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Beyond Wills: The Essential Estate Plan Checklist (For Everyone!)

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It's more than just passing on wealth! Ensure your health care wishes are respected, appoint guardians for loved ones and manage digital assets with a comprehensive estate plan.

By Allison Lee

It’s widely understood that estate planning consists of passing on wealth from one generation to the next. While this is certainly a major component, far too often, there are several other critically important aspects of estate planning that are overlooked.

Prominent examples include ensuring your health care decisions are carried out in accordance with your wishes, having the right guardian in place for minor children and beloved pets or giving your family peace of mind by properly planning for all of your digital accounts.

Unfortunately, many Americans self-select out of doing their estate plan entirely because of a misplaced belief that they don’t have enough assets to make writing a will worthwhile. This problem appears most frequently in minority communities, for whom the intergenerational accumulation of wealth could make a significant difference.

According to a report by Consumer Reports, around 25% of white Americans, 27% of Hispanic Americans, 25% of Asian Americans who speak English and 18% of Black Americans believe they do not possess enough assets to worry about passing them on in a will. But there’s much more benefit to be had from estate planning, even if you don’t think you have much in the bank.

Health Care Wishes

No matter what we own or how much wealth we possess, we all have a responsibility to take care of ourselves and give ourselves the same compassion we would to a loved one. While it may not be pleasant to think about, there are many unexpected circumstances that could render you incapacitated, from car accidents to illnesses. In these scenarios, it’s important to have a legal document that outlines who you would want to manage your health-related affairs. By thoughtfully planning for these instances ahead of time, you can provide yourself and the people you love some peace of mind.

There are multiple documents that encompass your health care plan. For example, a health care power of attorney is a legal document that allows you to express your wishes for your medical decisions, including who should manage these matters. Consider initiating important conversations with anyone you want to name in that document, ensuring they are comfortable assuming their role. A health care power of attorney often goes alongside your living will, which expresses your treatment preferences. These choices can include whether you want to receive life-sustaining treatment or be an organ donor. You may choose to align these types of choices with your values or religious/spiritual beliefs. It offers an opportunity to craft a meaningful plan for the future that resonates with your wishes. Most importantly, it is a critical part of securing your well-being.

Digital Assets

You may feel like you do not have enough of these types of accounts for an estate plan, but believe it or not, the average person is likely to have about 100 digital accounts. A lot of what we own exists on the web – from your bank and brokerage accounts to your social media pages and TV streaming services. This phenomenon makes it incredibly important to plan for them upon your passing, especially to give your family peace of mind.

You can help your loved ones avoid the hassle that comes with failing to designate beneficiaries for financial accounts, being charged for an ongoing subscription or having family accounts in your name, such as a phone plan.

By creating your estate plan, you can express clear instructions on what you would like to happen for all of these accounts and who should be involved. Consider having conversations with your family about how you would like them to handle your digital property. Some people choose to name a “digital executor” to manage their digital assets according to their will. This person often has some expertise in this area and can carry out their role while working hand in hand with the main executor. Naming someone for this role is optional – you can simply give this task to your main executor.

Naming a Guardian for Kids

You may not consider yourself wealthy, but if you have minor children or children on the way, you certainly have an important reason to create or update your estate plan. Parents can designate a trusted guardian for their kids in their estate plan. An estate plan not only offers you the opportunity to transfer assets from one generation to the next, but it also ensures any minor children will be in good care. If you have children, you're understandably concerned about their well-being, both during and after your lifetime. It's important to make a thoughtful decision regarding who would be best for the guardianship role and have conversations with the individual you select about expectations.

The guardian may be responsible for welcoming the child into their home and ensuring that the health care and education the child receives is of quality and best fits their needs. You can outline these wishes in your plans, including giving consideration for unexpected circumstances. The guardian is typically tasked with this position until the child is a legal adult. By not being proactive about naming a guardian for your minor children, you risk the court getting involved and making decisions about your child's safety and security that may not align with your wishes.

Pets

Under the law, pets are considered property and it's important to have a plan for them. Every animal is unique and has its own needs, wants and personalities. As you've spent a lot of time with your pet, you've likely picked up on who they click most with from your friends and family. You have likely navigated various medical considerations for them, including how often you take them to the vet or what types of diets they require. You also know their favorite activity, toy or outdoor space. These details are crucial to ensuring your pets end up in good care and that the guardian you appoint has the comprehensive knowledge they need to continue providing the love and compassion you gave your pet.

When you create your estate plan, you can designate a trusted individual or organization to carry out your wishes for your pet's well-being. You can describe all of the qualities that make them unique, making sure they have what they need to thrive. As you are already aware, having a furry friend is a large responsibility, so it's important to have the necessary conversations with those you wish to give this task.

If you desire, you can also establish a pet trust, appointing a competent trustee to distribute funds on behalf of your furry family member for the items that enrich their life, including nutritious food, fun toys and medical visits to keep them healthy and happy. Perhaps you have one very close friend who has a pet of their own and while you do not want to give them the huge duty of being the guardian for your pet, you still want them to be involved in their care. Maybe your sibling would happily take on this role, but you are not as close with them compared to your friend. You can always see if your friend would be open to being your pet trustee and work with your sibling to give your companion animal the best possible support and care. On the other hand, you can name the same individual you designate as a guardian as the pet’s trustee if you believe they should have the primary decision-making power for your furry friend.

Tangible Personal Property

What are some possessions you own that bring a sense of warmth and comfort to you or your family? Which ones preserve the memories you cherish? Perhaps it’s the photo album you created of your oldest child throughout their time in grade school who now has kids of their own. Maybe it’s the journal your aunt shared with you that you take life lessons from. These tangible items may not hold a whole lot of monetary value, but they certainly are close to your heart.

Having a plan that ensures these treasures are protected can help the next generation of your family build roots and stay connected to their elders. You may understand that specific relatives would resonate with or be able to better care for certain heirlooms than others. Documenting your decisions regarding these matters can avoid confusion for your family and build a stronger bond between everyone. Making these choices provides an opportunity to have a loving conversation with the individuals in your life. You’ll have a chance to express all of the sentiments each item holds and why you think that person would be the best fit to inherit and pass down the stories, values and wisdom to others in the family and maybe even their larger community.

Financial Wishes

While you do not need to be wealthy to create an estate plan, there are still important financial decisions you can record. For example, let’s say you become incapacitated and have to navigate serious medical conditions. If you do not have enough funds to pay for these expenses, it may be necessary to sell your home or other personal property you own. In your plan, you can document these decisions and name a trusted loved one to manage your affairs. A financial power of attorney allows you to designate an agent to make financial decisions for you and outline specific financial decisions you wish to assign to your agent. If you become unable to take care of your finances and have no plan in place, the government will make these choices according to applicable law as opposed to considering your preferences and values. Your estate plan is a powerful component in ensuring financial security for yourself and your family.

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Allison L. Lee is the associate general counsel for FreeWill, a mission-based public benefit corporation that partners with nonprofits to provide a simple, intuitive and efficient platform to create wills and other estate planning documents free of cost. Through its work democratizing access to these tools, FreeWill has helped raise more than $4 billion for charity.

Allison also oversees FreeWill's Fellows Program, a network of trusts & estates practitioners from across the country who are passionate about improving access to law and increasing the role of charitable giving in estate planning. Prior to joining FreeWill, Allison spent more than a decade in private practice (most recently at a New York law firm), was rated by Super Lawyers (Rising Stars) in the area of estate planning and probate, and is a member of the New York, New Jersey, Florida, Maryland and Washington, D.C. bars.