

A close-up photograph of three golden eggs nestled in a bed of dry straw. The eggs are smooth and have a metallic sheen, reflecting light. The straw is light brown and textured, creating a natural-looking nest. The background is dark and out of focus.

Estate and
Pre-Planning
GUIDE

Pre-Planning Your Funeral

It can be an uncomfortable conversation, talking to your loved ones about what happens when you die, but it can save lots of time and trouble when the time finally comes.

Pre-planning your funeral also ensures your wishes are carried out just as you would want.

TALKING TO FUNERAL HOMES

Begin the process by talking to local funeral homes. Select how and where you want your remains to be buried, entombed or scattered. If you need to purchase a plot, do so, making sure you visit the plots before you buy. You can pick out urns or other items you want for your services. You can also choose what services you would like the funeral home to provide or identify whether you would like a memorial service or funeral performed in a specific location.

Write your wishes clearly and concisely and make sure the funeral home staff, family and attorney know your wishes as well. If you belong to a religious community and want them involved, be sure their staff is also informed.

PRE-PAYING

Another option is to pay for



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funeral services ahead of time. That allows your family to spend their time grieving and not have to make decisions with strong emotions or to worry about the financial burdens of your final rest.

Be aware that different states have different laws about pre-paying for funeral arrangements. These rules are

there to ensure payments are available when families need them, the Federal Trade Commission says.

The agency says to consider these questions before making any payments:

- What items are you paying for? Is it only merchandise or are you paying for services as well?

- What happens to the money you've paid? Some states require the funeral home to place a percentage of the money into a state-regulated trust or to purchase a life insurance policy with the death benefits going to the funeral home or cemetery.

- What happens to any interest income on money that is

prepaid?

- What happens if the funeral home goes out of business?

- Can you cancel the contract and get a refund if you change your mind? How do you make changes to your wishes?

- What happens if you move or die while out of town?

Charitable Donations

The end of life doesn't have to mean the end of philanthropy.

Making gifts to charities is an important part of many people's financial plans and, when planned properly, are boons to the charitable organization and to the family as well.

Keep reading to learn more about planning for charitable giving.

DONOR-ADVISED FUND (DAF)

Some public charities, also called a sponsored organization, maintain donor-advised funds that are exclusively dedicated to charitable giving, Fidelity says. During your lifetime, you can contribute to a DAF and are eligible for an income tax deduction. When you die, there may be estate or inheritance tax benefits for your family.

PRIVATE FOUNDATION

Depending on your financial situation and engagement with charities, you may consider establishing a private foundation, a charitable organization created by a person or family through a substantial initial gift. These organizations usually have a board of directors or trustees that oversee the foundation and are responsible for receiving contributions, managing and investing assets and making grants to charitable organizations.

CHARITABLE TRUSTS

There are two kinds of trusts, revocable and irrevocable. Both have different kinds of benefits. A charitable lead trust (CLT) lets you pay a charity during your lifetime and still keep assets for other gifts. CLTs are not tax-exempt and

the tax treatment of the trust can depend on how it's set up.

A charitable remainder trust (CRT) generates an income stream during the term of the trust. It may name someone else as the recipient of the income, but that income does have some tax

consequences. At the end of the trust's term, remaining assets pass to the charitable beneficiaries named in the trust.

Any investment income generated by the trust, such as capital gains, dividends and interest, are exempt from tax,

but distributions may be taxable. Fidelity says CRTs are often chosen by people who have substantially appreciated assets they wish to sell, because it can defer capital gains tax on the sale of the assets and it provides them with an income stream.



Making Medical Decisions

Not all decisions in estate planning involve finances. Some center on medical decisions and future medical care.

Advance directives, such as living wills and power of attorney documents, help your family and medical professionals make decisions if you're terminally ill, seriously injured, in a coma or otherwise unable to make your own choices.

POWER OF ATTORNEY

A health care power of attorney names a person to make decisions on your behalf when you are unable to do so. In some states, this advance directive may be called a durable power of attorney or a health care proxy. You can't anticipate every situation, so even if you have other medical documents in place, it's still a good idea to have a power of attorney.

The Mayo Clinic advises choosing a person who:

- Meets your state's requirements for a health care agent.
- Is not your doctor or part of your medical care team.
- Is willing to discuss medical care and end-of-life issues with you.

- Is a person who can be trusted to make decisions that adhere to your wishes and values.

- Can be trusted to be your advocate if there are disagreements about your care.

You can choose one or more



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alternates in case the person you originally chose is unable to fill the role.

LIVING WILL

A living will spells out medical treatments you would or would not want used to keep you alive and preference for other medical decisions, such

as organ donation. Make sure your living will addresses a number of end-of-life care decisions, the Mayo Clinic says, including:

- Cardiopulmonary resuscitation (CPR), which restarts the heart when it stops beating. Decide whether you would want to be resuscitated by CPR

or shocked to stimulate the heart.

- Mechanical ventilation takes over breathing if you are unable to breathe by yourself. Decide whether you would want to be on a ventilator and, if so, for how long.

- Comfort care or palliative care includes treatments to

keep you comfortable and manage pain. This can include being allowed to die at home, getting pain medications and avoiding invasive treatments.

- Donating your body for scientific study or donating specific organs or tissues for transplantation can also be specified.

Learn About Probate Laws

Probate laws are the rules and regulations that govern the transfer of property when someone dies.

All estates, whether they include a will or not, are subject to review by probate courts, but a will can make the process go faster, the AARP says.

WHAT IS PROBATE?

The American Bar Association says probate is the name for the formal legal process that recognizes a will, if there is one, and appoints an executor or personal representative to administer an estate. The executor will determine what debts and taxes the deceased owed, if any, pay them and distribute the rest to beneficiaries.

Each state has its own laws regarding probate, but generally speaking, these proceedings are not expensive or lengthy, the ABA says. The association says that, in recent years, many states have streamlined the probate process and minimized fees.

The ABA advises people to plan their estates to minimize difficulty over issues that can complicate probate, such as lawsuits by heirs, rather than focus on trying to maneuver to avoid probate by setting up, for example, a living trust.

“Probably the most, the highest expense, is the cost of hiring a lawyer to give advice



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to the administrator of the estate on how to execute his or her duties,” American College of Trust and Estate Counsel Fellow Phil Bauman said. “And just about anybody, whether it’s a probate administration or a non-probate administration, needs that advice. So, they’re going to have that expense anyway.”

WHAT PROPERTY IS AFFECTED?

Not all property must pass through probate, the ABA says. Life insurance, for example, which has a named beneficiary, does not have to go through probate. Also in this category are any accounts, such as bank accounts, that are held in joint

names with right of survivorship.

In some states, the deceased’s primary residence may also be exempt from probate and pass directly to their heirs. It’s governed by homestead laws. Ask an estate attorney for more information on what property is exempt in your state.

Trust assets may also be exempt from probate, which is why some people set them up to avoid the process. However, the ABA warns that a living trust can “almost never” avoid probate, and a simple will is needed to pour over the trust any property that wasn’t transferred during the deceased’s lifetime.

Having Difficult Conversations

End-of-life conversations, whether they're about who gets your wedding china or your choices for your funeral, are difficult and awkward to have. Keep reading for tips on how to handle these conversations in a healthy and productive manner.

WHO CAN MAKE DECISIONS?

Linda Johnson, a fellow of the American College of Trust and Estate Counsel, says that to her, a durable power of attorney is the most important document to have. It's the authority a person gives someone else to act on their behalf in both financial and personal decision making. Johnson says the power of attorney needs to go to someone that's detail-oriented, financially stable and trustworthy. Don't choose a partner or loved one that may also have their own medical or financial issues.

You should also talk through and document any health care decisions you feel strongly about, including do-not-resuscitate orders and a health care power of attorney. You may also fill out a



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Health Insurance Portability and Accountability Act (HIPAA) waiver so anyone making decisions for you have full access to the health records they need to make informed decisions.

FUNERAL ARRANGEMENTS

Johnson suggests discussing your final wishes as part of any end-of-life discussion.

"Nobody wants to talk about it because it's just so emotional," Johnson told ACTEC. "And might I suggest that you tell your parent that you want

to love them, you want to honor them, so please tell me what's important to you for that very important last event."

Some questions Johnson says to ask are:

- Do you want to be cremated? Would you like a burial?
- Is there a pre-need contract in place or would you like to consider that option?
- What type of service would you like, if any? Consider items such as favorite hymns, speakers, flowers and order of service.

"They're just very personal in nature, those questions," Johnson said. "But also, too, do (you) have any important fun facts or accomplishments during their lifetime that (you) would like shared if you're going to do an obituary?"

OTHER QUESTIONS

Johnson says it's a hard conversation to have, but make it clear the whole time that, no matter which side of the dialogue you're on, that this is coming from a place of love. Here are some other things she suggests you discuss:

- All financial information, including passwords.
- Where important documents are located.
- Where the documents for any potential valuable assets are located.
- Passwords and access to any digital assets.

The National Institute on Aging suggests having all your end-of-life documents in one place, such as a clearly labeled file. You should also keep copies in a separate, secure place, such as a bank deposit box or with a trusted friend, family member or your attorney.



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Handling Beneficiary Conflicts

It can be emotional when someone passes away. Grief can complicate emotions and exacerbate any existing rifts and squabbles among loved ones. But with the right approach, everyone can make it through a trying time.

Here are some tips for keeping discussions healthy and resolving any disputes that can arise.

COMMUNICATION

Antonoplos and Associates, attorneys in the Washington, D.C. area, say to keep communication open and honest. If discussions become heated, mediation can be a valuable tool in helping find common ground between parties and facilitating constructive dialogue. A trusted financial professional or family attorney can help you

find a mediator to help your family find a mutually beneficial resolution.

UNDERSTAND THE LAWS

It's important that everyone involved have a clear understanding of the deceased's estate plan and any legal obligations the beneficiaries, executors and the estate have. Everyone should review the will, any trust documents and any other relevant legal documents. An experienced estate attorney can help families ensure all the bases are covered.

LOOK TO PROFESSIONALS

Find a team of professionals to help loved ones with expert guidance and advice. Some professionals you may turn to include estate attorneys, accountants, financial planners, appraisers, Realtors and more. They can help you with legal documents, value any assets and navigate state and local tax and probate law. Their advice can help contribute to a fair and equitable resolution to any disputes.

FOCUS ON THE ESTATE

No matter what arguments arise, focus on the best interest of the estate and what the deceased wanted. Work to set aside any personal grievances and work toward a solution that aligns with the deceased's wishes and pre-

serves the value of their estate.

ALTERNATIVE DISPUTE RESOLUTIONS

These disputes do not have to end up in court. Explore other resolution methods, such as mediation, arbitration or collaborative law, Antonoplos and Associates says. In collaborative law, each side has legal representation and signs a collaborative law participation agreement. Each party commits to full disclosure, honest communication, confidentiality and not to litigate.

Remember these disputes require patience, open and honest communication and a willingness to compromise. Look for a solution that both honors the deceased's intentions and protects the interests of everyone involved.

What Should Your Will Cover?

A will ensures your assets are distributed and your wishes followed after your death.

Have a will and keep it updated. If you die without a will — this is called dying intestate — your state's laws will determine who receives your property by default. These laws vary by state and may not reflect your actual wishes.

BENEFICIARIES

Beneficiaries are those who will receive your property. It may seem unnecessary, but LegalZoom reminds you that recent births, deaths, marriages, divorces and other actions may influence who you want to be included. Don't worry about who you want to receive what at this time, just list who you would like to be covered by the will.

ASSETS

Next, list significant assets you want to leave to loved ones. Start at the top with big stuff, such as real estate, vehicles and businesses, then work your way down to smaller items, such as family jewelry or heirlooms. Remember you can only distribute property you own solely. If a spouse holds joint title or you still owe money on an asset you're paying notes on, you can't make that decision about who gets it on your own.

DEBTS

The third step is to make a list of your debts. This can include:

- Mortgages
- Car loans and leases
- Credit cards and personal loans
- Student loans
- Taxes owed

You don't leave your debts to any one



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person, but you can get a general idea of your estate's financial status so you can plan accordingly. You may want to consider things such as funeral expenses, taxes and probate costs.

EXECUTORS AND GUARDIANS

The executor is the person who will

handle your estate after you die. Make sure the executor is up to the task of handling your estate and that the person is willing to do so.

Choosing alternates is useful in case the original executor's circumstances change.

If you have minor children, arrange

for their care in the event of your death. Have the same conversation you had with the person you want to be your executor.

Consider providing for the care of any children and leave someone else in charge of property the children you will inherit after they are of age.