

Why Everyone Needs Estate Planning

Estate planning should be a part of everyone's comprehensive financial plan. Deciding now how to distribute your assets will keep you in control of everything you've worked so hard for and make things easier for your family.

by NEA Member Benefits

If you haven't taken the time to list all of your assets, you might be surprised to discover how big your estate actually is. It's everything you own, including cash and investments, pensions, 403(b) balances, IRAs, life insurance policies, real estate, personal possessions, heirlooms and yes, the family dog. Even if your net worth is small, you still need an estate plan so you can make important decisions about:

- **Assets.** Who gets your belongings after you die?
- **Legacy gifts.** Do you want to give money to charities now and after your death?
- **Your healthcare and finances.** Who will make decisions for you if you are incapacitated?

Sounds important, right? It is. But recent surveys show that less than half of Americans have an estate plan, or even a simple will. In one EZLaw Wills & Estate Planning survey, the chief reason cited for not having an estate plan was that people were too stressed thinking about today to plan for tomorrow. They viewed all of the estate planning documents and decisions as being too complicated. But try dying without an estate plan. That can get really complicated for your family.

All this distribution and direction is accomplished primarily through two documents—a will and a trust. You'll also want to create Durable Powers of Attorney for healthcare and finances.

Start simple: Beneficiaries, PODs, and TODs

Before you call in your attorney, there are a few simple steps you can take on your own to ensure that some of your assets get transferred to the right people after your death:

- **Review your beneficiaries.** A beneficiary is the person (or persons) who will receive the assets in your retirement accounts and the proceeds from life insurance policies after you die. Make sure the correct beneficiary is listed on your state pension report, your 403(b) plan, IRAs and insurance policies. Check the spelling of their names, their Social Security numbers and the percentage each beneficiary is to receive, if you have more than one listed. Remember that if you are married, your spouse automatically has rights to the assets in your retirement accounts, unless they waive those rights in writing.
- **Payable-on-Death (POD) bank accounts.** This is an easy way to ensure that assets in a bank account go directly to a beneficiary without having to go through probate (see the trust section below for more on probate). Your bank can provide a form for you to name a person to inherit the money in your account. While you are alive, that person has no rights to the money. Only after your death does the beneficiary claim the assets in the account, which they do by showing a death certificate and personal identification to the bank.

- **Transfer-on-Death registrations.** Almost every state lets you name someone to inherit your stocks, bonds and brokerage accounts, without going through probate. You just register your accounts in what's called "beneficiary form." This works much like the POD bank account. Your beneficiary has no rights to your assets until after your death, at which point the assets are transferred directly to the beneficiary. As of this writing, thirteen states (Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Illinois, Indiana, Kansas, Maryland, Missouri, Nebraska, Nevada, Ohio, Oklahoma, Vermont and Virginia) also allow TOD registrations for vehicles. States that allow TODs for real estate include Alaska, Arizona, Arkansas, California, Colorado, District of Columbia, Hawaii, Illinois, Indiana, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Virginia, Washington, West Virginia, Wisconsin and Wyoming.

Where there's a will

If you own anything of value, you need a will. This document lets you spell out your wishes, including who gets what and when they get it, and who will be the executor of your estate. The executor is the person who follows your instructions and ensures they are carried out. If you die without a will, a state court will make all the decisions and it's a pretty good bet they won't all be made exactly the way you would have made them.

If you have modest assets and a simple family dynamic, you may be able to draft a will yourself at little to no cost by following the advice in a book or using online resources. If you have significant assets, or a blended family, consider working with an estate attorney to make sure everything is done correctly.

Add some trust with a trust

A trust is a more complicated legal entity that is similar to a will but with much more flexibility. Your trust holds the title to property and assets such as real estate, cars and financial accounts.

One big advantage of a trust is the avoidance of probate. Probate is the court-supervised process of carrying out the instructions in a will. It can be costly—anywhere from 3-10% or more of the estate's value—and it can take a long time to complete. Assets in a trust do not go through probate. And if you include a provision called a pour-over will, assets that weren't already in the trust can be automatically transferred into the trust without going through probate. Unlike a will, a trust is not part of the public record, so the details of your estate are shielded from public view.

Health and financial decisions

If you have specific desires about end-of-life issues or feel strongly about the need to administer or withhold certain medical procedures, it's best to express them clearly in an advance healthcare directive or living will, and then assign a trusted person to act on your behalf.

You'll also want someone who can make financial decisions for you if you're incapable of making them yourself. You do that by providing the person with a Durable Power of Attorney. Have frank discussions with the people who will be carrying out your wishes so you can be sure they understand what you want—and don't want.

The bottom line

Everyone needs an estate plan and the closer you get to retirement, the more important it becomes. In addition to giving you control over how your estate gets handled, a solid plan will make it much easier on your surviving family members by minimizing disputes.

Since it's best for many people to have a will, a trust, and Durable Powers of Attorney, consider working with an estate attorney to keep the stress level down. Before meeting with an attorney, it's helpful to get as knowledgeable as possible.

- [This article](#) lists six things you should know about writing a will.
- [This checklist](#) will help you get prepared to write up a living trust.
- You can download your state's advance healthcare directives [here](#).

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