

Stop Making Excuses, and Start Making a Plan

Estate planning helps loved ones at death and disability

By Barbara S. Schlichtman, Esq.

Estate planning is not one-size-fits-all. For some, a trust is too much and for others a will is not enough. For everyone, medical and financial powers of attorney are just right.

Everyone needs some planning, and people who plan will ultimately spend less on court and legal fees, especially those disciplined few who revisit their planning regularly, especially during death, divorce and disability.

So, let's review the excuses for not having an estate plan.

"I don't have much."

Everyone owns something, and institutions must know who is entitled to that asset upon death. If you don't leave instructions, then the process is more complicated and state law controls where your assets go. Even more importantly, if you don't have much it is imperative that your savings is not consumed in guardianship/conservatorship proceedings because you never signed financial and health powers of attorney.

"I'm not old enough."

If you are over 18 and you are old enough to be injured or die, then you are old enough for estate planning.

"It's too expensive."

There are estate-planning options for all budgets. One consultation with an attorney could save you thousands of dollars. Legal Services for the Elderly is a great resource for low-income Mainers to obtain wills and powers of attorney at greatly reduced or free rates.

"I don't have time."

Make the time for your loved ones who will be left struggling to pay your bills, and plan for incapacity or death. An investment of time and money will be an investment in security and control for your loved ones.

"I'm not giving up control."

Signing health and financial powers of attorney keeps you in control if you lose capacity because you have chosen who you want to fill these roles and the choices you would like them to make. These documents can be tailored so they do not take effect until you lose capacity.

“I can get the forms off the internet.”

Maybe, but for example, if your power of attorney does not have the proper Maine notices, then it is useless. Proceed with caution.

And the best excuse of them all, *“My kids will take care of it.”*

Yes. Good-hearted kids will do their best; however, they will question repeatedly, “Why didn’t mom and dad plan ahead?”

The basic documents that every person should have are an advance health care directive, durable financial power of attorney and a distribution plan that would be either will-based or trust-based. For some people, asset preservation or tax planning are also options. An attorney can guide you to determine whether a trust would help meet your objectives and offer protection for your family. In addition to your documents, a regular review of beneficiary designations should be part of your planning.

Once your estate plan is in place, then you can be confident that you have taken steps to protect your family from unnecessary legal fees and stress. In the event of illness, disability or death, your loved ones can focus on you because you have already planned for that day.

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For a planning form to help you get organized, visit <http://mainecenterforelderlaw.com/index.aspx?TypeContent=CLIENTFORMS>.