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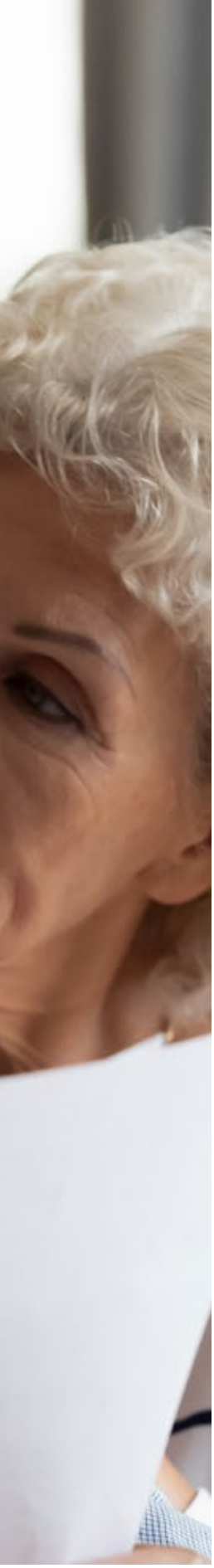
ASSURANCE PLAN

25 COMMON ESTATE PLANNING MISTAKES

Having a comprehensive estate plan in place is important for ensuring that your loved ones are protected and your wishes for yourself and your assets are fulfilled in the future. While most people understand the significance of estate planning, many of us unfortunately end up failing to complete a proper plan that accomplishes our goals. When this happens, it often results in our assets passing to unintended beneficiaries and our preferences regarding critical choices like end-of-life care being disregarded.

In most instances, this kind of disastrous outcome is because of an estate planning mistake. In this informative booklet, you can read about the 25 most common mistakes that are to blame for the majority of cases when a person's plans do not end up coming to fruition if they become incapacitated and after their lifetime, even when they have engaged in advance planning.

By learning about the most common planning errors in this booklet, you can avoid them in your own plans and make sure that your family is protected and your assets preserved. The peace of mind that comes with knowing your plan will succeed as you envision can be invaluable, so once you know these common mistakes, be sure to take action to create or update your estate plans with assistance from knowledgeable professionals who focus on estate and financial planning.



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MISTAKE 1

No plan

NOT CREATING AN ESTATE PLAN

The biggest estate planning mistake anyone can make is failing to plan at all. Without any plans in place, both you and your assets will be at risk.

This is because when you pass away without a will, state laws called intestacy laws will govern how your assets will be distributed after your lifetime. These are mainly based on blood relationships, so if you would prefer to leave an asset or even your entire estate to people or charitable organizations other than your primary blood relatives, then it would be a terrible decision to leave your distribution up to the state's laws.

As you might imagine, this is especially problematic if you are in an unmarried couple, as only legal marriage is recognized under intestacy laws, or if you are estranged from any of your relatives, have a child with a substance abuse or spending problem, or want to have any control over how your wealth is passed on after your lifetime. In general, intestacy laws are very inflexible and unlikely to reflect how you would want your estate to be distributed. The other downside of passing away "intestate" (or without a valid will) is that your estate will be subjected to probate. As probate is a notoriously slow, expensive and arduous process, most people would prefer to engage in planning that allows their loved ones to avoid this process.

The other main issue with failing to plan is that you have nothing in place to protect you and document your care wishes should you become incapacitated. Incapacitation occurs when someone cannot make or communicate decisions on their own. This can occur as a result of a serious illness, accident or even general cognitive decline as we age.

Without advance planning, incapacitation will leave you extremely vulnerable, and the decisions made on your behalf during that time could have lasting negative consequences for your physical health and your financial well-being.

If you become incapacitated without the appropriate legal documents in place, like a durable power of attorney, then your family will need to petition the court for the appointment of a legal guardian. Generally, the court will choose a guardian from a list of blood relatives who live nearby, which may or may not be the person you would have chosen for yourself. If you do not have any relatives close by, then the court will appoint a professional guardian. This is a complete stranger who is paid to serve in this role. Without any guidance from you through legal documentation, that guardian will have complete control over your health care decisions and personal financial matters. As most people would prefer to name one or more people who they trust to take on these important decisions, it's always preferable to have the right documents in place instead of having to rely on a court-appointed guardian in the event of incapacitation.

For these reasons, estate planning is essential if you want to avoid guardianship, avoid probate and give specific assets to the particular people or charities that matter most to you.

Will only

LIMITING ESTATE PLANNING DOCUMENTS TO A WILL

While some people believe that estate planning means only creating a will, this is simply not the case. While a will can be part of a comprehensive estate plan, it is not sufficient for anyone to rely solely on a will for their advance planning, even if it does serve as their central document for asset distribution after their lifetime.

In addition to a will, a complete estate plan should include (at a minimum): a general power of attorney, a health care power of attorney and an advance directive. You also may want to consider revocable and irrevocable trusts, depending on your circumstances and what your attorney recommends.

A general power of attorney provides someone of your choosing the ability to manage your personal finances and other day-to-day decisions on your behalf should you become incapacitated in the future. Similarly, a health care power of attorney gives you the opportunity to name a person you trust to make medical decisions for you, including whether to perform treatment interventions, undergo procedures or even transfer you to a different health care facility if you are unable to make these kinds of choices for yourself. As mentioned, without these two legal documents in place, a court will appoint someone else – someone who may not be your first choice – to serve in these capacities for you. The decisions made while you are incapacitated could quite literally mean the difference between life and death, so most people would prefer to retain control over who is given these expansive powers.

An advance directive is also known as a living will, and it provides your preferences for end-of-life care. Without an advance directive, your loved ones will be left to guess as to whether you would want to have life-sustaining interventions like a feeding tube or ventilator used to extend your life. As most people have strong opinions about whether or not they would like to have these kinds of interventions employed, especially when there isn't a possibility of recovery, you will need to complete an advance directive containing your preferences to ensure that they are followed when the time comes.

In addition to these other important documents for protecting yourself in case of incapacitation and at the end of life, a will in and of itself may also not meet your needs as a central document governing asset distribution. Just like being intestate with no plan in place, a will is also subject to probate. As a result, if avoiding the hassles, delays, publicity and expense of probate for your family is important to you, then you may want to consider using a revocable living trust. This can help you avoid probate, and it also can help you to avoid having a guardian appointed in the event of incapacitation, as a successor trustee (or named trustee given authority in case the original trustee is incapacitated or passes away) can step in and oversee assets held in that trust if you do become incapacitated.

MISTAKE 3

Trust only

LIMITING YOUR ESTATE PLANNING DOCUMENTS TO A LIVING TRUST

Similar to relying solely on a will, having only a living trust in place will not be sufficient for the vast majority of people. As a result, if you only have a living trust and do not have the other important parts of a comprehensive estate plan in place, your planning likely will fail to help you achieve your goals for the future.

As with a will, a living trust is just a part of a complete estate plan – not a plan in and of itself. A living trust has many benefits, which is why many people use them in their planning. However, a trust usually cannot meet all of your needs, so additional documents will need to be executed.

In addition to your trust, your legal documents should include the following (at a minimum): a pour-over will, a general power of attorney, a health care power of attorney and an advance directive.

As mentioned, both a general power of attorney for giving someone authority over your personal financial matters and a health care power of attorney for giving someone you trust the ability to make medical decisions on your behalf are essential protections to have in place in case of incapacitation. While a trust is useful in this situation because you can name a successor trustee to take over and manage trust assets if you become incapacitated, that authority only extends to the assets correctly titled in the name of the trust.

So, if you haven't funded the trust, or if accounts needed to pay medical and other bills are not held in your trust, then your successor trustee will be very limited in their ability to oversee your personal finances during a period of incapacitation.

In addition, a pour-over will is a kind of will that's necessary when you wish to use a trust to distribute your assets and avoid probate. With a pour-over will, your last will and testament only serves to direct that all of your assets not already placed in trust be "poured over" into your trust after your lifetime. This acts as a "catch-all" to ensure that assets you might have missed when titling items in the name of the trust are still placed there for distribution purposes.

However, you still will need to make sure that all accounts, plans and policies that have a beneficiary designation are updated and accurate, as those will almost always pass based on that designation and not the directives in your will or trust, even if you have both in place.

Overall, estate planning is not just planning for asset distribution after your lifetime and protection against potential incapacitation. It also includes financial planning and coordinating all of your accounts to ensure that your big-picture plans for the future come to fruition. For example, as mentioned, the beneficiary designations on your financial and retirement accounts are part of your estate plan. These beneficiary designations need to be carefully coordinated with the provisions of your will, trust and other legal documents to ensure everything works together effectively to accomplish all of your goals.

Ignoring incapacity

FAILING TO PLAN FOR INCAPACITY

Estate planning includes much more than just determining the distribution of your property after your lifetime. While most of us would like to believe that it's unlikely to happen to us, incapacitation is incredibly common. Whether you experience a serious illness like cancer, end up in a car accident or simply start to lose cognitive abilities as you age, there are many different ways that a person can become unable to make and communicate decisions for themselves.

As a result, planning for your physical care and management of your property in case of incapacitation is important for everyone to engage in to protect themselves. Planning for incapacity includes executing powers of attorney for health care and finances where you name a person of your choosing to have authority over those matters along with an advance directive to provide end-of-life care preferences. It may also include a revocable living trust, as a successor trustee can get immediate access to your trust assets in case of incapacitation to pay for personal expenses if need be.

Without a comprehensive estate plan that includes these kinds of essential protections, your family will need to petition the court for the appointment of a guardian if you were to become incapacitated. The court will usually select a blood relative from a list provided by law, which may or may not be the person or persons you would have chosen yourself. Or if you do not have family living nearby who can serve in these roles, then the court will appoint a professional guardian – a stranger who is paid by you – to make decisions on your behalf.

The actions taken by others during incapacitation often cannot be undone, which could lead to financial ruin or asset depletion if your personal finances are not handled appropriately. In addition, medical decisions can be made that cause your condition to worsen, irretrievably impacting your health. For this and many other reasons, the majority of people would rather provide their own health care and finance proxies instead of leaving it up to the court.

> ***"As a result, planning for your physical care and management of your property in case of incapacitation is important for everyone to engage in to protect themselves."***

Unfunded trust

NOT FUNDING YOUR LIVING TRUST

Trusts are a very common estate planning vehicle, primarily because they allow you to avoid probate and offer some protection in case of incapacitation because the successor trustee can step in and manage trust assets. However, neither of these benefits is available to you if you fail to fund your living trust during your lifetime.

This is because living trusts must be funded to avoid probate and the need for guardianship in the event of incapacitation. "Funding" a living trust means completing the process of retitling your assets from your individual name to the name of your trust.

This involves changing the deed to your home and other assets to reflect that the trust is the owner of the account, not you as an individual. This includes both assets with titles, like real estate, and those without titles, like household furniture. If you're unsure as to how to retitle a given asset, it's useful to work with an experienced attorney who can help guide you in this.

When you fail to complete the funding process, you lose both major benefits of a living trust. First, your successor trustee will only have authority over items in the trust at the time of incapacitation. If you haven't placed bank accounts and other assets that may be needed to pay medical bills and other expenses while you're incapacitated into the trust, then your successor trustee will have no power to access them. Similarly, if you fail to place all of your assets in the trust before your lifetime, then those items that aren't retitled will generally be subject to probate, losing that major advantage of a trust.

No attorney

NOT WORKING WITH AN EXPERIENCED ESTATE PLANNING ATTORNEY

While you might think that it could be simpler or cheaper to complete a will and other estate documents online, this option is usually not the best option for most people. Trying to save money by getting a do-it-yourself will or trust agreement online or using an online program that purports to offer free wills and trusts can be extremely risky for a few different reasons.

First, online templates tend to be "general use" and may not comply with your state's laws. This means that while you think you have a proper will or trust in place, your plans could all be invalidated and set aside after your lifetime if they do not contain the state-required language or provisions.

With free online will programs, you usually are limited in terms of customization, so it likely will not result in a plan that meets all of your needs. These programs also may be collecting your data in exchange for the "free" estate planning documents you receive.

Another option that is also unwise is selecting the attorney who offers the lowest price, regardless of their experience or expertise. Consider what will happen if your documents are not completed properly. Your will and/or trust may be considered invalid by the probate court, and intestacy laws could govern your estate distribution instead. This would essentially negate your plans and make the lower expense you pay the inexperienced attorney completely worthless.

If your estate planning documents are not properly drafted, they will not achieve your objectives. Additionally, an experienced estate planning attorney will be able to counsel you about other beneficial options and vehicles you might not have considered otherwise, like different kinds of trusts.

Overall, choosing not to work with an attorney or choosing to work with a general practice attorney who isn't knowledgeable in estate planning are both common – but very easily avoidable – mistakes.

Wrong trustee/ representative

NAMING THE WRONG SUCCESSOR TRUSTEE/PERSONAL REPRESENTATIVE

With a will, you need to name a personal representative (otherwise known as an executor) to carry out its instructions after it has been probated by the court. In addition to understanding the terms of your will, your personal representative will need to understand the probate process itself, which is a notoriously slow and often confusing process. Your personal representative also needs to have the time to meet with attorneys and prepare and submit the many required court filings on time. As a result, it's important to choose the right person to take on this important role. A poorly chosen personal representative will exacerbate the stress of probate, as well as the time and expense to complete the process. This can cause even greater delays and headaches for your intended beneficiaries as they wait for their inheritances.

As with a personal representative, you also need to have the right person in place to act as your successor trustee to manage and distribute your assets during potential incapacitation and then after your lifetime. Even if your trust is properly drafted and fully funded, it still may not achieve your goals if your successor trustee fails to follow (or understand) its provisions. Many people automatically name one or more of their adult children as successor trustee without fully considering whether they are best suited to administer their trust following their incapacity and after their passing. While it may seem appropriate to name your oldest child as successor trustee, you need to carefully consider whether they have the knowledge, time and experience to properly administer your trust. Also, if you have multiple children or beneficiaries and expect a disagreement within your family about the trust's administration, you may wish to consider naming a third-party or professional successor trustee. This can be a trust department within a bank or an individual professional trustee. The fees for this option tend to be higher than when you name a loved one, but it could be worth the extra cost to avoid potential intrafamily conflict and/or litigation in the future.

No alternates

FAILING TO NAME MORE THAN ONE SUCCESSOR TRUSTEE/PERSONAL REPRESENTATIVE

One of the lesser known but still very common estate planning mistakes is only naming one personal representative for your will and/or successor trustee for a living trust.

While most people put a lot of thought into who they would want to serve in these and other important roles like health care surrogate, circumstances can always arise that make it impossible for that person to take on the role you select for them. Their own health, potential cross-country moves and other life events can cause the person you select to be unable to take on the role you intend for them.

As a result, a comprehensive estate plan should include designated backups or alternatives for all of the key players, including your successor trustee and personal representative. Estate plans often fail because people make presumptions about the order of death and availability of people to take on certain roles. When this happens, the court may need to step in to select someone else for you. This may not be the alternative person you would have selected for yourself, and they may not be prepared to carry out your plans. By providing alternates, however, you give your plan additional strength and flexibility to continue to meet your needs and accomplish your goals even if the unexpected happens and your chosen person or people cannot serve in these roles.

> ***"As a result, a comprehensive estate plan should include designated backups or alternatives for all of the key players, including your successor trustee and personal representative."***

MISTAKE 9

No discussion

NOT DISCUSSING YOUR ESTATE PLAN WITH YOUR SUCCESSOR TRUSTEE/ PERSONAL REPRESENTATIVE

Once you work with a knowledgeable attorney to put a comprehensive estate plan in place, it's important to then share your plans with the personal representative of your will and the successor trustee of your living trust.

This is advisable because another common estate planning mistake is lack of communication that leads to estate plan failure. Living trusts and wills are written in technical legal language, and there's generally no opportunity to provide clarification in your own words or other information about your wishes outside of what's to be included in your will based on your state's laws. If your successor trustee and personal representative only have the legal documents to draw from, they may not be able to determine your intent and their duties, and they could inadvertently take an action that actually goes against your wishes. By speaking with your designated successor trustee and your personal representative (and the alternatives you name as recommended above), you can increase the odds of your estate being successfully administered. You can also answer any of their questions to ensure that they understand your plans completely and consider explaining your reasons for your choices in case they need to defend your estate from contests or unhappy beneficiaries.

MISTAKE 10

Not telling your family

NOT DISCUSSING YOUR ESTATE PLAN WITH YOUR FAMILY

Many people make the critical error of not discussing their estate plans with their family prior to their passing. While it might seem like an uncomfortable conversation to have, it is an invaluable step to take to ensure your plans come to pass as you envision while minimizing potential conflict between your loved ones.

Because your will and trust instrument generally only include the legally permitted provisions regarding asset management and distribution, it's a mistake to believe that your family will understand your intentions by simply reading those documents, especially since they contain such technical legal language. As a result, a conversation is important for communicating your plans and also explaining the motivation or reasons behind your decisions.

This kind of communication is especially important when your plan includes unequal asset distributions among your children. Even if you have good reason to leave unequal inheritances to your children, like a substance abuse problem, having the conversation while you're able to may alleviate a lifetime of misunderstanding and hurt feelings. It also can help to prevent unnecessary and costly litigation brought by dissatisfied children who might believe that your unequal distribution was not intentional.

Many of these problems, and the associated expenses, can be avoided by discussing your estate plan and its goals with your family. You are the best, and in many ways, only person to explain your estate planning choices to your family.

MISTAKE 11

Digital assets

NEGLECTING YOUR DIGITAL ASSETS

Increasingly, we all are living more and more of our lives in the virtual, digital and online world. We access most of our accounts online, connect with friends digitally and even communicate virtually. However, many estate plans fail to include directions regarding digital assets. Many bank accounts, social media profiles and email accounts contain financial or sentimental value that can only be accessed online with the correct passwords.

To ensure that your estate plan is executed as you imagined, your power of attorney, successor trustee and personal representative all will need specific authority and information to access and manage your digital assets.

In your plans, you will need to indicate which accounts should be closed, deleted, transferred or consolidated. In order to access your accounts, your successor trustee and personal representative will also need a comprehensive and updated listing of all digital accounts with usernames, passwords and security questions. Without this information, it will be impossible to administer your digital estate, causing potential financial loss and emotional hardship.

MISTAKE 12

Out-of-date designations

FAILING TO UPDATE BENEFICIARY DESIGNATIONS

Beneficiary designations allow you to name a person or charitable organization to receive the funds or proceeds of that account, plan or policy after your lifetime. The most common examples of assets that have beneficiary designations are retirement plans, life insurance policies and annuities. You also can name a successor charity to receive whatever remains in your donor-advised fund after your lifetime.

Assets with beneficiary designations all avoid probate because the funds or proceeds are distributed to your named beneficiary outside of the probate process. This allows beneficiaries of these kinds of assets to receive their gift or inheritance from you quicker and more efficiently than assets that pass on through a will.

It's important to know that beneficiary designations will override any contrary instructions in a will or trust. This means that it can be especially critical to periodically review and update your beneficiary designations to make sure they are accurate, as you cannot rely on the provisions in your will or trust to govern how these will be distributed in the future.

These accounts may represent a substantial portion of your estate, and so they also need to be coordinated with other aspects of your estate plan. A common error is failing to update these beneficiaries in response to life events like divorce, marriage or death of a loved one. This could result in funds being distributed in a way you would never have chosen. It's an extremely common estate planning mistake, but you can easily avoid it by reviewing and updating your designations to reflect changed circumstances and life events so that they continue to remain coordinated with your estate plan.

> ***"Assets with beneficiary designations all avoid probate because the funds or proceeds are distributed to your named beneficiary outside of the probate process."***

MISTAKE 13

No plan reviews

NOT CONDUCTING PERIODIC REVIEWS OF YOUR ESTATE PLAN

After you complete a comprehensive estate plan, you might think that you've reached the end of the process. While it may be that you can step back and enjoy the peace of mind that comes with completing your planning for a while, it does not mean that you should put your documents away to collect dust.

Estate planning is not a static process. It's never a good idea to place your estate plan on a shelf and expect that your vision for the future will come to pass. In fact, estate plans, like most things in life, require maintenance. As a result, a common mistake is to complete your plans and never return to review and revise them as needed. To avoid this mistake, it's recommended that you review your estate plan documents, beneficiary designations and financial accounts every 18 to 24 months to confirm that everything is still in order and properly coordinated according to your wishes. A periodic review also offers an opportunity to determine if your needs, family circumstances or applicable laws have changed since the last review.

This is a critical step for ensuring that your plans are carried out in the future and your assets are transferred exactly as you would prefer.

MISTAKE 14

Ignoring life events

NOT UPDATING YOUR ESTATE PLAN TO REFLECT LIFE EVENTS

As mentioned, periodically reviewing and updating your estate plan is essential for ensuring your documents and designations are still up to date. However, beyond periodic reviews, you also could make a grave mistake by failing to revise your plans after experiencing a major life event.

Your estate plans can be significantly impacted by events like divorce, marriage, the death of family member, the birth of family member, a substantial change in health, diagnosis of serious illness and a change in financial circumstances. Whenever any one of these occurrences happens in your life, you will need to revise your plans accordingly.

First, you will need to review your estate plan, including your trust agreement, to determine what needs to be amended. One of the benefits of a revocable trust is that it can be amended to reflect changed circumstances following a life event. Then, you will want to work with your attorney to ensure that the appropriate changes are implemented, whether that's a trust amendment, a codicil to your will or updating your beneficiary designations. Without taking these critical steps, you may accidentally leave assets to an ex-spouse, fail to include an inheritance for your new grandchild or make another irreparable mistake that could impact your family for generations.

MISTAKE 15

Excluding pets

FORGETTING ABOUT MAN'S BEST FRIEND

Unfortunately, many pets end up living out their lives in shelters after their owner's death because they failed to plan or neglected to include a plan for their pet or pets after their lifetime.

You may not be aware, but your estate plan can include provisions for your pet. You can plan for your pet by designating someone who will have custody in your estate documents and providing them with financial support to pay for your pet's food and veterinary care. In many states, your plan can also include a separate "pet trust" to provide financial support for your pet in case of incapacity or after your lifetime.

While you should plan ahead for any pets you might have at the time of your passing, it's especially important to take action if you have an exotic or usual pet. Parrots, reptiles and other less common pets may be more difficult for a loved one to care for, so including a custodian and an alternate for those animals will be even more necessary to ensure they're provided for into the future.

MISTAKE 16

No irrevocable trust

FAILING TO CONSIDER USING AN IRREVOCABLE TRUST

For most people, a "trust" means a revocable living trust. There's good reason for this, as it's the most common kind of trust used for estate planning purposes. However, it could be a mistake to fail to consider another lesser utilized trust: the irrevocable trust.

As their names suggest, a revocable trust can be changed or updated in the future based on changing circumstances in your life, while irrevocable trusts are much more limited in your ability to make changes over time.

Revocable living trusts are extremely common because they allow you to avoid probate and may eliminate the need to have a guardian appointed in the event of incapacitation. Irrevocable trusts offer you these benefits as well, but they also provide the added advantages of protecting assets from creditors. In addition, they can be used to preserve assets in case you need to qualify for Medicaid, as assets held in an irrevocable trust do not count against you for determining eligibility. The reason you receive these protections is precisely because you give up more control with an irrevocable trust vs. a revocable one.

While a revocable trust may be sufficient for meeting your needs, it could be useful to consider an irrevocable one if protection from creditors and/or avoiding the Medicaid "spend down" to obtain eligibility are important to you. With this kind of trust, it's especially crucial to work with an experienced estate planning attorney who can assist you in crafting the appropriate trust to meet your needs.

MISTAKE 17

No long-term care

FAILING TO PLAN FOR LONG-TERM CARE

As we live longer, more and more people will need to rely on long-term care in a skilled nursing facility toward the end of their lives. While many of us would rather live out our days at home, or perhaps in an assisted living facility, we ultimately do not usually get to make that choice for ourselves, especially when dealing with a progressive illness, terminal condition or memory disorder.

With costs nearing $100,000 per year, a skilled nursing facility stay can destroy your estate and financial plan. Yet many people fail to plan for this increasingly likely event. The result is that you will be forced to use almost all of your assets to pay for long-term care until you qualify for Medicaid (usually referred to as Medicaid spend down). Without advance planning, many people find themselves in this situation. It means that they must deplete their assets to secure valuable Medicaid coverage to pay for the often-enormous costs of care.

However, a number of financial planning options exist to leverage your financial resources to cover your long-term care expenses, and several estate planning options also exist to protect assets from Medicaid spend down. By engaging in planning with assistance from a financial advisor and attorney who are knowledgeable in Medicaid laws and preparing for long-term care costs, you can rest assured knowing that this eventuality will not significantly impact the legacy you wish to leave for your loved ones.

MISTAKE 18

No end-of-life plans

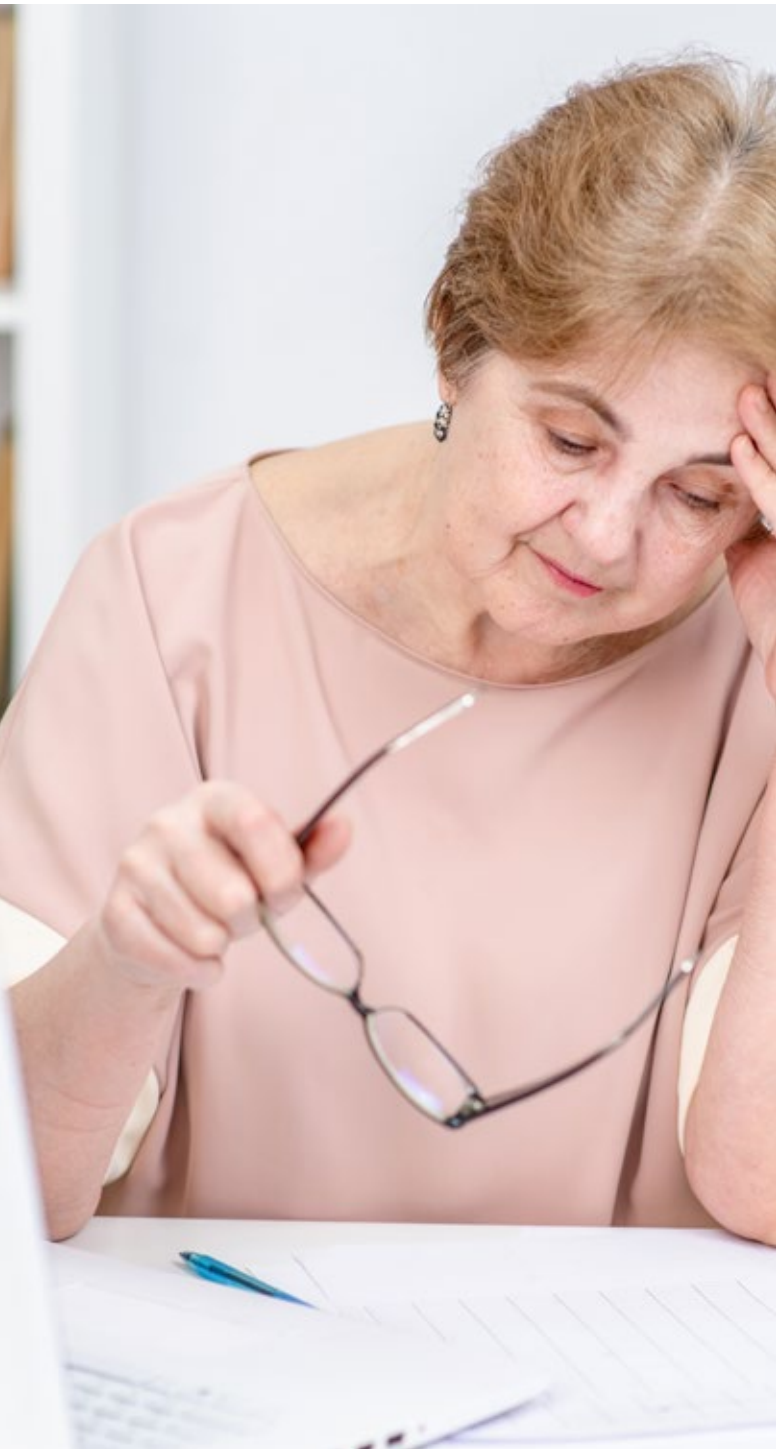
FAILING TO PLAN FOR END-OF-LIFE ISSUES

While it can be uncomfortable to consider end-of-life planning, it's essential for everyone, regardless of their age, to include end-of-life preferences in their estate plans. This common mistake can have a dramatic impact on how you spend your final days and the financial impact it could have for your loved ones.

For many people, the idea of their lives being extended through artificial and mechanical means, especially when there is very little chance of recovery, is not what they would choose for themselves. In fact, it's a common fear to be a "vegetable" living on feeding tube and breathing with assistance from a ventilator. In addition to a desire not to live that way, may people would also never would want to run up an exorbitant medical bill with those kinds of unwanted interventions.

However, with proper planning, you can avoid this fate and choose what kind of end-of-life care and treatments you do want. The default for most medical professionals is to provide the necessary treatment to keep the patient alive, even if recovery is not possible. It's very common to be unable communicate your wishes when approaching end-of-life, so it's extremely important to consider and document your preferences as part of your estate plan before you reach that point.

This generally involves completing an advance directive (or living will) that provides which life-sustaining interventions you wish to have used, and which you expressly do not want to be used on you when the time comes.



MISTAKE 19

Child on deed

PUTTING CHILD'S NAME ON DEED

A common estate planning method, and a potentially costly mistake, is adding your children to the deed of your home as co-owners with rights of survivorship. Parents will take this step in an attempt to avoid probate, but it also can lead to other unintended consequences, like added taxes and potential loss of the home to creditors.

When you put your child's or children's name on your deed, they will owe more capital gains taxes on its sale than if they had received it as an inheritance. This is because under the law, your child or children received part of the home's value as a gift, and they will be expected to pay taxes on that gift once it is sold.

Your home will also become exposed to the debts and liabilities of the new co-owner, your son or daughter, including those caused by a divorce. In the context of divorce, this means that your child's ex-spouse can claim that the property is marital and therefore subject to division. Without enough cash on hand to give to the ex-spouse for half of your child's share, it could even mean a forced sale where you lose your home in the process. With creditors, this means that in some states, your child's debts could be recovered by going after their share of your home. In either case, it's not advisable to use this mistaken planning strategy.

> ***"When you put your child's or children's name on your deed, they will owe more capital gains taxes on its sale than if they had received it as an inheritance."***

MISTAKE 20

Blended family

USING A TRADITIONAL ESTATE PLAN FOR A BLENDED FAMILY

If you are like many people today and live in a blended family, it's even more essential that you engage in personalized estate planning, as the default likely will not meet your needs.

Every person's estate plan needs to be suitable for their family. Yet, as reflected in state intestacy laws, "default" estate planning has a clear bias toward traditional families. For example, estate plans for married couples, especially online "do-it-yourself-kits" often follow the "all-to-spouse" model at the death of the first spouse. However, it's increasingly common to have a second or third spouse, children from multiple marriages, separate assets and other more modern circumstances, and this often makes that kind of an estate plan a poor fit.

By working with an experienced estate planning attorney, you can design a customized plan that addresses all aspects of your family dynamics and allows you the flexibility to provide for all of your loved ones, regardless of how they came into your life.

MISTAKE 21

Failing to coordinate

NOT COORDINATING FINANCIAL ACCOUNTS WITH LEGAL DOCUMENTS

Many people make the mistake of only considering the assets that pass and are controlled through legal documents like wills and trusts. However, a comprehensive estate plan also contains powers of attorney and accounts, plans and policies with beneficiary designations.

In terms of control, it's important to coordinate all aspects of your plan to make sure they work well together. Your personal representative in your will only has authority over asset distribution after your lifetime. Your successor trustee will have authority over assets placed in trust during incapacitation and after your lifetime. Your powers of attorney, if durable, will give people of your choosing authority over your health and your personal finances in case of incapacitation. Because you do not need to (and perhaps should not) select the same person for all of these roles, it will be important to coordinate your various documents and have a clear understanding of who will have authority over which assets in each of these scenarios.

The distribution provisions in all components of your plan must also be coordinated to ensure that your wealth will pass on in the way that you intend. In many estates, the value of financial accounts, retirement plans and life insurance proceeds represent a substantial fraction of the estate's value. Many of these accounts, like retirement accounts, annuities and life insurance, have beneficiary designations so they do not pass under either a will or trust. As a result, these beneficiary designations need to be coordinated with the asset distribution provisions of the will or trust, so that the overall asset distribution matches your intended goals.

This is especially important if you do wish to create an equal inheritance among your children. For example, if you plan to leave your family home to your daughter because you know she and her family will continue to live in it while your son would likely sell it immediately, then you may want to leave the home to her and create a more equal inheritance for your son by naming him as the beneficiary of your IRA and brokerage accounts. Regardless of how you divide your estate, it's important to coordinate everything to make sure that you have a firm grasp of the overall plan to make sure it aligns with your vision.

MISTAKE 22

Prioritizing equality

TREATING BENEFICIARIES EQUALLY, INSTEAD OF FAIRLY

Many parents feel obligated to divide their estate equally among their children. And most children feel they should be treated equally in their parents' estate plans. However, this type of equal distribution of assets can be unfair for a number of reasons, and so it could be a huge mistake to prioritize equality over fairness in the inheritances you leave your children.

Your children may have substantially different financial means, or you may have provided more for one child than the others. One of your children may have provided more care for you and your spouse than another. Upon further reflection, these may be good reasons to choose for an unequal distribution of assets instead of creating a plan with equal inheritances for each of your children.

If you do decide to provide for an unequal distribution, then it will be important to discuss that decision with your children to avoid any hurt feelings and potential expensive litigation.

MISTAKE 23

No financial planning

FAILING TO CONDUCT ADEQUATE FINANCIAL PLANNING

An often-forgotten part of planning is engaging in financial planning to make sure you have sufficient income and assets available to meet your lifetime needs. Without proper financial planning now, you may not have any assets remaining to be managed or distributed, even if you do have a well-crafted estate plan in place.

Your planning should include providing guaranteed sources of lifetime income to meet your living expenses. An experienced financial professional can assist you in determining which options, like annuities and retirement planning, can provide you with enough income to live on and still have wealth to pass on to your children and grandchildren.

In addition to living expenses, your financial plan also needs to address things like home repairs, medical care and health insurance. You also may benefit from having a plan that leverages your existing assets to cover the expense of long-term care. For married couples, it's important to address the replacement of any income lost when the first spouse passes away.

As you can see, there are lot of aspects to financial planning that make working with a financial planner or advisor worthwhile. Without this kind of planning, you may not have much – or anything at all – to leave to people and causes you care about through your estate plan.

MISTAKE 24 Not reading

NOT READING ACTUAL ESTATE PLAN LEGAL DOCUMENTS

While most of us would rather not read technical legal language, it's incredibly important to read your own estate documents to check and confirm that they contain the instructions you wish to be included and the correct key players, including beneficiaries, successor trustee, personal representative and agents for powers of attorney.

The only way to be certain that your trust, will, powers of attorney and advance directive do what you want is to read the actual documents. If you don't understand something, you can always ask your attorney to explain or clarify anything contained in your documents. It's better if you read these documents thoroughly before you sign them, because you can work with the attorney to edit them before they are completed. However, you can also amend the document if you take this opportunity to read your current estate planning documents and find something that needs to be corrected. Additionally, reading them ensures that you can explain your plans and communicate your directions clearly to your successor trustee, personal representative and beneficiaries.

MISTAKE 25 No records

LACK OF RECORD KEEPING

Finally, a common estate planning mistake that can cause delays, headaches and general frustration for your loved ones after your lifetime is failing to keep organized records. This is a simple mistake to avoid and keeping detailed records in an accessible location will make things so much easier for your family when they begin to settle your estate.

Although estate planning is needed to ensure your wishes for yourself, your loved ones, and your wealth come to pass in the future, it's also partly about making things easier for your family at an incredibly difficult and emotional time. However, because people often fail to keep organized records, many successor trustees and personal representatives end up spending a lot of time searching for information that was not properly organized.

These people will need to inventory your estate or trust assets to have a complete picture of what you own so that they can be certain everything is accounted for before they begin distributing inheritance to your beneficiaries. They need to locate, liquidate, close and distribute every account, but first they have to identify them. If you are not organized, they may miss an asset, disrupting your distribution plan and complicating the process. A lack of organization will also increase the time, money and effort needed to close your estate.

Conclusion

As you have learned, there are many common ways that estate plans can fail, even when you think that you have a complete plan in place. By avoiding these frequent errors and working with experienced estate planning professionals, however, you can craft the right plan for you that will accomplish all of your goals for your loved ones and your wealth both during and after your lifetime.

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