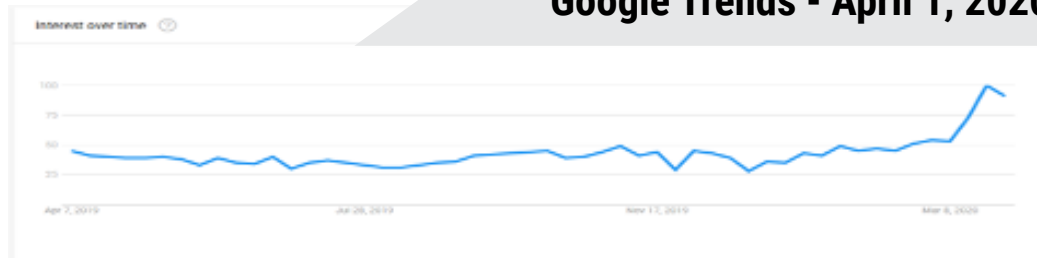


# ESTATE PLANNING: SOMETHING NEW



COVID-19 is impacting people in unanticipated ways. Google Trends (see chart below) is showing a significant increase in estate planning searches as people reflect upon how this might affect them and their legacy. Online estate planning websites are experiencing dramatic increases of 50% to 100%. The world has re-discovered the need for estate planning due to this pandemic.

## Google Trends - April 1, 2020



Estate planning does not need to be difficult; a few documents can make a big difference. Here are the five legal documents, in order of priority, which everyone should have in place:

### 1. Durable Power of Attorney.

This appoints one or more people to act for you on financial and legal matters in the event of your incapacity. Without it, if you become disabled or even unable to manage your affairs for a period of time, your finances could become disordered and your bills not paid, and this would create a greater burden on your family. They might have to go to court to seek the appointment of a conservator, which takes time and money, all of which can be avoided through a simple document.

### 2. Health Care and Medical Directive.

Similar to a durable power of attorney, a health care directive appoints an agent to decide health care matters for you when you can't do so for yourself, whether permanently or temporarily. Again, without this document in place, your family members might be forced to go to court to be appointed guardian, a costly delay when timing maybe critical. Include a medical directive to guide your agent in making decisions that best match your wishes.

### 3. HIPAA Release.

While the health care proxy authorizes your agent to act for you on health care matters, you may only appoint one person at a time. It may be important for all of your family members to be able to communicate with health care providers. A broad HIPAA release -- named for the Health Insurance Portability and Accountability Act (HIPAA) of 1996 -- will permit medical personnel to share information with anyone and everyone you name, not limiting this function to your health care agent.

#### 4. Will.

Your will says who will get your property after your death. However, it's increasingly irrelevant for this purpose as most property passes outside of probate through joint ownership, beneficiary designations, and trusts. Yet your will is still important for two other reasons. First, if you have minor children, it permits you to name their guardians in the event you are not there to continue your parental role. Second, it allows you to pick your personal representative (also called an executor or executrix) to take care of everything having to do with your estate, including distributing your possessions, paying your final bills, filing your final tax return, and closing out your accounts. It's best that you choose who serves in this role.

#### 5. Revocable Trust.

A revocable trust is icing on the cake and becomes more important the older you get. It permits the person or people you name to manage your financial affairs for you as well as to avoid the public process of probate. You can name one or more people to serve as co-trustee with you so that you can work together on your finances. This allows them to seamlessly take over in the event of your incapacity. Revocable trusts are not as simple as the prior four documents because there are many options for how they can be structured and what happens with your property after your death. Drafting a trust is more complicated, but also more nuanced, giving you more say about what happens to your assets.

Estates planning has moved into a "new" phase with online document services. The complexities of your affairs require skill and acumen to develop an effective & comprehensive plan. Edgar A. Guest was a popular poet in the first half of the 20th century. He was known as the People's Poet by writing inspirational poems about everyday life with one big exception:

## The Executor

I had a friend who died and he  
On earth so loved and trusted me  
That ere he quit this worldly shore  
He made me his executor.

I have his money to invest  
And though I try my level best  
To do that wisely, I'm advised,  
My judgment oft is criticized.

His children hate the sight of me,  
Although their friend, I've tried to be  
And every Relative declares  
I interfere with his affairs.

He tasked me through my natural life  
To guard the interests of his wife;  
To see that everything was done  
Both for his daughter and his son.

His widow, once so calm and meek  
Comes, hot with rage three times a week  
And rails at me, because I must  
To keep my oath, appear unjust.

Now when I die I'll never ask  
A friend to carry such a task  
I'll spare him all such anguish sore  
And leave a hired executor.

- Edgar A. Guest

His poem "The Executor" was neither inspirational nor uplifting but a cautionary tale about the importance of choosing the right executor/trustee/POA. The right choice can make for a smooth transition. The wrong choice can lead to mismanagement, theft, or years of litigation all draining your estate away from its intended purposes. Take the time to consider the how and who of your estate plan.

