

CCM Client Alert – Estate Planning During the Covid-19 Crisis

These are stressful and difficult times. We want to reassure you that we are working from our homes and in the office to meet your needs without interruption. Many of you are concerned about your wills, powers of attorney and trusts (or your lack of planning). We are available by email and telephone, and we can arrange conference calls and video conferences through Skype or Zoom to discuss updating your documents or creating new ones. Please call or email us with your questions, or to set up an appointment. We are continuing to work on documents for clients. We can send them to you by email, Federal Express, or U.S. Mail with detailed instructions so that you can execute them without having to come into our office, and we can arrange to be present by phone to assist you in executing them.

Illinois law currently requires that a will be signed by the testator “in the presence of” two credible witnesses (who must be at least 18 years of age and not related to you, nor named in the document). “Presence” seems to mean physical presence. A health care power of attorney must be signed in the presence of one witness, while an Illinois power of attorney for property requires a witness and a notary. Under current law, the signer must *personally appear* before a notary and either sign the document or acknowledge his or her signature. A trust document does not require either a witness nor notarization, unless the grantor (creator) of the trust is a Florida resident or owns Florida real estate. A trustee can sign a trust certification (required by most institutions in order to open an account in the name of a trust) in Illinois by DocuSign.

We are monitoring developments in Illinois and are hopeful that Governor Pritzker will issue an urgent executive order, or the legislature will pass and the Governor will sign a new law, permitting notarization and witnessing of documents electronically (e.g., by videoconference). A few states already permit this. Once effective in Illinois, we would be able to witness and notarize documents through online visual connections. Until then, we are available by phone to talk you through signing your documents in the presence of the required witnesses and notary. Please let us know if you have an emergency situation, and we will work something out.

In the meantime, we are continuing to advise clients and revise existing documents due to changes resulting from the new Illinois Trust Code and the federal Setting Every Community Up for Retirement Enhancement (SECURE) Act. Note our January 23, 2020 Client Alert regarding “2020 Law Changes That May Impact Your Estate Plan.”

We will continue to be available whenever our clients are ready to discuss their planning or to prepare new documents. In the meantime, we hope all of you remain safe and healthy.