

Law Office Of Inna Fershteyn

YOUR COVID-19 ESTATE PLANNING SURVIVAL GUIDE



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HOW THE CORONAVIRUS HAS AFFECTED ESTATE PLANNING

In the midst of one of the deadliest pandemics in modern American history, it is no surprise that many people are scrambling to complete their estate planning in case the unthinkable happens. With most attorneys' offices closed due to government mandates, however, the traditional form of estate planning is seeing some necessary improvisation to make sure that people are still able to receive the legal services they need.



FIVE ESSENTIAL ESTATE PLANNING DOCUMENTS YOU SHOULD HAVE



International pandemics are serious business. Seeing in the news that so many people here and abroad are passing away from severe cases of the Coronavirus, it's no wonder why people are springing to estate attorneys to either update their wills or even do their estate planning for the first time. Being that even with ample time, estate planning can still be an incredible complex problem, there's a reason why estate planning professionals across the country are recommending that your estate plan contain the following crucial documents:

Will/Revocable Trust: Most people draft wills which explain how they'd want their assets to be handled at death, which works well for small and modest estates. However, because wills must go through the process, which often takes several weeks to many months to complete, some prefer to use a revocable trust which allows their assets to completely bypass the process.

Living Will: Simply put, a living will help you control your medical at the end of your life. In addition to providing instructions for your end-of-life care, a living will outline exactly the medical procedures that you approve of when it comes to trying to preserve your life. With a living will you're able to control what happens to you in the event that you're unable to voice your preferences. With countless hospitals reporting a drastic shortage of ventilators, making sure that your living will address whether or not you wish to be put on a ventilator during the end stages of your life is more important than ever.

FIVE ESSENTIAL ESTATE PLANNING DOCUMENTS YOU SHOULD HAVE

Healthcare Durable Power of Attorney: If the tragedy happens during an outbreak and you're stricken with an illness, having a healthcare power of attorney in place will ensure that a trusted individual of your choice will have the ability to make medical decisions on your behalf. If you're currently receiving care, we highly recommend that you check with your doctor to see if they can suggest any criteria when it comes to picking a healthcare power of attorney. A licensed attorney can also help you properly draft your documents to ensure a smooth transition if you're no longer able to make medical decisions for yourself.

HIPAA Release: A HIPAA Release is a legal document in which you name a person to communicate with your medical providers on your behalf and handle your private health information. Just as you would have a healthcare power of attorney in your estate plan, during the uncertain time of the coronavirus outbreak, it is definitely worthwhile to have a HIPAA Release handy as well. Estate planning is never fun, but having your documents in place to ensure that you are well taken care of and your assets are properly distributed if the worst comes to fruition is priceless. If you or a loved one are looking to draft all your necessary documents during this time of uncertainty, we highly recommend that you consult with a licensed estate attorney who will guide you through the rough waters of estate planning.



TAKING CARE OF YOUR ELDERLY PARENTS FROM LONG DISTANCE

Caring for your parents from a long distance can certainly be a challenging but very necessary endeavor. If you find yourself in a position where you live far away from your parents who need living assistance, here are some things to keep in mind.

Financial Assistance: One option for providing care for your elderly parents when you live far away is known as becoming a long distance caregiver. Becoming a long-distance caregiver opens various opportunities in terms of taking care of your parents. Being a long distance caregiver can entail simply helping your parents manage and pay their bills, or if you have concerns over how your parents will receive the care they need, another option is arranging for a nurse or home attendant to come to their home and provide the necessary care in person. As you'd be able to if you live within close range of your parents, being a long distance caregiver still gives you the option to locate a nursing home or long term care facility that meets their needs and have them provide for your parents. When planning a family member's care from a distance, it can help to know as much as you possibly can about them and have the information readily available. The last thing you want to happen is for your parents to find themselves in a situation that isn't suited to their needs. Put all their vital information in one place, and make sure to have it on hand whenever you're making a decision that will affect their care and/or living situation.

Emotional Support: One important aspect of long distance caregiving, especially for your parents, is keeping them in the loop on your life as well as staying up-to-date about theirs. Emotional support, whether through regular phone calls or emails is one of the best ways to keep your parents at ease regardless of their age. It's a good idea to plan plenty of visits and know exactly how you'll spend the time with your parents. If you haven't seen them for a considerable while, it's not uncommon to feel like there is just too much to do in the time you have. You can get more done and spend more quality time together by planning your activities ahead of time.

Getting Started As A Caregiver: To get started as a long-distance caregiver, you will want to familiarize yourself with your elderly parents' health conditions. Some important information to have on hand is what kind of illnesses they live with, what medical plan is necessary, whether or not they are eligible for Medicaid assistance, and if they have any insurance. These questions will help guide you in the direction of providing your parents the best possible care. Some important information to have on hand is what kind of illnesses they live with, what medical plan is necessary, whether or not they are eligible for Medicaid assistance, and if they have any insurance. To ensure that you are doing the most that you can for your parents, we recommend that you hire an elder law attorney for guidance. A professional lawyer will be able to make sure that your role as a caregiver runs smoothly and all of the necessary documents are prepared.

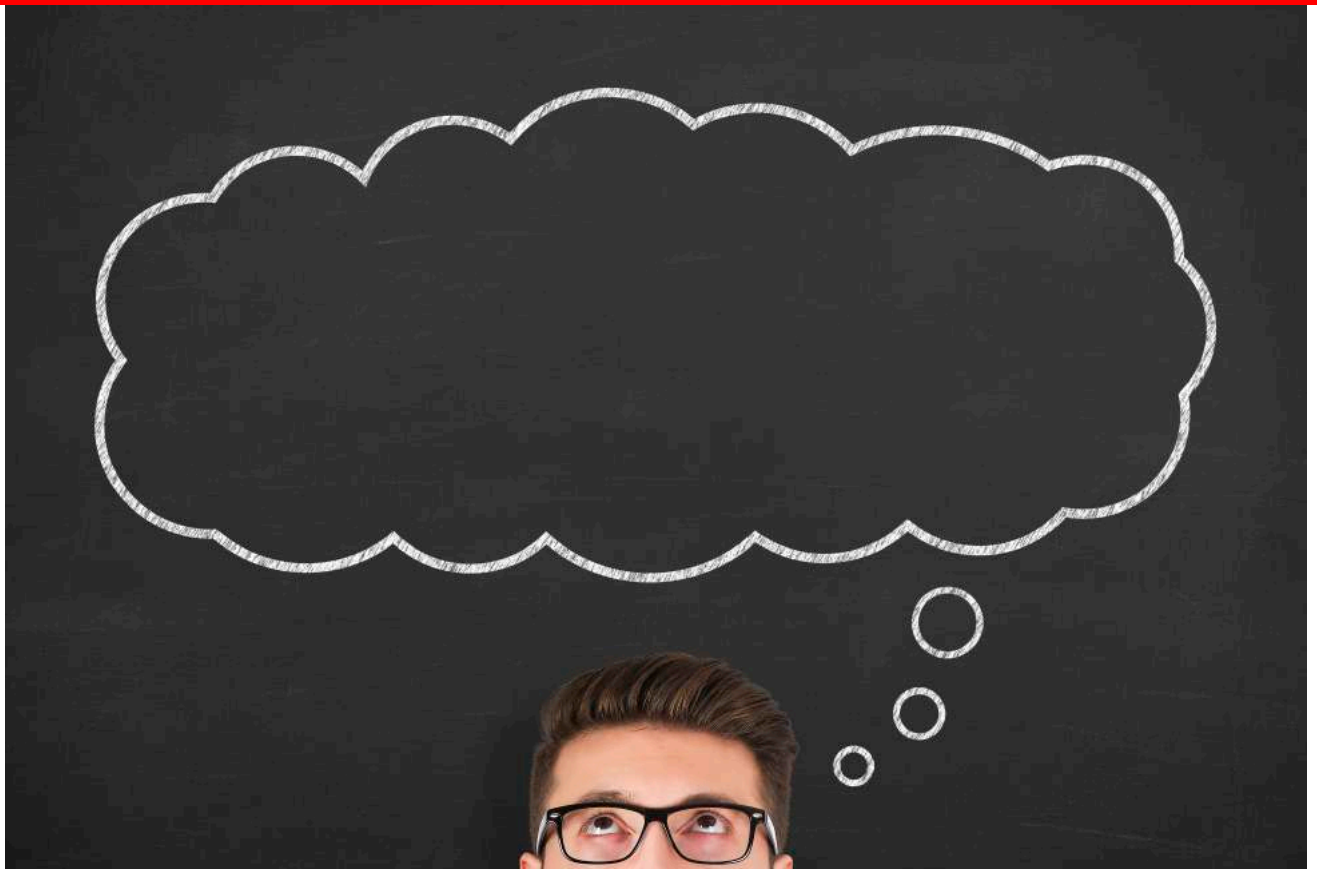
EXECUTING YOUR ESTATE PLAN WHILE SOCIAL DISTANCING

Due to the COVID-19 outbreak, all legal documents can now be virtually executed and signatures can be notarized via video conference with your estate or elder law attorney. In fact, as an emergency measure to help clients in need of legal services, we're keeping our office virtually open to assist clients with drafting wills, powers of attorney, healthcare proxies, trusts and a variety of other essential estate planning documents.



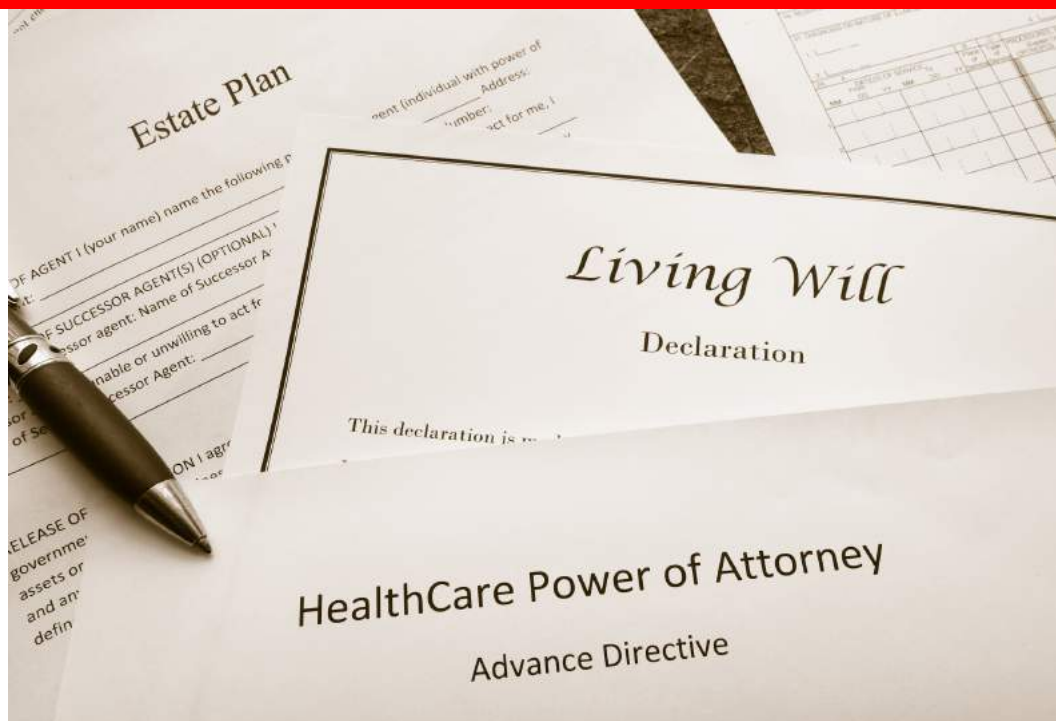
DOCUMENTS THAT SHOULD BE PREPARED DURING COVID-19

While COVID-19 may be causing many people to get their estate planning done urgently (and for good reason), the process remains the same. A proper estate plan should include a will, revocable trust, living will, healthcare power of attorney, and HIPAA release.



WHAT IS THE MOST ESSENTIAL DOCUMENT TO HAVE IF A FAMILY MEMBER HAS CONTRACTED THE VIRUS?

If you find yourself in the situation where a family member has contracted COVID-19, having a healthcare power of attorney in place will ensure that you have a trusted individual by your side who will be able to make medical decisions on your behalf if you are unable to communicate them yourself. It is no secret that we're living in a time of unprecedented uncertainty and fear. That being said, there is no better time to be prepared than before the situation arises that requires preparation. If you or a loved one are looking to get your estate planning done, we highly recommend that you consult with an attorney who will guide you through the process.



FREQUENTLY ASKED QUESTIONS

If I get sick with COVID-19, do I need a will?

Whether you have the Coronavirus or not, a will is an important document and a necessary document to have when it comes to Estate Planning. When there is no will to name an executor, state law provides a list of people who are eligible to fill the role. If a probate court proceeding is necessary, the court will choose someone based on that priority list. This process can be very gruesome and unnecessary, so in order to avoid this, a will should be executed whether your sick with the Coronavirus or you're healthy.

If I have been diagnosed with COVID-19, do I need a health care proxy?

Similar to the will, it is important to have a healthcare proxy regardless of whether or not your diagnosed with the coronavirus. A health care proxy lets you appoint a competent adult to make decisions about your medical treatment in the event you lose the ability to decide for yourself – including decisions to remove or provide life-sustaining treatment. If you don't have a health care proxy, New York State law provides a back up that works in certain situations. For example, if you wind up in a hospital and are unable to make your own health care decisions, the law provides a specific order of priority in terms of persons who are allowed to make them for you. Communicating your health care wishes to someone without that document does not mean that your wishes will be honored. This type of situation can be avoided with the Health Care Proxy. This document ensures that your health care wishes are honored and also makes sure the person you want is making your health care decisions.



FREQUENTLY ASKED QUESTIONS

Can I make a power of attorney if I am already in the hospital with COVID-19?

If you do not have a Power of Attorney (POA) and are being hospitalized, it is still not too late to execute this document. The Power of Attorney is a necessary part of Estate Planning. While the Health Care Proxy appoints a person of your choosing to make any health care decisions for you, a Power of Attorney appoints someone to be in charge of making decisions concerning financial, property, and other issues. Although in most cases, a power of attorney must be signed and notarized with an attorney present, due to the health crisis we are facing, Governor Cuomo has signed an Executive Order allowing for notarization via live audio-video transmission. Thanks to this Executive Order, it is now possible to have your estate planning documents executed even in isolation.

Can I execute my will electronically if I am quarantined during Covid-19?

Many people have never considered the importance of a will until this crisis has struck. Although it's recommended that you sit with an experienced estate planning attorney, this global health crisis has made this task difficult. Fortunately, it's not too late to execute a will for you or your loved ones. Just like with any other estate planning document above, you can meet with a lawyer over the phone or through teleconferencing programs like Zoom. Once your will is drafted, you can sign your will at home, and get it notarized at a later date.

What happens to my property if I die without a will during Covid-19?

If you die intestate or without a will, your assets will go to the closest relatives under state "intestate succession" laws. If there are disagreements in the family over who received what things, or who gets custody of a child, the estate could go through Probate court. A probate court is a court that has competence in a jurisdiction to deal with matters of probate and the administration of estates. In some jurisdictions, such courts may be referred to as Orphans' Courts, or courts of ordinary. Probate hearing can be costly, so the best way to avoid these issues is to have an estate plan set up.

FREQUENTLY ASKED QUESTIONS

Are courts in NYC open during Coronavirus if I need to file a will in probate?

During this pandemic, NYC courts have decided to only remain open for cases that require urgency. Otherwise, all cases that were scheduled have been postponed until COVID-19 will get under control.

Can I file will in probate electronically during COVID-19?

During the COVID-19, you are allowed to electronically file your will in probate. With the Executive Order signed by Governor Cuomo, you can sign Powers of Attorney, Trusts, and Affidavits by video conference with your attorney provided it is signed and notarized by the expiration date. An important document that does not require a notarization is a Last Will and Testament. Accordingly, it is not covered by the Executive Order. Like most other states, New York State does not provide guidance on virtual supervision of Will executions and there is little to no case law on the subject within the State. Statutory law (NYS EPTL 3-2.1) provides that a Will must be executed “in the presence of” at least two witnesses. Witnesses don’t necessarily have to be there in person but must be present remotely via video or audio.

My mother died without a will of Coronavirus in Brooklyn NY, what should I do now?

Well, first, we are very sorry for your loss. Second, not too much can be done now as courts are not operating at full capacity. You should definitely get a consultation with an elder care lawyer about administration of your mother’s estate and start the step by step administration process in the state of New York County of Kings where she died. Since your mother died of Covid-19 in King’s County without a will her estate will be distributed in accordance with NY EPTL laws.

HIRE AN ATTORNEY

If you or a loved one need help to execute all the necessary estate planning documents, contact the Law Office Of Inna Fershteyn. Inna is a great estate planning attorney who has over 20 years of experience. Since the start of this pandemic, Inna has helped people remotely draft, and sign all estate planning documents from the comfort of their homes, without ever putting anyone's safety at risk. If you need help executing the proper estate planning documents, call (718)333-2394 to set up an online consultation or contact us online.



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