

Advanced Care Planning FAQs (4/14/20)

This FAQ addresses advanced care planning questions that have arisen during the COVID-19 pandemic and is intended to provide guidance to educate clients/screen them for referral for legal services. This resource is based on laws and orders in place in Maryland, and is intended for general informational purposes only and does not constitute legal advice. For specific questions, contact a local legal services provider in your state/county.

Q: Can I prepare an advance directive, simple will, or financial power of attorney if I cannot be physically present to sign the document before a notary and/or witnesses?

A: Yes. While the law generally requires a notary and witnesses to be physically present when these documents are signed, Governor Hogan in Maryland enacted an emergency order on March 30, 2020, waiving the in-person requirement for notarizing documents, and enacted an emergency order on April 10, 2020, to allow wills, powers of attorney and advance directives to be witnessed remotely, i.e. by video conference, as long as certain requirements are met. These emergency measures will remain in effect for the duration of the COVID-19 state of emergency.

Q: Do I need access to internet, and a computer or smart phone to have my advance care planning documents notarized and/or witnessed?

A: Yes. The client, witnesses, and notary must be able to observe one another and communicate to the same extent as if they were physically present in the same location. You must also have an email address to be able to receive the documents to sign electronically.

Q: Can the University of Maryland School of Law's Medical-Legal Partnership Clinic prepare these documents for me?

A: Maybe. If you reside in Maryland and qualify for Ryan White services, please contact Prof. Sara Gold at sgold@law.umaryland.edu, or 410-706-8791 for assistance.