

The Legal Strategist

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TEXAS ESOTERIC FACTS

During the novel coronavirus (COVID-19) pandemic, many people are reviewing, or for the first time, drafting their estate their documents. The vast majority of estate documents need to be notarized to be considered valid. The COVID-19 pandemic presents a problem for the traditional in person notarization of signatures. Luckily, Governor Abbot has recognized this situation and has made temporary accommodations to Texas law.

The Feature Topic is a cursory review. If you would like more information on this, or any other topic previously covered in my newsletter, which can be viewed on [The Legal Strategist](#) tab of my web site, please contact my office at 713.526.1883.

Scott Barrett

FEATURE TOPIC:

Remote Notarization of Estate Documents

Texas Pledge of Allegiance: "Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible."

Many documents require the client's wet signature because the Texas version of the Uniform Electronic Transactions Act, which authorizes electronic signatures on a variety of documents, does not apply to most estate planning documents. Accordingly, notaries commissioned as online notary publics cannot perform online notarizations of these documents. As a temporary solution to this problem in light of stay-at-home orders and the imposition of social distancing due to COVID-19, Gov. Greg Abbott temporarily suspended the requirement that a client must physically appear in front of a notary for self-proving affidavits, durable powers of attorney, medical powers of attorney, directives to physician, and oaths of executors, administrators, and guardians.

A notary must comply with the following requirements to remotely notarize a wet signature:

- The notary must verify the identity of a person signing a document at the time the signature is taken by using two-way video and audio conference technology.
- The notary public may verify identity by either (1) personal knowledge of the signing person, or (2) by analysis based on the signing person's remote presentation of a government-issued identification credential, including a passport or driver's license, which contains the signature and a photograph of the person.
- The signing person must transmit by fax or electronic means a legible copy of the signed document to the notary public, who may notarize the transmitted copy and then transmit the notarized copy back to the signing person by fax or electronic means.

The order remains in effect until the governor's office terminates the order or the disaster declaration is lifted or expires. Documents properly executed during the suspension period remain valid thereafter.

Several important estate-planning documents that may require notarization are not covered, such as mental health treatment declarations and agents for body disposition.

If you would like more information on this or any other topic relating to estate planning documents, please contact [Scott Barrett](#) to set up a consultation.