or only when a state of emergency continues in the state enabling the leniency. Also, is it certain that a governor's executive order assuredly overrides the requirements of existing law?

b. Remote notarization should not be confused with electronic will legislation which, although passed in a few states, has not yet been introduced in most states.

c. The emergency legislation passed in some states may help attorneys assist clients in the proper execution of their core documents for the duration of COVID-19. However, some of these efforts have resulted in leniencies that may be too complicated or difficult for some clients to implement.

d. Generally speaking, wills and codicils must be executed in the presence of two witnesses in order to be presumptively valid. When a client already has those witnesses available, the use of a remote notary or other officer to acknowledge the will or codicil may make the document "self-proving" under applicable state law, thereby streamlining the probate process at death. Where the goal of remote notarization is difficult to achieve, the use of a pour over will and revocable trust may be preferred as an alternative to streamlining the probate process.

e. If a client does not have the required witnesses available, remotely executing a will or codicil in the presence of a notary or other officer may nonetheless provide additional support that the will or codicil qualifies as a "writing intended to be a will or codicil" which may, in some states, be admitted to probate even without the required formalities of execution. Practitioners should consider cautioning clients as to the costs and delays that would be involved in having a document admitted to probate as a writing intended to be a will or codicil, and recommend that all documents be resigned at a later date when witnesses are available to complete a document that meets the statutory requirements. These "emergent" steps should be considered only as a "stop-gap" to be used while the crisis is ongoing.

a a. **Introduction.** i. Traditional signings may still be possible, and no doubt practitioners are still using traditional signings, appropriately modified for COVID-19 concerns, to have documents executed. This might simply be the traditional signing with everyone wearing masks and gloves, each person having their own pen, and lots of Purell and Lysol spray. But the reality is that for many situations now, and even in the coming months or longer, the traditional approach might not suffice.

a ii. The following is a discussion of options that practitioners might consider in light of a particular client's circumstances and applicable state law (traditional state law, and any temporary measures if still effective when the signing is to occur) for accomplishing the desired execution of core estate planning documents. Some of these involve signings outside the usual office setting, but with proper social distancing and minimization of the COVID-19 risks to clients, attorneys and their staff. Some of these suggestions certainly will not work in some or many states. The goal of this article is to give practitioners as many options and ideas as possible so

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7. Approaches That Might Be Considered for Signing Documents.

a that they can be tailored to address whatever circumstances a practitioner is facing, and obviously to conform with local law.

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a **b. Client Signs at Home with Witnesses and Notary.** i. For the client that can assemble two adult witnesses and a notary public (i.e., arrange for a mobile notary to visit their home wearing a mask and perhaps gloves as well), the attorney can organize and send all necessary documents to the client's home with tabs affixed at all points of signing and notarizing together with detailed execution instructions for the client.

a ii. As mentioned above, if necessary, the testator's spouse and/or adult children may, depending on applicable state law, act as witnesses to the will. Also, if possible, the attorney can setup a web meeting with the client in order to supervise the document signing remotely. The attorney might consider recording that signing to further corroborate the events that occur, and instructions given.

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a **c. Client Signs Using Neighbors as Witnesses.** i. For the client who can assemble two adult neighbors as witnesses, the attorney can organize and send all necessary documents to the client's home with sticky tabs affixed at all points of signing together with detailed execution instructions or provide the instructions live over the phone.

a ii. The client would arrange with two neighbors (or two adults living in one neighboring house) to meet outside 20 feet apart, all wearing gloves and masks. The client would announce the signing of the document and that they are requesting the neighbors to witness that document. After signing, the client would walk forward 10 feet and place the documents on the ground. The two neighbors would then walk forward 10 feet and witness the documents. The neighbors would then leave, and the client could walk forward and reclaim the documents, sending them to counsel in a prepaid provided overnight mail envelope.

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a **d. Client Signs Through Glass Window.** i. How can a practitioner aide a homebound client with age and health concerns who needs to sign a will and is reluctant to sign in the office, and who is also not comfortable with an electronic or virtual signing (if even permissible)?

a ii. The attorney can deliver the documents in an envelope to the client's door and then back off the porch and sufficiently far away for safety's sake. The client can then come to the front door and retrieve the envelope, go back into the house and stand visibly in front of a large first story living room window.

a iii. The attorney, witnesses and notary can stand outside the client's living room glass window and provide instructions to the client through the glass, supplemented, perhaps, via cell phone. So long as the witnesses and notary or other officer can see and hear the client, the signing of the will and self-proving affidavit should be effective under traditional will signing witnessing and notarization constructs.

a iv. After the client announces that the will has been read and understood and declared to be the client's will, the client can sign where indicated. Then

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a the client returns the documents to the envelope and leaves them outside the front door. The attorney retrieves the envelope and the attorney, notary and other witness sign in front of the client (through the glass) and each other.

a v. The above process should suffice to create a valid will while also protecting all those involved in the will execution ceremony.

a vi. Alternatively, perhaps the original will can be mailed to the client several days before the scheduled signing, or an electronic copy emailed to the client so that the client can print the will at home, thereby minimizing the multiple handlings of the document. If so desired, the actual signatures of the witnesses and/or notary or other officer may, if state law permits, be added to the will within a reasonable time (i.e. 72 hours) after they witnessed the client's signing of the will or his or her acknowledgement of that signature or of the will itself. In the case of a client that has tested positive for the COVID-19 virus, this might allow sufficient time for the document to be free of any trace virus, helping protect all parties involved in the signing.

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a e. **The "Drive By" Signing.** i. A "drive by" signing at the attorney's office or elsewhere is yet another option some attorneys have employed.

a ii. The client can sign the will or other documents while remaining in his or her car, the witnesses and notary, or other officer, can remain at a safe distance outside of the car or in another car. The will or other documents can be passed to/from the client through an open car window. Or more safely, the client can sign and then leave the car, leave the documents on the hood of the car and get back in the car. The attorney, then each witness and notary can approach the car hood one at a time to sign.

a iii. Similar to the signing through the glass window or door at the client's home, this "drive-by" signing should be effective so long as the witnesses and notary can see and hear the client throughout the document signing ceremony.

a iv. Another option for a client who prefers not to sign documents from within the confines of his or her car or on the hood could be to setup a folding table and chairs (or a picnic table) in the parking lot of, or other property adjacent to, the attorney's office to be used for the document signing. The witnesses and notary would watch the document signing from a safe distance (provided they can see and hear the client) and then sign the documents either simultaneously or sometime later if permissible under applicable state law (i.e., after 72 hours) once any traces of virus would have faded.

a v. Face masks and gloves should also be worn by all participants as appropriate.

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a f. **Use of Holographic "Pour-Over" Will with a Revocable Trust.** i. If the situation is such that it is impossible or otherwise impracticable to assemble witnesses and a notary, the attorney might consider, depending on state law, having the client write in his or her own hand and sign a

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a holographic will that is designed as a very short “pour over” will into a revocable trust. The holographic will does not require any witnesses or a notary to be considered valid. Note that some states, such as New York, permit holographic wills only in very limited circumstances, such as being a mariner at sea. Some states may not permit holographic wills at all. In any case, the holographic will should state that it is the writer’s last will and testament, name an executor (personal representative), waive bond, name a guardian for minor children, and provide to the disposition of all property to pass to the revocable trust, which if possible should be executed before the holographic will is made. The signing of the revocable trust can also be completed in some jurisdictions (but not in all, such as New York) with very little formality. In a state that has difficulty to accomplish formalities, it might be best to select the laws of another state by having a trustee located in that other (more lenient) state and a recital that that laws of the trustee’s state shall govern the validity of the document. This is discussed in the next section below.

a ii. This technique uses documents that are easy to execute and without relying on unproven electronic or remote signing, or a state’s temporary emergency legislation. Rather, it relies on longstanding statutes governing holographic wills and trusts.

a iii. In such case, the attorney should create a holographic will sample for the client to duplicate in his/her own handwriting. The attorney would also draft a revocable trust for the client with the desired testamentary language. This trust can be similar to any other revocable trust.

a iv. The attorney would then send the sample holographic will (to be handwritten by the client) via email or in hard copy by mail, as well as the actual revocable trust to the client. Email avoids the issue of paper documents potentially containing the virus, but that option will depend on the client’s ability to print a potentially long trust document at home.

a v. If the client has the ability to print the documents, the attorney can email the documents to the client. An email mechanism may permit the attorney to get a receipt confirming that the client has opened and downloaded the documents (e.g., ShareFile or Microsoft Outlook read receipt, etc.) That confirmation should be saved to the attorney’s system as a PDF to confirm the client had the document with ample time to review it before the signing. If the documents are physically mailed to the client, certified mail or an overnight courier with tracking to confirm receipt might be best to use so again counsel can save corroboration that the client received the documents in advance of signing to have permitted the client reasonable time to read and understand the documents.

a vi. The attorney might setup a web meeting with the client to provide instructions on how the client should write their holographic “pour-over” Will and then sign and date it. That meeting might be recorded, and the recording saved, to prove that it was the client who wrote the holographic will.

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a vii. The client should be instructed to copy the entire will below in his/her own handwriting, in ink, and then sign and date the document as instructed. If possible, the attorney should record the signing of the holographic will via webcam. That recording can be easily and inexpensively saved indefinitely on the law firm's computer system.

a viii. A sample Holographic Will is attached as Exhibit 1.

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a **g. Use of Holographic "Pour-Over" Will with a Revocable Trust Specifying Other State Law.** i. This is a slight variation on the above technique. Assume that the particular state has formalities for the execution of a revocable trust that are difficult to meet.

a ii. The revocable trust might name a trustee located in a state that has no requirements for witnessing or notarization for a revocable trust and apply that state's laws. For example, assume state law where the client resides requires a witness and notary for a revocable trust to be valid. The client might name an institutional trust company in Alaska as trustee. Alaska has no formalities for the proper execution of a revocable trust. Naming an Alaskan trust company to have nexus in Alaska would seem to permit the client to avail themselves of Alaska's more lenient rules, if necessary, to effectuate the signing. The trust should recite that its validity shall be determined under the laws of the trustee's domicile (e.g., Alaska).

a iii. This entire signing could be done as a web meeting, recorded and transcribed as further corroboration of what took place. See discussion below and Exhibit 3.

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a **h. Client Signs Via Recorded Web Meeting.** i. The will and other core documents can be sent to the client's home via regular mail, or preferably a type of mailing that has tracking to prove receipt, or via email also with a read receipt (to be printed by the client).

a ii. The client can thereafter sign the documents at home as part of a recorded web meeting, with all persons involved participating in the web meeting. The attorney, witnesses and notary or other officer will typically be participating in the ceremony remotely and not from the client's home. However, with proper social distancing, one or more of the witnesses and/or the notary can participate from the client's home. The notary or other officer can acknowledge the self-proving affidavit to the will or other documents remotely so long as all of the requirements of state law are satisfied. Moreover, the witnesses can properly attest to the client's signature so long as they can see and hear the client clearly via the videoconferencing technology.

a iii. The will or other documents will have to be "shared" by those involved for purposes of securing the necessary signatures. Perhaps, this can be done by emailing PDF copies of the document between the client and other participants in the web meeting, or by having each participant sign appropriate counterparts to the documents being executed. The signing does not necessarily have to be simultaneous unless applicable state law requires that. If relevant statutory language permits the will

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- a acknowledgement to occur after-the-fact, the witnesses can sign the original will within a reasonable time (e.g., 30 days in New York) after they witnessed the signing of the will. This would allow the participants in the will signing to send the original document from participant to participant via overnight courier (e.g. Federal Express) envelopes that could be provided to each participant before the signing by the client, allowing the original to be transported to each required individual during the reasonable time period. By having the document sent by trackable mail, it would also create a “chain of custody” showing clearly how the original was handled during signing process. Such an approach, however, negates the efficiencies of a more truly electronic signing process.
- a iv. Whatever specific form the recorded web ceremony may take, and there are undoubtedly many variations, if done properly, this type of web meeting may produce, depending on state law, a valid “self-proved” will as well as other core documents. The main obstacle, if any, will likely be the attorney’s and/or client’s lack of the necessary video conferencing equipment or lack of tech savvy. That being said, most smart phones and computer systems have or can be retrofitted with the required technology to accomplish this kind of recorded web meeting and properly store the audio/video recording of the document signing ceremony. Most laptops and recently purchased home computers have built in cameras. If not, a USB web camera can be purchased inexpensively online and shipped directly to the client’s home. Most of the web meeting services are very easy to use and permit recording and transcription.
- a v. A sample agenda for a virtual web signing is attached as Exhibit 3. Also see the additional Exhibit 2C and 3B provided by Anthony P. Cracchiolo, Esq. Bodman PLC of checklists and sample signature blocks.
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- a i. **Reflect Witnessing by Web Meeting.** i. The attorney could modify the self-proving affidavit contained in the will to reflect that the witnesses observed the signing “in the presence of the testator via a recorded web meeting using GoToMeeting [or the specific service other system used].”
- a ii. Some practitioners suggest stating that the specific approach taken was used because the testator had underlying health risks, such as diabetes, that made the testator at increased risk for COVID-19, which made it too dangerous to sign at an in-person meeting.
- a iii. See Exhibit 2A and 2B.
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- a j. **Writing Intended as a Will or the “Harmless Error Doctrine”.** i. While it may be preferable to have the client sign a will (or pour over will and revocable trust) in a manner that meets the requirements of applicable state law (or state law as made more lenient by temporary actions), that may not be feasible for a variety of reasons. If not, then as backup approach consider that in certain states a non-conforming document may be signed that may later be admitted to probate as a will.
- a ii. State law may incorporate a “harmless error doctrine,” that permits documents, in limited circumstances, to be admitted to probate as
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- a “writings intended as a will,” even though they fail to satisfy the requisite formalities for a valid will.
- a iii. No particular formality may be required to fall within the scope of this approach. Rather, again depending on state law, the proponent of the defective document must show by “clear and convincing evidence” that the decedent intended the document to serve as his or her will.
- a iv. When such a non-conforming document is to be signed by the client, it is best that the client include an express acknowledgement that the document is intended to be his or her will.
- a v. The signing of the will might also be done through a recorded and transcribed web meeting to corroborate the client’s intent to sign the document and that the document is intended to be his or her will.
- a vi. Counsel might consider recommending to the client sharing concrete facts about his or her signing of the “defacto” will with close friends or relatives who do not benefit under the document, and perhaps to provide copies of same to these persons, in order to support the client’s intent to establish a will.
- a vii. If this approach is used, counsel might recommend in writing to the client that the client should also make an appointment to see his or her attorney promptly following the end of the pandemic for the express purpose of signing a more traditionally executed will and thereby correct any deficiencies (and thereby perhaps avoiding a court proceeding with respect to the will, which may be required to have a non-conforming will admitted to probate).
- a
- a a. There are a number of options that may be available to address having clients sign core documents during the Covid-19 pandemic and for a period of time thereafter (perhaps until a vaccine is available and received by all).
- a b. The concepts and signing techniques discussed above may provide some insights to practitioners to adapt depending on a particular client’s circumstances, and applicable state law.
- a c. Best practices might suggest that in appropriate cases the attorney provide the client with a letter or email that summarizes the unusual or exigent circumstances surrounding the document signing and confirming that after the pandemic ends the client is to visit the attorney’s office in order to resign the documents observing the formalities required under state law.
- a d. Ideally, much more flexible, uniform, modern and reasonable means of signing estate planning and other documents can be proposed and enacted before a resurgence of COVID-19 or another future emergency situation arises.
- a

8. Conclusion.

Exhibit 1: Sample Holographic Will

Will for Client Name

Last Will and Testament for Client Name dated Month Day, Year.

I, Client Name, a resident of City Name, State Name, publish and declare this to be my Last Will and I hereby revoke all prior Wills and Codicils.

I appoint Executor Name - 1 as my Personal Representative to serve without bond.

If Executor Name – 1 is unable to serve for any reason, I appoint Executor Name - 2 as my successor executor.

My Executor/Personal Representative shall serve without bond.

I give and bequeath my entire estate to the Client Name Revocable Trust dated today.

I grant to my Personal Representative all powers under State Name [or alternative state] law.

My Executor/Personal Representative shall pay all obligations, expenses, and taxes of my estate as provided by New Jersey [alternative state] law and the Client Name Revocable Trust.

[The above two italicized paragraphs are not necessary and are listed as options should counsel wish to include them].

My Personal Representative should make tax elections and allocations as provided in the Client Name Revocable Trust.

The validity and interpretation of this Will shall be governed by New Jersey [alternative state] law.

I intend for this Will to constitute my holographic Will.

_____ Date: Month, Day, Year

Client Name

Exhibit 2A: Sample Acknowledgement Modified for Remote Signing

Sample Notary Acknowledgement to Reflect a Remote Online Notarization

State of State Name :

: ss

County of County Name :

Subscribed, sworn to and acknowledged before me during a recorded GoToWebinar meeting by Client Name, and subscribed and sworn to before me by the witnesses Witness No. 1 and Witness No. 2, who observed the entire signing ceremony on this Month Day, Year.

Jane Doe

Attorney at Law, State Name

Notarized pursuant to [cite applicable law]

Exhibit 2B: Sample Acknowledgement Modified for Later Signing

Sample Notary Acknowledgement to Reflect a Remote Online Notarization

State of State Name :

: ss

County of County Name :

Subscribed, sworn to and acknowledged before me during a physical meeting with Client Name on Month Day, Year, and subscribed and sworn to before me by the witnesses Witness No. 1 and Witness No. 2, who observed the entire signing ceremony on this Month Day, Year which said date is 72 hours after the aforementioned signing ceremony in order to lessen or eliminate the potential risk of any COVID-19 virus remaining on said documents.

Jane Doe

Attorney at Law, State Name

Notarized pursuant to [cite applicable law]

Exhibit 2C: Optional Template for Remote Witnessing and Notary

Provided by Anthony P. Cracchiolo, Esq. Bodman PLC

Witness #1

I remotely witnessed the signature of this document under Mich Exec Orders 2020-41 and 2020-74. As such, I certify the following:

1. The signatory signed this document while I was observing the signatory through a two-way real-time audiovisual technology.
2. That two-way real-time audiovisual technology allowed direct, contemporaneous interaction by sight and sound between the signatory and me.
3. The interaction between the signatory and me has been recorded; my organization has set a policy providing for the preservation of this recording for at least three years, unless Michigan law requires a different period of retention.
4. The signatory affirmatively represented either that the signatory was physically situated in the State of Michigan or that the signatory was physically located outside of Michigan's geographic boundaries and that either of the following applied: (a) The document is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state; or (b) the document involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.
5. The signatory affirmatively stated during the interaction with me on the two-way real-time audiovisual technology what document the signatory was executing.
6. Each title page and signature page of the document being witnessed was shown to me on the two-way real-time audiovisual technology in a manner clearly legible to me, and every page of the document was numbered to reflect both the page number of the document and the total number of pages of the document.
7. Each act of signing the document was captured sufficiently up close on the two-way real-time audiovisual technology for me to observe.
8. The signatory or the signatory's designee transmitted by fax, mail, or electronic means a legible copy of the entire signed document directly to me within 72 hours of when it was executed.
9. Within 72 hours of receipt, I have signed the transmitted copy of the document as a witness and returned the signed copy of the document to the signatory or the signatory's designee by fax, mail, or electronic means.

Name of Witness: _____

Witness #2

I remotely witnessed the signature of this document under Mich Exec Orders 2020-41 and 2020-74. As such, I certify the following:

1. The signatory signed this document while I was observing the signatory through a two-way real-time audiovisual technology.
2. That two-way real-time audiovisual technology allowed direct, contemporaneous interaction by sight and sound between the signatory and me.
3. The interaction between the signatory and me has been recorded; my organization has set a policy providing for the preservation of this recording for at least three years, unless Michigan law requires a different period of retention.
4. The signatory affirmatively represented either that the signatory was physically situated in the State of Michigan or that the signatory was physically located outside of Michigan’s geographic boundaries and that either of the following applied: (a) The document is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state; or (b) the document involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.
5. The signatory affirmatively stated during the interaction with me on the two-way real-time audiovisual technology what document the signatory was executing.
6. Each title page and signature page of the document being witnessed was shown to me on the two-way real-time audiovisual technology in a manner clearly legible to me, and every page of the document was numbered to reflect both the page number of the document and the total number of pages of the document.
7. Each act of signing the document was captured sufficiently up close on the two-way real-time audiovisual technology for me to observe.
8. The signatory or the signatory’s designee transmitted by fax, mail, or electronic means a legible copy of the entire signed document directly to me within 72 hours of when it was executed.
9. Within 72 hours of receipt, I have signed the transmitted copy of the document as a witness and returned the signed copy of the document to the signatory or the signatory’s designee by fax, mail, or electronic means.

Name of Witness: _____

NOTARY PUBLIC

I remotely notarized this document under Mich Exec Orders 2020-41 and 2020-74 and certify:

1. The signatory signed this document while I was observing the signatory through a two-way real-time audiovisual technology that allowed direct, contemporaneous interaction by sight and sound between the signatory and me.
2. The two-way real-time audiovisual technology was capable of creating an audio and visual recording of the complete notarial act, and such a recording was made and retained as a notarial record in accordance with the Michigan Law on Notarial Acts, MCL 55.286b(7)–(9).
3. The individual seeking my services and any required witnesses, if not personally known to me, presented satisfactory evidence of identity (e.g., a valid state-issued photo identification) to me during the video conference; they did not merely transmit that proof before or after the transaction, to satisfy the requirements of the Michigan Law on Notarial Acts, MCL 55.261 et seq., and any other applicable law.
4. The signatory affirmatively represented either that the signatory was physically situated in the State of Michigan or that the signatory was physically located outside of Michigan’s geographic boundaries and that either of the following applied: (a) The document is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of this state; or (b) the document involves property located in the territorial jurisdiction of this state or a transaction substantially connected to this state.
5. If the signatory was physically located outside of Michigan’s geographic boundaries, I do not have actual knowledge that the signatory’s act of making the statement or signing the document was prohibited by the laws of the jurisdiction in which she or he was physically located.
6. The signatory, any required witnesses, and I have affixed our signatures to the document in a manner that renders any subsequent change or modification of the remote online notarial act to be tamper evident.
7. The signatory or the signatory’s designee transmitted by fax, mail, or electronic means a legible copy of the entire signed document directly to me on the same date it was signed.
8. On receiving a legible copy of the document with all necessary signatures, I notarized the document and transmitted it back to the signatory.
9. I have certified the official date and time of the notarization as of the date and time when I witnessed the signatory’s signature via two-way real-time audiovisual technology as required under the executive order.

STATE OF MICHIGAN)

) SS

COUNTY OF _____)

Acknowledged before me on _____, 2020 by _____.

At the time of the acknowledgment, this person was located in _____ County, Michigan, and I was located in _____ County, Michigan. This document was notarized under Mich Exec Orders 2020-41 and 2020-74; my representations regarding the circumstances of this notarial act are detailed above and are incorporated by reference into this certification.

_____ Print Name:

_____ Notary public, State of Michigan,

County of _____ My commission expires:

_____ Notary located in: _____

County, Michigan Person making acknowledgment located in:

_____ County, Michigan