

CORONAVIRUS (COVID-19) PANDEMIC YOUR ESTATE PLANNING DOCUMENTS



Many of you have received Memoranda from our colleagues at Couzens Lansky regarding the Federal Coronavirus Aid, Recovery and Economic Security ("CARES") Act as well as many State and County pronouncements regarding government assistance and "Stay Home, Stay Safe" requirements. If you haven't and would like to receive those, please [click here](#).

This memorandum addresses the "estate planning documents" our clients have typically put in place and how they can now be useful if you or a loved one is suffering from the virus.

Will: We certainly hope this document is not needed as it comes into play only upon the death of the testator.

Living Trust: You may recall a Trust is established to serve as a "basket" for your assets. The Trustee manages the assets to provide for the needs of the beneficiary(ies) with a minimum of "red tape" or governmental interference. Usually, the person who created the Trust (Settlor, Trustor, Grantor, Donor) is the primary beneficiary and Trustee as long as he/she is alive and capable, with an automatic or nearly automatic transition of authority to a successor Trustee upon death or incapacity.

Durable Power of Attorney: This document allows the person appointed to handle the legal and financial affairs of the person making the appointment. This is very handy compared to obtaining guardianship/conservatorship, especially now when so many of our Courts are closed.

Patient Advocate Designation (Medical Power of Attorney): If the patient is too sick or too badly injured to make his/her decisions regarding health and medical treatments, the Patient Advocate may do so using this document. A hospital or other health care facility may ask a patient to sign a similar form when being admitted. The most recent document will govern. The patient may specify his/her treatment preferences.

Health Insurance Portability and Accountability Act (HIPAA) Authorization: HIPAA protects the privacy of a person's personal health information. This document authorizes the persons named to obtain medical information regarding the patient.

Typically, each of these documents can be found in the "black binder" our clients took home when they signed their estate plans. If you are unable to find those documents, please contact us. We may be able to send electronic versions that will be acceptable or, if necessary, we can retrieve the hardcopy. For the safety of our staff, we will retrieve actual documents only as a last resort. If someone other than our client is requesting these documents, we will need to satisfy our obligation of confidentiality before releasing the documents.

New documents or changes to existing documents for hospitalized patients may be challenging as so many of the hospitals have now severely restricted or prohibited visitors. In critical situations and for those who are not confined, we will do our best to be innovative.

You may need written statements from one or more doctors to establish a patient's incapacity, in order to activate the Successor Trustee, Durable Power of Attorney and Patient Advocate Designation provisions.

The authors of this memorandum are both married to health care providers and know firsthand that these people are overwhelmed and functioning without needed resources and personal protective equipment. Providers are exhausted and know that the worst is not behind them. While each of us wants to share our concerns for our loved ones, doctors and staff are likely to be most responsive if your inquiries and requests are concise. If they need additional information, they will ask for it.

Important Note Regarding Retirement Accounts: Please be aware that recent Federal legislation waives the Required Minimum Distributions (RMD) from IRAs and other retirement accounts for 2020.

If you have any questions or would like further guidance regarding these situations, please contact [Alan Roeder](#), [Lisa Walters](#) or your [estate planning attorney](#) at Couzens Lansky.