



Protect & Important Life Decisions

A Guide to Planning
Your Will and Trust

PO Box 837
SOUTH BEND, IN 46624 • (574) 232-0041
cfsjc.org



Dear Friend,

Everyone knows—or should know—the importance of having a will.

A will helps ensure your wishes are known and followed and that the assets you spent a lifetime accumulating are distributed as you intend. A will also addresses such important issues as identifying who you want to manage your estate, be guardian of your dependent children, and make healthcare decisions if you are unable to act on your own behalf.

Even so, most of us—an estimated 70%—do not have a will. We tend to put it off because it all seems too complicated.

The Community Foundation of St. Joseph County is pleased to provide this guide to planning your will and trust. We hope it will simplify the process of establishing a will by helping you understand the questions you will need to address and the information you will need to gather before meeting with your attorney, who will prepare the actual documents.

Your conversation with your attorney should go more smoothly and efficiently if you complete this guide in advance.

Most Americans contribute regularly to a favorite charity or cause—often more than one. This guide helps describe ways you can include your favorite charity or cause in your will.

We hope you find this resource useful. We encourage you to complete it and meet with a qualified attorney to put your will in place. You'll value the peace of mind it creates.

Cordially yours,

A handwritten signature in blue ink that reads "Rose Meissner".

Rose Meissner
President
Community Foundation of St. Joseph County

cfsjc.org

DISCLOSURE ON ATTORNEYS AND THIS CHARITY

Thank you for completing this form. It is offered by us to you as an educational service. While we attempt to provide helpful estate and financial background, we are not able to offer specific legal advice on your personal situation. Because you may have special needs, we know that you will want to contact your own attorney. He or she will be your independent advisor and will have an obligation of trust and confidence to you. With the advice of your independent attorney, you may have a customized estate plan that truly fulfills your unique family, healthcare, estate, and planning circumstances.

This information is not intended as tax, legal or financial advice. Gift results may vary.
Consult your personal financial advisor for information specific to your situation.

You and Your Family

Please tell us about you and your family. Print names in ink, not pencil. Spell names exactly as you want them to appear in your estate documents. Use full legal names, not nicknames.

Your Personal Information

Your Full Legal Name _____ Male Female

Date of Birth _____ Social Security Number _____

Home Address _____

City _____ State _____ ZIP _____

Home Phone _____ Cell Phone _____

Email _____

Employer/Address _____

Work Phone _____ Job Title _____

Current Marital Status:

Single Married Engaged Widowed Legally Separated Divorced

Prior Marriages: If you were in a previous marriage that ended in divorce, when did that marriage end? _____

If you are widowed, when did your spouse pass away? _____

Check which documents you presently have:

Will Living Will Living Trust Durable Power of Attorney/Healthcare
 Durable Power of Attorney/Finances

When were these last updated? _____

Your Estate Planning Goals

You may have a number of goals that you want carried out through your estate plan. Listed below are several types of goals. Please indicate how important these goals are by checking the appropriate numbered box (one is low importance and five is high):

	(Low)			(High)
	1	2	3	4
Provide for spouse or children	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provide for guardianship of minors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Provide for healthcare if disabled	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Protect against liability	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reduce estate taxes	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Increase current income	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Create a charitable legacy	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plan for business	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other goals _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Your Estate Planning Family Background

1. Lifetime Gifts. You may have made substantial tax-free gifts to children or other heirs. If you have, please list those below or attach a list of those gifts to this guide.

2. Trustee, Guardian or Executor. Are you currently serving in this capacity? Yes No

3. Inheritance. Is it likely that you may receive an inheritance? Yes No

4. Safe Deposit Box. List the bank and address where your box is located.

Bank _____ Address _____

City _____ State _____ ZIP _____

Identify the name of the person who has the key.

Name _____

Your Spouse's Information (If Applicable)

Spouse's Full Legal Name _____ Male Female

Date of Birth _____ Social Security Number _____

Home Phone _____ Cell Phone _____

Email _____

Employer/Address _____

Work Phone _____ Job Title _____

Was your spouse previously married? Yes No

If previously married, how did the marriage end? Divorce Annulment Death

Check which documents your spouse presently has:

Will Living Will Living Trust Durable Power of Attorney/Healthcare
 Durable Power of Attorney/Finances

When were these last updated? _____

Do you or your spouse have a prenuptial agreement that identifies and disposes of separate spousal property? If yes, attach a copy for your attorney. Yes No

Your Religious Affiliation

Religious Affiliation or Denomination _____

Preferred Place of Worship _____

Address _____

City _____ State _____ ZIP _____

Phone _____

Your Children's Information

Yes, I have children (If so, how many? _____) or No, I do not have children.

If the answer above was yes, please complete the following information for each child. Please list all of your children, whether minors or adults, including deceased children, children from a prior marriage, as well as any children who were adopted or are foster children. Please attach additional pages as needed. If you wish to exclude a child as a beneficiary of your estate, check the "Exclude from Plan" box.

1. Full Legal Name _____ Male Female

Date of Birth _____ Social Security Number _____

Home Address _____

City _____ State _____ ZIP _____

Status (check all that apply):

Married Single Needs Special Care Dependent Exclude from Plan

Parentage

Child of Present Marriage Child of Prior Marriage or Relationship Adopted

Foster Deceased

2. Full Legal Name _____ Male Female

Date of Birth _____ Social Security Number _____

Home Address _____

City _____ State _____ ZIP _____

Status (check all that apply):

Married Single Needs Special Care Dependent Exclude from Plan

Parentage

Child of Present Marriage Child of Prior Marriage or Relationship Adopted

Foster Deceased

3. Full Legal Name _____ Male Female

Date of Birth _____ Social Security Number _____

Home Address _____

City _____ State _____ ZIP _____

Status (check all that apply):

Married Single Needs Special Care Dependent Exclude from Plan

Parentage

Child of Present Marriage Child of Prior Marriage or Relationship Adopted

Foster Deceased

You and Your Contacts

Your Executor

One reason your will is important is that it allows you to name an executor, the person who will manage your estate after you pass away. Because your executor has the power to make decisions about the management of your estate, you should select a trusted person who shares your values. An executor will usually complete eight steps to ensure an orderly transfer of all of your property to the right individuals.

1. Submit your will to the probate court	5. Make debt payments
2. Locate your heirs	6. Resolve any estate controversies
3. Determine your estate assets and values	7. File final income tax and estate tax returns
4. Pay bills and the estate attorney	8. Distribute your assets to heirs

Please name the person you wish to appoint as Your Executor

Name of Executor _____ Email _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Relationship _____

Please name an Alternate Executor

Name of Alternate _____ Email _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Relationship _____

Guardian for Minor Children

Please name the person to be Guardian for Minor Children (If Applicable)

Name of Guardian _____ Email _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Relationship _____

Please name an Alternate Guardian

Name of Alternate _____ Email _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Relationship _____

Your Healthcare Representative

There are two primary documents that will provide for your future healthcare decisions. A durable power of attorney for healthcare empowers the person you select to make key decisions for your care. It is called a “durable” power because it is effective even if you are ill and not capable of making your own decisions.

A second document is a living will. If you are in your final weeks or days of life, then decisions must be made about your nutrition, hydration, resuscitation and other critical care. In some states, the living will and healthcare power of attorney are combined into an advance directive.

Please name your Power of Attorney for Healthcare

Name of Primary _____ Email _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Relationship _____

Please name your Alternate Power of Attorney for Healthcare

Name of Alternate _____ Email _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Relationship _____

Power of Attorney for Finances

Do you want to create a durable power of attorney for finances? Yes No

Please name your Power of Attorney for Finances

Name of Primary _____ Email _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Relationship _____

Please name your Alternate Power of Attorney for Finances

Name of Alternate _____ Email _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Relationship _____

Estate Finances

Please list all of your assets and liabilities. This will help your advisor plan your estate. Most people learn at the end of this exercise that they are worth more than they think.

Assets	\$ Total Value of Asset	Check if Joint Property	Check if Your Property	Check if Your Spouse's Property
Example Property	\$298,000		✓	
Real Estate				
Main Residence Address				
Second Residence Address				
Vacation Home				
Time Share				
Other Real Estate				
Checking and Savings Accounts				
Bank Account–Bank(s) and Account Types				
CDs/Money Market Funds/Credit Union Accounts				
Account (Custodian or Account Type)				
Tax Sheltered Annuity–Not in Retirement Plan				

Assets	\$ Total Value of Asset	Check if Joint Property	Check if Your Property	Check if Your Spouse's Property
Investments				
Bonds or Bond Fund Custodian, Account Number				
Stocks or Stock Fund Custodian, Account Number				
Savings Bonds				
Personal Property				
Furniture/Household Furnishings				
Tools & Equipment				
Antiques/Collections				
Jewelry				
Automobiles				
Recreational Vehicles				
Other Vehicles				
Business Interests				
Life Insurance—Face Amount/Death Benefit				
Retirement (IRA/401(k)/403(b)) Custodian, Account Number				
Other Retirement Plan				
Miscellaneous				
Total Assets: \$				

Liabilities	\$ Total Amount of Debt	Check if Joint Debt	Check if Your Debt	Check if Spouse's Debt
Mortgage on Personal Residence				
Mortgage on Second Residence				
Mortgage on Vacation Home/ Other Real Estate				
Vehicle Debts				
Charge Accounts				
Installment Contracts				
Loans on Life Insurance				
Other Debts				
Total Liabilities/Debts: \$				
TOTAL ESTATE: \$				



At the Community Foundation of St. Joseph County, we believe firmly in the power of endowment. Nearly 100 local charities hold endowed funds within the Community Foundation, including LOGAN, Center for the Homeless, South Bend Symphony, Unity Gardens, Pet Refuge, and dozens more. You can find the complete list at cfsjc.org/endowments.) Every year, these funds provide earnings directly to the charities that hold them, creating a regular and reliable stream of income to support their important work.

Online Accounts

Create a plan for your online accounts to help your heirs and executor access them.

- 1. Compile a List of Online Accounts and Access Information.** For your personal, financial, business and social media accounts, list your usernames, passwords, and account information. If you change the password to an account, be sure to update this list.
- 2. Protect Account Login Information.** Online account security is very important. Do not include your account information in your will. Save the list on a memory drive in your home safe or use a password protection software program on your phone or computer.
- 3. Select an Executor for Your Online Accounts.** You may want to appoint an executor who will have access to your online accounts. Your online accounts, such as a social media company, email provider or financial institution, may impose certain requirements. Please discuss authorization for your online executor with your attorney.
- 4. Write Directions for Your Online Accounts Plan.** Finally, write a letter to your executor identifying actions for your online accounts. For example, you may ask your executor to download social media account photos and share copies with your family.



Each year, more than 300 students receive support from the Community Foundation's more than 80 scholarship funds. Over the years, we've awarded more than \$12 million in scholarships, helping thousands of deserving students pursue their dreams. Two of our biggest scholarships—the Laidig Community Service Scholarship, and the Charles Martin "Touch a Life" Scholarship—include paid internships. To date, recipients of those scholarships have served more than 50,000 internship hours at 30+ different local charities. Learn more at cfsjc.org/scholarships.

Estate Plans

Matching Your Plan and Priorities

It is important for your plan to match your priorities. Whether you are single or married, have children or other loved ones you want to provide for in your estate plan, you will want to consider the question, “What is the ‘right amount’ for an inheritance?”

The “Right Inheritance”

The right amount to leave to children, nephews, nieces, and other loved ones will depend on a number of factors. Here are three guiding principles to help you make a prudent and wise decision.

1. Provide an inheritance that meets the needs of family.
2. Provide a reasonable level of security to maintain the standard of living for children, nephews or nieces.
3. Avoid leaving an inheritance covering too many “wants and desires,” especially when an heir is not financially mature or would not handle an inheritance responsibly. Too much inheritance may lead to unhappiness. It could create a disincentive for someone to finish school, work hard and make sound financial decisions.

Some parents have saved, invested and been careful with their resources. As a result, they have accumulated a significant estate. How can a larger estate be transferred with a positive result for children?

A larger inheritance will be used more wisely if it is distributed over a longer time and at a later age. A lump sum at one time may be unwise. Many younger children who receive a large inheritance at an early age spend it within 18 months.

Instead, consider transferring a larger inheritance over a period of years. A good plan includes a distribution of principal when the parents pass away, income for a period of years and a second payout of deferred principal.

You may set a target number per child for the inheritance. The total inheritance can then be designed to pass that amount to a child, nephew or niece. A target number per child is the sum of the principal and income given through the inheritance plan.

You leave an inheritance in the hope you will help the child or other loved one to become a better person. Generally, you can increase the positive impact of an inheritance by stretching it out and setting a target amount.

Note to Attorneys

This guide contains three estate plans for single persons and married couples. These are a simple will, a will with trust for minor children and a will with a “Give It Twice” Trust. The “Give It Twice” Trust pays income to family members for life or a term of years with the remainder transferred to selected charities. If it is funded with an IRA or other qualified retirement plan, the “Give It Twice” Trust is a unitrust.

Single Person Estate Plan One

Simple Will

The estate plan for a single person, including a surviving spouse, can include a simple will that leaves an inheritance for adult children or other family members. With a simple will, you can leave specific gifts to certain individuals, such as children, siblings, nieces and nephews, as well as charity. You can also include provisions for the rest of your estate to be divided in accordance with your instructions.

Specific Bequests

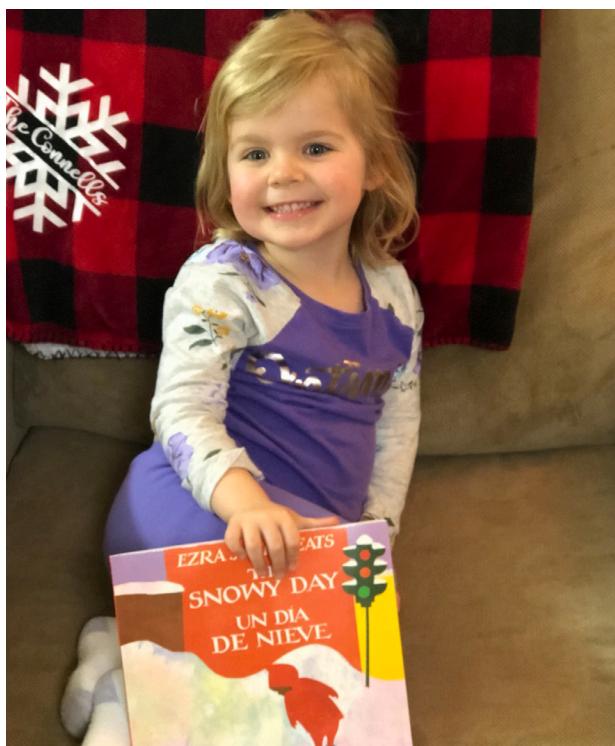
Bequests of items or amounts to family or to charity.

Item or Amount	Recipient, City and State
1. _____	_____
2. _____	_____
3. _____	_____

Residue of Estate

Percent of residue to family or to charity.

Percent	Recipient, City and State
1. _____ % to _____	_____
2. _____ % to _____	_____
3. _____ % to _____	_____



One of the Community Foundation's primary areas of focus is education. Our Early Years Count education initiative funds teacher training and evaluation in dozens of preschools, daycares, HeadStart classrooms, and elementary schools. In 2018, we worked with partners to launch the Imagination Library in our county, expanding our early literacy efforts. Currently, one out of every two eligible children in St. Joseph County receives a free, new book each month through the Imagination Library program.

Single Person Estate Plan Two

Simple Will and Trust for Children

An estate plan that combines a simple will with a trust can protect and benefit your family. Perhaps your heirs are adults, but you have a child who has not reached “financial maturity.” You worry the child might quickly spend an inheritance. Or, you have children who have not yet completed college and you want to set aside resources to fund their education. A good plan for children is a simple will paired with a trust. The trust can spread out an inheritance and permit the trustee to pay for education, healthcare and other important needs.

Specific Bequests

Bequests of items or amounts to family or to charity.

Item or Amount	Recipient, City and State
1. _____	_____
2. _____	_____
3. _____	_____

Name, City and State of Trustee

Name of Primary Trustee _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Email _____

Relationship, if not a spouse _____

Age for ending trust and distributing principal to children _____

Name of Children or Charities to Benefit from Trust Remainder

Percent	Recipient, City and State
1. _____	% to _____
2. _____	% to _____
3. _____	% to _____

Single Person Estate Plan Three

Give It Twice Trust for Family and Charity

Another popular plan combines a will with a “Give It Twice” Trust. A Give It Twice Trust (often a charitable remainder trust or CRT) can be funded by your will or living trust when you pass away. A CRT usually pays 5% income to children. The trust may pay for life or a term of up to 20 years. After all payments, the balance of the trust will be transferred to your favorite charities.

Specific Bequests

Bequests of items or amounts to family or to charity.

Item or Amount	Recipient, City and State
1. _____	_____
2. _____	_____
3. _____	_____

Give It Twice Trust

If you select this option, please choose the portion of your residue to give to children outright and the portion that will be placed in the Give It Twice Trust.

Outright to children _____ % To Give It Twice Trust _____ % (Total of 100%)

Name, City and State of Trustee

Name of Primary Trustee _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Email _____

Names of Children Benefitting from the Trust's Income Payments

Percent	Recipient, City and State
1. _____ % to _____	_____
2. _____ % to _____	_____
3. _____ % to _____	_____

Name of Charities to Benefit from the Trust's Remainder

Percent	Recipient, City and State
1. _____ % to _____	_____
2. _____ % to _____	_____
3. _____ % to _____	_____

Married Couple Estate Plan One

Simple Wills for Both Spouses

A married couple will often work with an estate planning attorney who drafts nearly identical estate plans for both spouses. When both spouses have a simple will, it is not uncommon (especially with a first marriage) for the will of the first spouse to leave specific bequests to children and charity, with the surviving spouse inheriting most of the estate. When the surviving spouse passes away, his or her estate plan will distribute property to children and charity. If you have a blended family, you should discuss other options with your attorney to ensure your spouse and both sets of children receive appropriate benefits.

First Estate – Specific Bequests, Balance to Spouse

Bequests of items or amounts to family or to charity.

Item or Amount	Recipient, City and State
1. _____	_____
2. _____	_____
3. _____	_____

Bequests of Percentage of First Estate to Family or Charities, Balance to Spouse

Percent	Recipient, City and State
1. _____ % to _____	_____
2. _____ % to _____	_____
3. _____ % to _____	_____



The Community Foundation of St. Joseph County supports the arts and culture through our ArtsEverywhere initiative. Through this initiative, we provide funding to local arts organizations through our competitive ArtsEverywhere grant process, awarded twice yearly; we host regular convening and educational opportunities for local arts organization leaders, and we present the free annual Community Foundation Performing Arts Series at the Chris Wilson Pavilion in Potawatomi Park, featuring our best local talent.

Married Couple Estate Plan Two

Simple Will and Trust for Spouse and/or Children

An estate plan that combines a simple will with a trust can protect and benefit family. In this case, both spouses' estate plans include a will and family trust. If a couple has children, the will of the surviving spouse typically makes specific transfers and then funds the trust. This trust can spread out an inheritance if you have an adult child who might squander a large inheritance and may include provision for education and healthcare expenses. If you have a blended family, you should discuss trust income and principal options with your attorney to ensure your spouse and both sets of children receive appropriate benefits.

Specific Bequests

Bequests of items or amounts to family or to charity.

Item or Amount	Recipient, City and State
1. _____	_____
2. _____	_____
3. _____	_____

Bequests of Percentage of First Estate to Family or Charities, Balance to Spouse

Percent	Recipient, City and State
1. _____ % to _____	_____
2. _____ % to _____	_____
3. _____ % to _____	_____

Name, City and State of Trustee

Name of Primary _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Email _____

Relationship, if not a spouse _____

Age for ending trust and distributing principal to children _____

Name of Children or Charities to Benefit from Trust Remainder

Percent	Recipient, City and State
1. _____ % to _____	_____
2. _____ % to _____	_____
3. _____ % to _____	_____

Married Couple Estate Plan Three

Give It Twice Trust for Family and Charity

Another popular plan combines a will with a “Give It Twice” Trust. A Give It Twice Trust (often a charitable remainder trust or CRT) can be funded by your will or living trust. The charitable trust usually pays 5% income to children. The trust may pay for life or a term of up to 20 years. After all payments, the balance of the trust will be transferred to your favorite charities.

First Estate – Specific Bequests, Balance to Spouse

Bequests of items or amounts to family or to charity.

Item or Amount	Recipient, City and State
1. _____	_____
2. _____	_____
3. _____	_____

Give It Twice Trust

If you select this option, please choose the portion to give to children outright and the portion that will be placed in the Give It Twice Trust.

Outright to children _____ % To Give It Twice Trust _____ % (Total of 100%)

Name, City and State of Trustee

Name of Primary Trustee _____

Address _____

City _____ State _____ ZIP _____

Home Phone _____ Email _____

Name of Children in Trust

Percent	Recipient, City and State
1. _____ % to _____	_____
2. _____ % to _____	_____
3. _____ % to _____	_____

Name of Charities in Trust

Percent	Recipient, City and State
1. _____ % to _____	_____
2. _____ % to _____	_____
3. _____ % to _____	_____

Sample Bequest Language

We have provided some basic bequest language to assist you and your attorney.

1. Bequest of a Specific Dollar Amount

“I hereby give, devise and bequeath [\$Dollars] to [Organization], a non-profit organization located at [Address], Federal Tax ID: _____, for [Organization’s] general use and purposes.”

2. Bequest of Specific Personal Property

“I hereby give, devise and bequeath [Description of Property] to [Organization], a non-profit organization located at [Address], Federal Tax ID: _____, for [Organization’s] general use and purposes.”

3. Bequest of Specific Real Estate

“I hereby give, devise and bequeath all of the right, title and interest in and to the real estate located at [Address or Description of Property] to [Organization], a non-profit organization located at [Address], Federal Tax ID: _____, for [Organization’s] general use and purposes.”

4. Bequest of Percentage of an Estate

“I hereby give, devise and bequeath [Percentage of Your Estate] to [Organization], a non-profit organization located at [Address], Federal Tax ID: _____, for [Organization’s] general use and purposes.”

About the Community Foundation

At the Community Foundation of St. Joseph County, we connect people who care with causes that matter, bringing together resources that make change possible.

How? We receive gifts from people who care about the St. Joseph County community, we invest these gifts forever, and we use the investment earnings to make grants each year to local charities. Nearly 100 local charities hold endowed funds with us, and many families and local businesses have created donor-advised funds within the Foundation. We also take the lead where our community needs us, with initiative work that includes programs in early childhood education, senior living, housing, arts and culture, and more.

Thanks to the leadership and generosity of many caring people in our community, our endowed assets have grown to more than \$338 million since we began our work in 1992. To date, we’ve returned more than \$100 million to our community in the form of grants.

Our core values of justice, excellence, perseverance, wisdom, compassion, leadership, and legacy guide us in all of the work that we do.

To learn more about the Community Foundation of St. Joseph County, visit cfsjc.org.

Frequently Asked Questions

1. Why is estate planning more than a will?

An estate plan cares for both your property and your person. A will and, for some persons a trust, is important for the management and distribution of your property. But caring for your person requires creating a durable power of attorney for healthcare and a living will. The person who holds your durable power of attorney for healthcare can help the doctors make important decisions if you are in the hospital and not able to communicate. A living will is your statement of the care to be provided to you when you are in your final weeks or days. In some states, the durable power of attorney for healthcare and living will are combined in a document called an advance directive.

2. How can I avoid probate?

In many cases, property can be transferred without probate. For example IRAs, insurance policies and some other assets may be transferred through a beneficiary designation. If you are on title with another person as joint tenant with right of survivorship, under state law property rules the real property will be transferred to the survivor. Finally, many trusts hold real estate and that property will be transferred to the trust beneficiary.

3. Who are primary beneficiaries of a will?

One of the first decisions that you make is to decide who receives specific land, home, or personal items. These heirs are your primary beneficiaries.

4. When should you select a contingent beneficiary?

If you have given a primary beneficiary a specific item like a family heirloom, it is a very good idea to select a contingent beneficiary. However, if you do not, then the property simply is part of the residue of your estate. After distribution of specific property and payment of costs and taxes, the balance of the estate property is called the residue.

5. Why should you create a trust for minor beneficiaries?

Receiving property at a young age frequently leads to indulgence and serious problems. If you plan to leave property to minors, it is important to select a trustee to manage the property.

6. Should you forgive your children's debts?

Many parents pass away with outstanding loans to children. If you do decide to forgive debts to children or other family members, you may also want to include an offsetting gift of cash or other property to those family members who do not receive any debt forgiveness. In this way, you can keep the total benefits under the will even among your children or other heirs.

7. Why is selecting a guardian for minor children so important?

The guardian will perform most of the functions of a parent in teaching the child, selecting his or her school, providing ethical or religious education, and many other aspects of the child's life.

8. If you have minor children and a substantial estate, should the same person be guardian of your children and trustee of their trust?

If there is a substantial property inheritance for the child, it is quite risky to transfer both the guardianship and the property to the same individual. After the parents pass away and the guardian has control of the property, the temptation to spend income and principal for personal benefits rather than for the care of the child is extremely strong. A better plan is to select another person or commercial institution as trustee to manage the property. The trustee performs an important check-and-balance role. He or she can also distribute income, and if needed, principal for the benefit of the children.

9. Should medical papers and a living will be kept in your safety deposit box?

No. If you are ill and in the hospital, the durable power of attorney for healthcare or advance healthcare directive will need to be available to your healthcare agent. They may not have access to your safety deposit box. Your healthcare powers should be given to a friend or advisor so they are available if you are in the hospital and need their assistance.

10. Is it important to express your preferences on end-of-life care through an advance directive or living will?

Yes. While the states may use different forms and have a different name for the document, all permit you to express your healthcare preferences for end of life.

11. Is a family member who lives in your area a good choice for your healthcare agent?

While you can select any family member who lives in another state as your healthcare agent, it is helpful to select a person who is in the area so that he or she is available if you need an immediate healthcare decision.

12. Will your personal preferences on pain management have substantial impact on your end-of-life care?

If you desire a high comfort level even though that leads to less mental clarity, or prefer a more moderate or even low comfort level with greater mental clarity, that will have great impact on the level of pain medication provided to you.

13. If you use IRA beneficiary designations, joint tenancy with right of survivorship and other types of non-probate transfers, do you still need a will?

While a majority of property can be transferred through non-probate methods, your estate will require a will. If you have minor children, your will is used to select their guardian. But your estate invariably will include some personal items and other assets that are subject to the will. You may also receive an inheritance or lose your life in an accident that provides a large judgment to your estate. In all of these cases, it is essential to have a will to transfer your property as you choose, not as the court determines.

14. Does a living trust protect you in your very senior years?

With a living trust, you normally serve as the initial trustee and select the successor trustee. Your chosen successor will be able to take over if you are in your very senior years and are ill or otherwise unable to manage your property. This is a great comfort and protection for both you and your property.

Notes for My Attorney

