

Estate & Pre-Planning Guide



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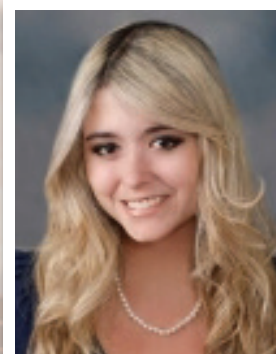
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Family Protection Plan

Don't compromise your family's long-term security. Make an estate plan today

By Dana Carman
CTW Features

The business of daily life already doesn't leave a lot of room for extras, and the topic of your own demise isn't something you look forward to discussing. However, discussing it and then creating an estate plan is exactly what everyone should do as it is essential for you and your children. If you become incapacitated or die without a will, the decisions regarding your children and property – not to mention your care – no longer are yours to make.

What is an estate plan?

The term “estate planning” may create a little confusion and procrastination in those who don't feel they have any sort of estate for which planning is worthwhile. Not the case, says Kurt Nilson, an attorney and estate-planning expert in Johnstown, Pennsylvania.

“Estate planning should be considered any time we establish a relationship involving long-term financial dependency, such as births, adoptions, marriages and long-term cohabitation,” he says. Moreover, “although the actual mechanics of an estate plan necessarily involve directing post-death property ownership, most can establish a more beneficial estate plan by considering who relies on us for their daily needs and how those lives would change with our sudden absence,” Nilson adds.

Without an estate plan, what happens to property?

To that end, the biggest financial



ramification of not having an estate plan is that the surviving spouse and children may have to share the estate with unintended heirs. Nilson explains that any property that does not have valid instructions for its ownership is subject to the state's intestate laws, which often will require some type of division between the surviving spouse and other relatives of the deceased – including siblings, parents or even nieces and nephews.

“Most people assume that their surviving spouse automatically receives the entire estate when they die,” Nilson says. “However, more than 30 U.S. states require the surviving spouse to share the deceased's property with the deceased's issue (children, grandchildren, great-grandchildren, etc.) even if the issue is from a former relationship.”

Adds John Litscher, a certified financial planner and partner at The Capital Group in Madison, Wisconsin, adds: “You want to consider the different aspects of your family situation if something were to happen to you.”

Additionally, if you die without a will your property goes through

the probate process before your inheritors can take ownership. Depending on the state, the process can be long and costly – both financially and emotionally.

What happens to me without a living will?

Death isn't the only event that necessitates directives. In the event you are incapacitated, the question of who will make the decisions regarding your medical care varies by state. Further, if you have not expressed your wishes, those caring for you may not make the decisions you'd hoped they would. By designating a health care power of attorney and creating a living will you head off any potential legal battles between family members and receive the care you'd intended for yourself. Advanced-care directives are a good idea for everyone, not just those who own property or have children.

What happens to my children?

Most concerning to parents should be what happens to their

children if they die. Too often parents put off creating a will, as the thought of leaving their children is a difficult thing to confront, or they're uncomfortable with their choices in possible guardians. However, if parents die without a will, the state decides who will raise their children – and that person may not even be your last choice. Moreover, consider the emotional – and financial – toll it would take on your children and family members should they legally battle each other.

Is this expensive?

That depends on how you look at it. It may feel costly to sit down with a financial planner and estate attorney; however, it will be a lot costlier to your family in the long run not to have your estate in order. “From a financial planning standpoint, [you should start] right away,” Litscher says. “You want to protect yourself from the bad scenarios.”

Litscher also notes that if you're already using a comprehensive financial planner, he or she routinely works with attorneys on estate planning and can facilitate that process. There also are do-it-yourself programs and sites that will give you basic documentation. However, experts advise caution as those DIY options may contain a lot of loopholes. The best way to ensure that you, your dependents and your property are fully protected is to meet with an attorney specializing in estate planning. The bottom line is that these decisions are too important to leave up to someone you've never met, which is exactly what will happen without an estate plan.

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Ask (and Answer!) the Right Questions

How to talk about your wishes

By Patricia Rivera

CTW Features

End-of-life planning is now as essential as having car insurance, says attorney Tabatha Castro, who practices in Delaware.

“It is important to speak to someone experienced in end-of-life planning to ensure your final desires are adhered to and you continue to have control long after you are gone,” Castro says.

The Institute for Healthcare Improvement and the Conversation Project in Cambridge, Massachusetts offers a Conversation Starter Kit specifically for families and loved ones of people with Alzheimer’s disease or other forms of dementia. This is more specialized version

of its traditional Conversation Starter Kit, which offers guidance for initiating dialogues among family members about wishes and preferences “at the kitchen table” and not in the intensive-care unit. The kit is available at www.theconversationproject.org.

Anita Brikman, senior vice president of strategic communications at National Hospice and Palliative Care Organization in Alexandria, Virginia, says that many topics can kick off conversations about end of life, including: the death of a friend or colleague, television shows or articles about illness and funerals, annual medical checkups. It’s also important that each individual assess his or her own values, beliefs or views about life and death.

The Conversation Project suggests including the following question in an end-of life-dialogue:

- When you think about the last phase of your life, what’s most important to you? How would you like this phase to be?
- Do you have any particular concerns about your health? About the last phase of your life?
- What affairs do you need to get in order, or talk to your loved ones about?
- Who do you want (or not want) to be involved in your care? Who would you like to make decisions on your behalf if you’re not able to?
- Would you prefer to be actively involved in decisions about your care? Or would you rather have your doctors do what they think is best?
- Are there any disagreements



or family tensions that you’re concerned about? Are there important milestones you’d like to be there for, if possible?

When creating a living will, experts suggest the following three tips:

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Selecting A POA For Property



1) Consult with someone who knows state laws on living wills. “It doesn’t have to be a lawyer,” says Michael Kirtland, Colorado Springs-based certified elder law attorney. “It could be someone at the hospital who knows what state law is on that subject.”

2) Read the document carefully and consider your responses. “This is not something you want to do off the top of your head,” Kirtland says. You want to be able to answer while in a healthy state of mind if you want life sustaining treatment, machines, surgeries, etc.

3) Talk to loved ones. “Tell them what your desires are,” Kirtland says. “Talk to them about how you feel about the dying process.” Adds Liza Hanks, an attorney in Campbell, California: “I would stress that having the conversation with your family about what you do and don’t want is maybe even more important than the document itself.” Keep in mind, Hanks adds, that as long as you are able to communicate you can still direct your own care.

“Living wills and advance directives only come into play when someone can no longer communicate their own wishes,” Hanks says. “So people can and do change their minds about what they want when they’re actually in a dire situation.” And remember that your decision to create a living will can affect the decisions your family faces in the future.

“Apparently families often feel so conflicted about what to do because they’re not sure what their loved ones wanted,” Hanks says. “This document can give people peace of mind about terminating life support when that’s the right thing to do.”

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You may become incapacitated for a time, but money matters keep demanding attention, whether it’s your bills to pay or health insurance claims to submit.

That’s why designating a POA for Property/Financial Matters in addition to one for healthcare decisions is vital.

While the person selected as a healthcare proxy should be “someone who can distance themselves from their own personal, moral, ethical and religious beliefs and make a decision as the patient would make for themselves ... even if it conflicts with the agent’s own personal, moral, ethical and religious beliefs,” says Michael Amoruso, president of the National Academy of Elder Law Attorneys.

An agent for financial matters

should be someone who will never “feel an entitlement” to your assets, Amoruso says.

A skilled attorney, maintains Amoruso, should ensure that the POA for Property is “robust,” including “HIPPA release language to permit the agent to access private medical information to access

insurance information and medical files for purposes of dealing with insurance claims.” (HIPPA is an acronym for the federal privacy laws on patients’ health information.)

In addition, an attorney should guide his client as to when the POA for Property should be “listed at the Social Security.

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What I Want

5 tips to communicate your wishes to your family

By Lisa Iannucci
CTW Features

Nobody really wants to think about death, especially their own, but the truth is that it is inevitable. Maybe you have given the end of your life a little bit of thought and know that you want to make sure your antique jewelry goes to your daughter, but your favorite painting goes to your best friend. Maybe you know that you do not want to be kept alive by any artificial means and that you also want to be cremated not buried.

Knowing your end-of-life wishes is great, but how do you communicate these wishes to your family so you know that they are carried out?

Start early

The time to have the talk about end-of-life wishes is as early as possible. “We usually recommend sitting down with your family and identifying your wishes before you become ill or something happens,” says Dr. Linda Wilson, PhD., MSN/CNS is with Middle Tennessee State University in Murfreesboro, Tennessee, who has also worked in hospice for more than a decade.

Communicate comfortably

Whether you have this important talk over a breakfast burrito or over-the-phone is an individual decision. “It depends on you and your relationship with your family,” says Wilson. “You might feel it’s easier to write a personal letter or have a family meeting. Some family members might feel offended if you sent a text with your wishes, so you need to know who you are talking to.”

Expect resistance

Most times, family members will not want to hear you say anything about death, especially yours. Try to keep the lines of communication open. “Tell your family members that you really want them to understand your last wishes,” says Wilson. “Say something like, ‘At this point, this I where I am in the process and I just want you to be aware of what I want in my last days.’”

Have your paperwork handy

Simply telling your family that you don’t want flowers at your funeral or that you want to leave your home to your children isn’t enough. You need to put your final wishes in writing, so the family knows you are serious and that your



wishes must be obliged. End-of-life paperwork includes a living will that dictates the medical treatment that you want to happen, and a physician’s order for life sustaining treatment. “We also want individuals to have a health care proxy, which is when one person or several persons make decisions about your health if you become incapacitated,” says Wilson.

Have multiple talks

One talk might not be enough. “The entire process is ongoing,” says Dr. Wilson. “If you’re relatively young, you might have to have multiple talks to update family about changes. For example, maybe you didn’t want a Do Not Resuscitate when you were 45, but in your late 60s or 70s you might want one and your family should honor that change.”

David Hlavac and his wife, Michael (pronounced Michelle), admit they’ve put off end-of-life

planning for more than 20 years, but now that their kids are teenagers, they realized the time was now.

“We sat down together and just made a list of things we’d needed to decide: guardianship for the kids, how our assets would be divided or held in trust, how could the children remain living in the family home, etc.,” says David. “We didn’t even meet with a lawyer until after we had sorted out the big questions together. When we did proceed, our lawyer was impressed with our preparation. Soon, we’ll be filing both a last will and testament and an advance health care directive. It’s better late than never!”

Once David and his wife have all of their paperwork signed and sealed, they will sit with their children and their family and talk about their decisions. “It’s better late than never,” says David.

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11 Documents You May Need

By Lisa Iannucci
CTW Features

Death and taxes – Benjamin Franklin once says that these are the two certainties in life. We all prepare our taxes every year, but why don't we prepare for our own death?

It's probably because nobody wants to talk about our own death, but the reality is that it's going to happen whether you're prepared for it or not. To help make it easier for the loved ones that you'll leave behind, here are 11 end-of-life documents that you consider signing before your time comes.

1. Last Will and Testament

You've worked hard and you have things – money, investments, a



house, car, souvenirs and sentimental tchotchkes. Who gets it all?

"The Last Will and Testament dictates how your legacy – your hard work, your assets and everything

you've put together throughout your lifetime – will be distributed after your death," says Vincent Averaimo, an attorney with Milford Law in Milford, Connecticut, a firm that

handles wills and estate planning. "It outlines how your assets are going to be distributed, who is going to facilitate the distribution and, if there are any minor children, who the guardian will be."

A will can be changed hundreds of times. "It has no legal enforceability until your death," he says.

2. Living Will

It sounds similar to a Last Will and Testament, but it isn't. "If it's determined that you will be in a persistent vegetative state with no hope of recovery, a Living Will states that you do not want to be kept on certain life support systems, such as feeding and breathing tubes," says Averaimo. "A Living Will takes away all the anguish and

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burden associated with determining whether or not to ‘pull the plug’ on someone.”

3. Do Not Resuscitate

A Living Will is not to be confused with a Do Not Resuscitate, or a DNR. “If something happens and you’re declared dead, a DNR states that you do not want a defibrillator or anything else used to bring you back,” says Averaimo.

4. Durable Power of Attorney

A Durable Power of Attorney is a person who you appoint to step in if you can’t handle your affairs any longer. “There could be no threat of your passing, but you can’t handle your affairs,” says Averaimo. “This is different than a Power of Attorney, because when someone becomes incapable then the POA is no longer lawful.”

A Durable Power of Attorney can buy and sell assets, property and investments and handle bank accounts and credit card companies. “However, they cannot make healthcare decisions on your behalf and that’s where the Healthcare Agent Designation comes into play,” says Averaimo.

5. Healthcare Agent Designation

Let’s say that you’ve been in an accident and are rushed to the hospital. Maybe you are unconscious or in an otherwise altered state. You cannot make your healthcare decisions. “Without a Healthcare Agent Designation, there are things that cannot be done for you and that could lead to court intervention,” says Averaimo.

6. Designation of Conservator

“Shady Pines, ma!” On the Golden Girls, Dorothy made jokes about putting Sophia back into the nursing home. When Dorothy did



it the first time, it was probably because Dorothy was her mother’s conservator.

“A conservator is appointed when a person is deemed, under the law, to be incapable of handling their own affairs both medical and nonmedical,” says Averaimo. “The conservator can do everything, including putting someone into a nursing home, get them benefits and all things in between.”

There is a difference between a conservatorship and a durable power of attorney though. “The conservatorship is overseen by a probate court and the conservator has an obligation to the person who is conserved and to the probate court to account for every penny and every single action that they take,” says Averaimo.

In addition to these six forms, there are other important end-of-documents you should consider:

7. Organ Donor

According to OrganDonor.gov, more than 115,000 people are on

the national transplant list. If you want your organs donated upon your death, visit <https://www.organdonor.gov/register> to make sure your wishes are documented.

8. Life Insurance

The Insurance Information Institute (III) states that life insurance replaces lost family income and covers unexpected expenses. However, consider reviewing how much life insurance you have. III research shows those that 1 in 5 of those who do have life insurance say they don’t have enough.

9. Personal Property Memo

Want to make sure your bottle cap collection or valuable Honus Wagner baseball card is handed down to your grandchild? Some people write a personal property memo, a letter outlining what you want to do with this personal property.

“There’s nothing wrong with a Personal Property Memo, per se,”

says Averaimo. “You just can’t expect them to be enforceable. If you want to be sure of where that stuff goes, it should be in your will.”

10. Digital Assets Document

In today’s world of online banking and other websites filled with passwords, money and other personal items, someone should have access to that information. A digital assets document outlines who that is.

“We’re running into this with Bitcoin where, without a passkey, there’s no court order that’s going to get you into that,” says Averaimo. “If your executor doesn’t know where all these digital things are or how to access them, you are leaving out a portion of your estate that will just sit there in limbo forever.”

11. Physician Orders for Life Sustaining Treatment

This is relatively new. According to POLST.org, “the POLST form documents the medical orders that helps give patients more control over receiving treatments they do want to receive, and avoiding treatments they do not want to receive, in the event they cannot speak for themselves during a medical crisis.” It is not federally mandated, so check with your state on the requirements.

12. Diminishing Capacity Proxy

This gives a professional – say your physician – permission to call a family member or your durable power of attorney if they see a diminishment in your physical, cognitive, mental or psychological capacity.

Once all the i’s are dotted and the t’s are crossed on this end-of-life paperwork, you’ll feel more comfortable that your loved ones know how to handle everything when the time is right.

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Your Care, Your Way

The documents that direct your treatment when you can't

By Marilyn Kennedy Melia
CTW Features

Most of us scarcely give it a thought.

Still, research reveals that when we do think of how we'd like to spend our last days, it's at home, comfortable and with those we love. But unless people actively think about their end-of-life care, and take steps to ensure that someone will advocate for the treatment they want, medicine's default system takes over, with treatments continuing "no matter how poor the quality of life," says Katy Butler, author of the recent book, "The Art of Dying Well" (Scribner, 2019).

An aging population is prompting "more interest in end-of-life planning" with hospitals, physicians, nurses and other healthcare professionals working to better align treatments with patient's wishes, notes Dr. Barry J. Jacobs, clinical psychologist, healthcare consultant and co-author of "AARP Meditations for Caregivers".

Health systems recognize there is a "higher quality of life needed at the end of life," says Jacobs. "Individuals don't want to die in an ICU."

Much information – as well as needed forms that help outline your desires for care – are freely available online.

But it can still be difficult to take the first step. Here, a primer on how:

Time to Start?

"It's never too early" to establish two key directives – a Durable Power of Attorney (POA) for Healthcare

and an Advance Directive, also known as a living will, says Butler. Indeed, says Jacobs, like acquiring auto insurance or a driver's license, these documents are the responsible, "adult" thing to acquire, she maintains.

If you've already established a will, it's likely your attorney may have also suggested or helped you prepare these documents, along with a POA for Property (See sidebar, "Selecting A Power of Attorney For Property").

While Butler would like to see everyone – even young adults – have these crucial preparations in place, she concedes: "Realistically, few people are likely to address this until they are in their forties, see a friend through a bad dying process or have a serious brush with death."

Many Baby Boomers are not only thinking about the need for their own directives, but they have aged parents who may not have put their own plans in place.

What's Needed When?

A POA for Healthcare, also known by terms like "healthcare representative" "healthcare proxy" or "healthcare agent," designates a person (sometimes persons) who you've asked to speak on your behalf, when you are unable to, due to physical or mental impairment.

An Advance Directive (AD) provides detail that can guide your POA in making tough decisions. Some states have AD forms containing checked boxes so you can easily indicate you want to be kept free of pain, kept on a feeding tube or other measures.

For a more complete view of what care decisions you should consider, suggests Butler, visit

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All In the Family

When it comes to care decisions, there will be disagreements. Here's how to navigate managing parent care with siblings



Emotions tend to get heated when making decisions about loved ones, and everyone wants their voice heard when it comes to their parents' health and happiness. Here's how you can make sure that everyone's opinions are respected while keeping your parents' best interests in mind:

1. Set an Agenda

Keep everyone on topic by setting an agenda before the conversation. Figure out what you hope to accomplish and the steps you'll take as a family to get there. You can always circle back to tie up any loose ends.

2. Meet All at Once

Important points can get lost in translation if all siblings aren't present for the conversation. Avoid this outcome by meeting

in person. Also, be sure to keep a record of the points discussed so that there's no confusion about what was actually said.

3. Embrace Individual Opinions

Your parents' welfare means a lot to all of your siblings, even if you each have different ideas about a plan of care. Prevent one sibling from dominating the conversation by giving everyone a chance to speak and offering thoughtful feedback. And as is the case with any potentially thorny conversation, never hesitate to bring in a mediator who can keep family members in line.

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www.theconversationproject.org, or www.fivewishes.org, with the latter offering a \$5 form outlining directives.

An Advance Directive from one state is generally honored in another state, notes Jessica Brown, spokesperson for the Goals of Care Coalition of New Jersey. They are often available from your state department for the elderly or your state health department, as well as your healthcare system.

A POA for Healthcare form doesn't require an attorney to complete or make official, and these forms are also likely available from your healthcare system, notes Butler.

However, a skilled attorney will engage a client in "discussion on selecting the appropriate agents who would always act in the patient's best interest," says Michael Amoruso, president of the National Academy of Elder Law Attorneys. "Most individuals do not thoroughly engage in this thought process when merely filling out a form," he adds. Later, if you or a loved one suffer from serious and terminal illness, it is time to create a "POLST" or Physician Orders for Life-Sustaining Treatment," says Butler. A POLST, which is signed by a physician, is more detailed than an Advance Directive, and address the current issues, like a prohibition on transporting a patient from hospice to hospital, or whether antibiotics should be prescribed.

Can We Talk?

For an elderly parent who quickly shuts down any conversation on end-of-life planning Jacobs suggests asking his/her primary physician to point out why it's necessary.

And keeping the focus on the positive is always the right approach –it's actually necessary to envision your future wishes. "Focus on what makes your life worth living," Butler explains.

That leads to other questions, she illustrates, like, "How much physical or cognitive damage could you sustain and still feel life is worth living? Do you need to know that you can feed yourself, or is it more important that you can communicate with others, love and be loved, respond to your environment?"

To select a person to be your POA, you will, of course, need to ask him/her. While a child or spouse is often the choice, Butler says you should also consider someone outside of the immediate family, who can assertively advocate for your wishes.

If you select someone outside, "it should be made clear" to your immediate family why, says Jacobs. Moreover, maybe you want to select just one of your children as your health proxy. "Maybe you want one of your children because he doesn't have a lot of other family responsibilities, or maybe because he's had prior experience with something like this," Jacobs says.

Finally, communicate as fully as possible with all concerned, especially your POA. "Have a 'kitchen table' conversation and write informal letters to people who love you," says Butler, "so they understand on a gut level, not just a legalistic 'check-box' level."

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Care for Me

How to find the right medical care providers and continuum of care facility to honor your wishes

By Lisa Iannucci
CTW Features

Many of us hope that we will be able to live out our lives in the comfort of our own homes.

Unfortunately, life doesn't always work out that way. Often because of declining health, living on our own isn't always an option. So, when it comes time that you need to move from your home sweet home to a continuum of care facility, how do you find the right one?

"If you still have the ability to make this decision and the capacity to speak, the decision where you go next is yours," says Sidneia Sharif, MSN, APN-C nurse practitioner with palliative medicine.

It might be your preference, but there are several things to consider when choosing a facility:

Needs:

According to the Healthcare Information and Management Systems Society (HIMSS), there are many types of Continuum of Care facilities, including acute healthcare services, long-term care, assisted living, skilled nursing facilities, rehabilitation centers, home care, Hospices and more. What type of facility you need will depend on your health at the time.

For example, maybe when you are 70 years old you will still be able to live independently, drive, cook and fend for yourself. But perhaps you don't want to live in your current home, which takes a lot of labor to maintain. "You might consider moving to an independent living facility, which is like a retirement



community," says Dreher. "You can come and go as you please and enjoy the social life."

A few years later, your health might start to decline and you may need help with daily tasks. "Many independent living facilities also have long term care facilities, so if you choose one that does, you can just move over to another part of the property," says Dreher. "You need to choose a facility that can not only offer you skilled treatment, but can

provide further treatment if your disease or illness progresses."

Wants:

Just like any housing choice, it's important to visit and narrow down your options. "Interview the facility and find out if they offer what you want and need," says Dreher. "Some facilities have an Olympic-sized swimming pool and that may be good for your arthritis. To others, it's the food, so try the food while you're visiting."

Cost:

Of course, your future arrangements won't come for free, even if you decide to stay in your own home. "Staying in your own home as you get older can become very expensive, especially if you end up needing 24-hour care," says Teri Dreher RN, owner and founder of NShore Patient Advocates, and a board-certified patient advocate, based in Chicago. "Add on the cost of your taxes and housekeeping, etc. and you can be spending thousands of dollars a month more to stay at home than to move to an independent living facility."

Depending on your insurance and the part of the country in which you live, you may or may not have the funds to cover your continuum room and board, so it's important to crunch the numbers and see if you can afford the expense. Unsure how much long term care costs in your state? Visit GenWorth.com, which provides a state-by-state comparison. For example, an assisted living facility in New York City averages \$5,916 per month, while it costs \$3,493 in Mississippi. Once you find a facility that meets your needs, how do you know that they will carry out your final wishes? "Make sure the facility has a copy of Living Will and advanced directive," says Sharif. "They are legal documents, so the facility has to honor your wishes."

It might be hard to think about now, but deciding on your continuum of care facility on your own is better than having someone decide for you later.

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