



Estate Planning Documents May Now be Signed in New York Using Audio-Video Technology

On April 7, 2020, Governor Cuomo signed Executive Order 202.14 which allows wills and health care proxies to be signed in New York State using audio-video technology. As a result, witnesses do not have to be physically present in the room with the signer. This will enable people to sign their wills and health care proxies without fear of exposing themselves to the Covid-19 virus which might otherwise arise.

This most recent Executive Order, along with an earlier Executive Order which authorizes notarizations through similar means, will facilitate the signing of all estate planning documents during the time of the Covid crisis. Documents must be signed on or before May 7, 2020 in order to make use of the provisions allowing for virtual witnessing. The time for documents to be notarized by similar means has been extended to May 7, 2020 as well.

The use of audio-video technology for virtual witnessing is allowed under these conditions:

The person requesting that his or her signature be witnessed, if not personally known to the witness(es), must present valid photo ID to the witness(es) during the video conference, not merely transmit it prior to or after;

The video conference must allow for direct interaction between the person and the witness(es), and the supervising attorney, if one is present (e.g., no pre-recorded videos of the person signing);

The witnesses must receive a legible copy of the signature page(s), which may be transmitted via fax or electronic means, on the same date that the pages are signed by the person;

The witness(es) may sign the transmitted copy of the signature page(s) and transmit the same back to the person; and

Following remote witnessing, the witness(es) may repeat the witnessing of the original signature page(s) as of the date of execution by signing the original will or health care proxy, provided the witness(es) receive such original signature pages within thirty days after the date of execution.¹

If you have any questions regarding the foregoing, or wish to discuss any aspect of your estate plan, please contact [Peter L. Lese](#), any of the undersigned, or your regular Warshaw Burstein attorney.

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¹ The witness(es) must also receive the electronically witnessed copies within thirty days of the date of execution, if they have not already received the same.

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