

A Guide to Executing Estate Planning Documents in Uncertain Times

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Preliminaries

- This is based on a presentation by Bill Pargaman, with some additions by Eric Reis
- Slides with thick blue header are Eric's, slides with thin olive-green header and SNPA logo are Bill's, blue thought bubbles on Bill's slides are Eric's

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WHY ARE WE HERE?

COVID-19 and Social Distancing

- Our clients still would like to execute estate planning documents.
- The typical will signing ceremony for a married couple involves five people sitting around a table together:
 - The husband and wife,
 - Two unrelated witnesses, and
 - A notary
- Yet “social distancing” and various governmental orders suggest we should avoid gatherings like this.
- So how do we get documents executed?

Most Estate Planning Documents Can't be Signed Electronically.

- The Texas Uniform Electronic Transactions Act expressly excludes its application to wills.
- Other documents must involve a “transaction” under TUETA. Essential elements require that the “transaction:”
 - Relate to the conduct of “business, commercial, or governmental affairs”
 - Between two or more persons.
- It's arguable whether financial powers of attorney constitute a “transaction.”
- Most medical directives would **not** constitute a “transaction,” but electronic execution is authorized by a separate statute in the Health & Safety Code.

EXECUTION REQUIREMENTS BY DOCUMENT

Also available as part of the eCourse

[2020 Texas NAELA Summer eConference](#)

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