



PEERLINK
NATIONAL TECHNICAL ASSISTANCE CENTER

Estate Planning and Empowerment

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ESTATE PLANNING AND EMPOWERMENT: TAKING CONTROL OF IMPORTANT PARTS OF YOUR LIFE



A Webinar for

Peerlink National Technical Assistance Center

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Overview of Webinar

- Estate Planning and Estate Plans
 - Wills (for property and minor children)
 - General Financial Power of Attorney
 - Medical Health Power of Attorney
 - Mental Health Power of Attorney
 - Advanced Directives (Living Wills)
- Probate
- Trusts
- Gifts and Estate Taxes

What Is Estate Planning?

A process done during your life that allows you to make decisions about:

- Who will take care of your loved ones
- Who will have control of your money if you can't manage it
- Who will make medical decisions if you are incapacitated and cannot do that
- The care you receive at the end of your life

What Is An Estate Plan?

A map of the way you want your personal and financial plans to be handled in case of your incapacity or death

Levels of complexity depend on your circumstances

Who Needs An Estate Plan?

- Everyone!
- By virtue of being alive, you have an Estate
- If you don't deal with your Estate and the decisions that have to be made:
 - the issues still have to be dealt with
 - they often impose a difficult burden on your family

Some Estate Plan Choices

- Who will make sure that your wishes are being followed?
- Who will care for your children and pets?
- Who will make medical decisions when you can't?
- Who will benefit from your Estate?
- Who will have access to your money to pay your bills when you can't?

Why Some People Choose Not To Have An Estate Plan

- They think their Estate is too small
- They think they are too young and don't need one yet
- It is uncomfortable to think about illness and death and even harder to talk about it
- It is too expensive, and they can't afford to get one

What An Estate Plan Can Do

- Identify people you trust to make decisions for you, handle your affairs and, basically, step up to the plate when you need their support
- Make sure that those whom you “leave behind” are cared for and protected
- Help avoid added costs and time delays associated with **Probate Court**
- Depending on the size of your Estate, help minimize **Estate Taxes** and **Gift Taxes**

What If You Have Minor Children?

- You need a **Will**
- Your Will can name a **guardian** for your children
- You can provide for their financial protection
- If you and their other parent die without naming a guardian, the choice is made by the court *without taking your wishes into consideration*.
- The person chosen by the Court *may not be the person you want* to raise your children.

FOUR ELEMENTS OF A BASIC ESTATE PLAN

1. Will
2. General Financial Power of Attorney
3. Medical Health Power of Attorney
 - 3a. Mental Health Power of Attorney
4. Advanced Directive (Living Will)

1. Will

- It is your personal statement about what happens to your property (your **Estate**) after you die.
- It names your personal representative (**Executor**) who is responsible for your Estate
- It names the **Guardian(s)** for your minor children who is/are responsible for taking care of them.
- It must be:
 - in writing
 - signed by you
 - witnessed by another person
- Each state has different rules about the number of witnesses required and having it **notarized**
- If not done correctly, it can be determined to be invalid.

2. General Power of Attorney

- You appoint someone you trust and in whom you have confidence to manage your assets and finances IF you become **incapacitated**.
- If you are incapacitated and don't have a General Power of Attorney, someone would have to go to court to get someone appointed who would then be able to handle your affairs.
- **Springing power** option
- Only applicable while you are living;
the power ends upon your death.

3. Medical Health Power of Attorney

- Sometimes called a **Health Care Directive**
- Allows you to appoint someone you trust to make medical decisions for you if you become incapacitated
- **HIPAA*** language must be included to allow doctors to speak to the person you name.
- Springing power option
- Only applicable while you are living;
the power ends upon your death

* H e a l t h i n s u r a n c e p o r t a b i l i t y a n d A c c o u n t a b i l i t y A c t o f 1 9 9 6

3a. Mental Health Power of Attorney

- Sometimes is part of the Medical Health Power of Attorney and varies by state
- *WARNING:* Allows the person you name to admit you to a state-licensed, locked behavioral health facility
- Controversial because it could be used to hospitalize you without your consent at the time

4. Advanced Directive (Living Will)

- Sets forth your end-of-life preferences and decisions
- Without one, doctors or other family members make decisions without necessarily knowing your choices and preferences
- Things to be considered
 - medication
 - medical treatment
 - resuscitation
 - life support
 - organ donation
 - cremation versus burial

PROBATE

- A court-supervised process:
 - values your Estate
 - settles your debts
 - pays your taxes
 - transfers your property
- Varies from state to state
- The Probate Court issues a formal letter which legally authorizes the personal representative who is named in your Will—your **Executor/Executrix**--to act on your behalf
 - to establish a bank account for your Estate
 - to transfer property from you to your Estate
- It only covers the property that “passes under” your Will

Property that Does Not Pass Under a Will

- Jointly-owned property such as bank accounts and homes
- **Beneficiary-designated** property:
 - life insurance policies
 - IRA's
 - 401 K's
 - retirement plans
 - trusts

What If You Die Without A Will?

- It is called dying **intestate**
- The Court then looks to the laws of the state where you lived to distribute your property based only on your blood relationships
- Decisions are made without regard to your wishes or actual relationships with family, friends, and loved ones

TRUSTS

An Estate Planning tool—a legal entity that can replace or be part of your Will

“It is like a safe that holds all of your valuable belongings and you decide when, by whom, and under what circumstances it can be opened.”

Three types of Trusts:

1. Living Trust
2. Testamentary Trust
3. Special Needs Trust

1. Living Trust

- Starts during your life but may be designated to continue after your death
- Property is transferred into the Living Trust during your life and is “owned” by the Living Trust
 - You are the **Trustee**
 - You remain in control during your life
 - You are able to make changes at any time
- Avoids Probate: Property in your Living Trust is not considered part of your Will, and therefore does not pass through the probate process

2. Testamentary Trust

- Unlike a Living Trust, it is formally created after your death and involves Probate
- Names a **trustee**, and sets forth guidelines for the use and distribution of funds from the Trust
- Often used when you have young or disabled children or family members
- Can be included as a section in your Will

3. Special Needs Trust

- People with a child or other relatives with a disability can plan for the disabled person's future as well as their own
- Care has to be taken to ensure that any benefits already being received by the disabled person (e.g., SSI, SSDI) are not affected
- **Supplemental** to other benefits

ESTATE AND GIFT TAXES

- These are federal taxes on large estates whose values are somewhere above \$5 Million (an amount set by law that can change from time to time)
- Below that threshold, there are no federal Estate taxes
- Your Estate's tax obligation can be reduced by **gifting** up to \$14K per year, per individual recipient, thus reducing the size of the Estate
- There is no limit on number of recipients to whom you can gift, and no minimum amount for any recipient
- This \$14,000 limit is also subject to change from year to year through tax law changes
- The entire Estate can pass to a surviving spouse without triggering any federal Estate taxes due to what is called the **Marital Deduction**.

What If You Already Have An Estate Plan?

- Existing Estate Plans should be reviewed periodically to determine that no changes are required
 - Have you had a change in circumstances, like a divorce or a death in the family?
 - Perhaps the originally-named guardian for your children needs to be changed based on
 - your children's own naturally changing ages and needs
 - changes in the life of the originally-named guardian
 - changes in your relationship with that person
 - Are the people named as your agents still in your life?
 - Are there changes in those relationships?
- If you have moved, make sure that the documents drafted in another state meet the criteria for the new state of your residence

EMPOWERMENT

- Putting an Estate Plan in place is taking control of important areas of your life
 - Health
 - Children
 - Property
 - Burial or cremation
- Once accomplished, you will gain peace of mind and a sense of confidence in dealing with other aspects of your life
- Success builds on success!



Thank you for joining us!

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