



Planning Your Legacy

A Guide to Planning Your Will and Trust

A person may work 40 years to accumulate assets and spend 10 to 20 years conserving that accumulation, but often spend little or no time planning for the distribution of the assets.

This guide is designed to help you move forward with a plan that writes a very good chapter in the book of your life. Through proper planning, the legacy of love and care that you leave for your family and friends can be encouraging and even inspiring.

A Guide to Planning Your Will and Trust is designed to encourage you to think about how you want your assets to be distributed at death and to assist you in gathering the information your attorney will need.

Disclosure on Attorneys and the Oklahoma City Community Foundation

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, health care, estate and planning circumstances.

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STEPS TO A “SLEEP WELL” PLAN

- 1. Complete the Will and Trust Guide.** Provide information about your family, estate and goals.
- 2. Transfer your answers to the online Wills Planner.** Visit www.occflegacy.org and click on “Plan Your Will” to create a secure online account. (You may also choose to take this Guide directly to your attorney to finalize your will.)
- 3. Provide access privileges to your Gift Planner and Attorney.** Login to your secure online account through our website and click on “My Settings.”
- 4. Create a PDF of your information and provide it to your Attorney.** Click on “Create PDF for printing” and print your document. You will need to provide this document to your attorney to finalize your will.

Introduction

Welcome to *A Guide to Planning Your Will and Trust*. We are very pleased that you are taking steps to protect those you love through an updated estate plan. A plan is important, but an estimated 70 percent of Americans don't even have a will. This guide will help you by making the process easy and understandable.

What are the benefits of an estate plan?

Peace— An estate plan is designed to help you provide for those you love and protect both you and your family.

Provision— You have spent most of your lifetime gathering assets and making plans. But many people spend more time planning their vacation than planning their estate. With a good estate plan, you can give loved ones the property you have acquired in the right way, at the right time and at minimal cost.

Protection— In addition, a good plan will provide for you in your senior years. It may be important to designate a specific person to manage your property, help doctors and other medical staff with important decisions and make certain that you are receiving the best possible care. An estate plan can increase your lifetime security and also achieve your goals for family and charity.

How do I get started?

We have designed *A Guide to Planning Your Will and Trust* for your benefit. It is usually best to move fairly quickly through the different sections. You may need to come back later and fill in some of the information. Most of this information you will know or have readily available.

And if I have questions about some of the information?

When it comes time to decide on the distribution of your property, you may have some questions. In addition to asking your attorney, there are two resources that may help you. In addition to the explanations within this guide, we have a wealth of online estate planning information at www.occflegacy.org. Remember, we are always available to help. You can call us at 405/235-5603 or email us at info@occf.org.

What good things happen with an updated will?

With an updated will, you can transfer specific property or assets and provide guardianship for minor children. In addition, you will be able to direct the residue of your estate. For those with larger estates, there could be substantial estate tax savings. In addition, you know that the executor or personal representative you select (not the one a probate judge chooses) will be managing your property. A good will is able to carry out your plan and potentially save you money while transferring property quickly and inexpensively to your loved ones.

What is accidental disinheritance?

Too many times, the “wrong” persons end up receiving property. An “accidental disinheritance” occurs if you either have no will or the will doesn't function properly. Sometimes a will is unclear and the estate goes to distant relatives or is simply paid to CPAs and attorneys who are representing family members fighting over the estate. You can avoid an “accidental disinheritance” by creating a good plan to protect your loved ones.

Can I use my estate plan to create a legacy?

Everyone wants to have a life with meaning. Part of that meaningful life is to live on in the memory of family and friends. A good estate plan can indeed create a legacy for family and charity that gives added meaning to your life.

Estate Planning Documents

There are three basic steps in the estate planning process.

1. Write Down What You Own

It is important to understand what property you own and what property will be transferred through your estate.

2. Know How Property is Transferred

Some property is transferred by will and some is transferred by a beneficiary designation or other form. You need to know how your property will be transferred in order to avoid an accidental disinheritance. With a good plan, your property may be transferred as you desire.

3. Sign Your Will and Medical Directives

Finally, it is important to sign the documents that correctly express your will and desires, both for your property and for your potential future personal care.

BASIC PLANNING DOCUMENTS

Let's start by reviewing the three basic estate planning documents—a will, a durable power of attorney for finances and a durable power of attorney for health care.

Current Will

Your will is a written document, signed by you and by two or more witnesses. In Oklahoma, your signature must be witnessed by a notary public. If the will is believed to be authentic by the probate court, it is used to determine the distribution of your property. If the will is not valid or you do not have a will, the court will follow state law for those without a will. The applicable state law and court decisions might be completely contrary to your desires.

For example, without a valid will, a judge might choose guardians for your minor children, select trustees to manage your property and even award property to your distant relatives. The actions of this judge and application of state law may be completely contrary to your desires.

With a valid will, you are able to choose who will inherit your property and who will administer your estate as executor or personal representative. If you have minor children, you can nominate a person as guardian to raise your minor children. With a trust, you are permitted to decide who will manage the trust for family members.

A valid will is an essential part of transferring your property at the right time to the right people at the lowest cost. Without a valid will, costs, delays and the probability of expensive conflict increase. You can provide a wonderful legacy for family with an updated will and a sound estate plan.

Durable Power of Attorney for Finances

You probably are a very good financial manager. As long as you are able to manage your affairs, things will be fine. However, there may come a time when you are in poor health or perhaps in the hospital. While lying on your hospital bed, you do not want to worry about your property being neglected.

A durable power of attorney for finances is the solution that protects your property and yourself. If you are no longer able to manage your property, the person that you select in this durable power has the right to act as your agent. Even if you are disabled or incapacitated, this person will have the legal right to manage your property. If you do not have a durable power of attorney for finances, it will be necessary for the court to appoint a conservator.

The court may select any person as conservator and there often will be expensive reports, audits and costs in the management of your property. If you sign a durable power of attorney for finances, the person that you select may manage your property without all the expense of a court-appointed conservator. You may also utilize a revocable trust to name your financial guardian or successor trustee. A durable power of attorney ceases at death while the trust can continue on.

Health Care Directives

There are two general types of health care directives—a durable power of attorney for health care and a living will.

The durable power of attorney for health care allows you to select a person who can assist your doctors in making health care decisions while you may be incapacitated. The durable power of attorney should include the HIPPA private health information release language as well as authorizing your health care agent to make non-life sustaining treatment decisions for you. You may have a serious medical condition and the doctor will need the advice of another person regarding the best possible care for you. Your designated holder of the durable power of attorney for health care can help the doctors ensure that you have high-quality care.

The living will is a second document (in most states) and covers the time before your probable death. Oklahoma's living will is called the Advance Directive for Health Care. The Advance Directive for Health Care is a statutory form and is the required means in Oklahoma for the expression of your wishes regarding life-sustaining treatment and artificially administered nutrition and hydration. In the last days and weeks of life, there are a number of decisions regarding care, nutrition and hydration that need to be made. The living will gives you the opportunity to make your wishes clear to medical staff about the types of care to be provided to you at that time.

YOUR BENEFITS WITH OTHER PLANNING OPTIONS

Living Trusts/Revocable Trusts

If you have a moderate or large estate, you may find it desirable to create a living trust also known as a revocable trust. The living trust is completely within your control during your lifetime and may be amended as long as you have capacity. You can add property to the trust or remove property from the trust at any time. During your lifetime, the trust income is taxable to you.

There are at least three major benefits of the living trust. If you are sick or in the hospital, your designated successor trustee can take over and manage your property for your benefit. Second, if you pass away, the property in the living trust will avoid probate and potentially save thousands of dollars in costs and minimize delays. Third, the living trust typically is a private document and is not made public during the administration process.

Custom Estate Plan for Business, Investments or A Special Needs Child

If you own a family business, substantial real estate holdings or a large estate, then a custom plan that considers your special property goals and requirements should be created. Another custom plan option is important if you have a child with special needs. A child with special needs may be provided for through a special needs trust. A “special needs” trust will facilitate care of the child by providing resources and directions. In some cases, a child may qualify to receive federal or state benefits if that is helpful in providing care for the “special needs” child.

IRA, 401(k) or Other Retirement Plan

Your IRA, 401(k) or other retirement plan is transferred by a beneficiary designation. Normally, the beneficiaries should be named on the IRA, and it is generally recommended that individuals and/or charities be named as beneficiaries and not to your estate or a trust. The IRA or 401(k) custodian should provide a form for you to select primary and contingent beneficiaries. Because your retirement plan may represent a major portion of your property (30 percent to 70 percent), your beneficiary designation should be reviewed every two to four years and/or in the event of death or marriage.

Life Insurance

Life insurance can be permanent (whole life or universal life) or term. The insurance policy is a contract, and there is a beneficiary designation form. You will select primary and contingent beneficiaries to receive the death benefit if you pass away with a valid insurance policy.

Charitable Remainder Trusts

A charitable remainder trust (CRT) allows a donor to place assets in a trust that pays annual income to the donor or a beneficiary for life or a term of years. With a CRT, the donor can avoid capital gains tax on the donated assets and also receive an income tax deduction for the fair market value of the remainder interest of the trust. In addition, the trust is removed from the estate, reducing subsequent estate taxes. Upon the trust’s termination, the remaining assets will benefit a charitable organization, a charitable endowment fund and/or an advised fund.

Charitable Gift Annuity

A charitable gift annuity (CGA) provides individuals 55 years or older with not only income for life but also the peace of mind of making a difference through a lasting charitable gift. Through a CGA at the Oklahoma City Community Foundation, a donor can make a gift with cash or other assets of at least \$20,000, receive income for life and, at the end of the annuity, the remaining assets will go to a charitable fund or fund designated by the donor. The Oklahoma City Community Foundation offers six individual and joint annuity options.

Advised Funds

Many families find that an advised fund is a simple and efficient way to help charities that they love. By establishing such a fund, you can time the gifts you make (for investment or tax reasons) and you can select the charities you wish to benefit from your gifts. You receive the income or estate tax deduction, and the opportunity is there to make distribution decisions later. The Oklahoma City Community Foundation offers three advised fund options: The Express Fund is a completely spendable fund that requires a minimum gift of \$5,000 to establish, receives no investment performance and no fees are charged; the Gift Fund is also a spendable fund that requires a minimum gift of \$20,000, receives investment performance and has low, competitive fees; and the Legacy Fund is a permanent endowment fund with an annual spendable balance that also requires a minimum gift of \$20,000, receives investment performance and also has low, competitive fees.

Charitable Organization Endowments

Since 1970 donors have come to the Oklahoma City Community Foundation to create endowments benefiting charitable organizations. Thanks to the generosity and foresight of thousands of donors, we administer more than 300 endowments making our Charitable Organization Endowment Program the largest of its type in the country. Through the program, the charitable organizations receive an annual distribution from their endowment and will receive the annual distribution for perpetuity. You can establish a Charitable Organization Endowment fund through a bequest or other types of planned gifts or designate a gift to an existing endowment.

Scholarship & Award Funds

Establishing a scholarship endowment fund through a planned gift is an easy and convenient way to establish a lasting legacy that will reward students for generations. With more than 120 funds, the Oklahoma City Community Foundation administers the state's largest independent scholarship program. Scholarship and award funds are permanent endowments that provide support for those who are seeking to improve themselves through higher education or additional post-high school training and can be established with a minimum gift of \$50,000.

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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

Date _____

Your Full Legal Name _____

Date of Birth _____ Gender: Male Female

Present marital status:

Married Single Divorced Legally Separated Widowed

If you are widowed, what date did this occur? _____

Home Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Employer _____

Job Title _____ Work Phone () _____

Are you a U.S. Citizen?

No Born in the U.S. Naturalized

Check which documents you presently have:

Will

Living Trust (Revocable Trust)

Durable Power of Attorney/Finances

Durable Power of Attorney/Health Care

Living Will (Advance Directive for Health Care)

Your Spouse

Full Legal Name _____

Date of Birth _____ Gender: Male Female

Have you previously been divorced?

Yes No *If yes, list year, city, county and state in which divorce decree was granted:* _____

If you are widowed, what date did this occur? _____

Home Phone () _____ Email: _____

Employer _____

Job Title _____ Work Phone () _____

Is your spouse a U.S. Citizen?

No Born in the U.S. Naturalized

Check which documents your spouse presently has:

- Will
- Living Trust (Revocable Trust)
- Durable Power of Attorney/Finances
- Durable Power of Attorney/Health Care
- Living Will (Advanced Directive for Health Care)

Do you or your spouse have a prenuptial agreement that identifies and disposes of separate spousal property? (If yes, attach a copy.)

Yes No

Religious Affiliation

Religious Organization _____

City _____ State _____

Continued on next page

Your Children

Please list *all* children, whether minors or adults, *including deceased children and children of a prior marriage*. If you need more space, attach additional pages. If you wish to exclude a child as a beneficiary of your estate, check the "Exclude" box. If you have no children, write "NONE."

1. Full Legal Name _____

Date of Birth _____ Social Security # _____

Marital Status

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin

Child of Present Marriage Child of Prior Marriage Deceased

2. Full Legal Name _____

Date of Birth _____ Social Security # _____

Marital Status

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin

Child of Present Marriage Child of Prior Marriage Deceased

3. Full Legal Name _____

Date of Birth _____ Social Security # _____

Marital Status

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin

Child of Present Marriage Child of Prior Marriage Deceased

4. Full Legal Name _____

Date of Birth _____ Social Security # _____

Marital Status

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin

Child of Present Marriage Child of Prior Marriage Deceased

5. Full Legal Name _____

Date of Birth _____ Social Security # _____

Marital Status

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin

Child of Present Marriage Child of Prior Marriage Deceased

6. Full Legal Name _____

Date of Birth _____ Social Security # _____

Marital Status

Married Single Needs Special Care Dependent Exclude

Home Address _____

City _____ State _____ Zip _____

Origin

Child of Present Marriage Child of Prior Marriage Deceased

Your Estate Planning Goals

You will have a number of goals that can be carried out through your estate plan. Listed below are several types of goals. Please indicate how important these goals are by circling a number from one to five by each goal. One is low and five is high.

Goal	Ranking (1-5 with 5 being the most important)				
Reduce estate taxes	1	2	3	4	5
Avoid Probate	1	2	3	4	5
Increase current income	1	2	3	4	5
Provide for guardianship of minors	1	2	3	4	5
Provide for healthcare if disabled	1	2	3	4	5
Protect against liability	1	2	3	4	5
Create a charitable legacy	1	2	3	4	5
Sell appreciated assets tax-free	1	2	3	4	5
Plan for business	1	2	3	4	5
Other goals listed below	1	2	3	4	5

Comments

Your Estate Planning Family Background

1. Lifetime Gifts—you may have made gifts to children or other heirs. Were your gifts to any person in one year more than the annual exclusion?

(Visit www.irs.gov to review Publication 950 to find the current annual exclusion amount.)

2. Trustee, Guardian or Personal Representative (Executor) —are you currently serving as a trustee of a trust, guardian of another person’s children or personal representative of an estate?

3. Living trust—have you previously created a revocable living trust?
Or any other trust?

4. Inheritance—is it likely that you may receive an inheritance from a parent or other relative? Do you know the age of the parent or other person and the probable amount of the inheritance?

5. Safe Deposit Box—if you have one, please list the bank, the city and state and who has the key.

You And Your Contacts

YOUR PERSONAL REPRESENTATIVE (EXECUTOR)

Your personal representative (formerly referred to as the executor) is the manager of your estate. Because he or she will make many decisions about the management and distribution of your estate, you should select a trusted person who understands your circumstances. A personal representative will usually complete eight separate steps to ensure an orderly transfer of all of your property to the right individuals.

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

Please name your personal representative and an alternate personal representative.

Personal Representative _____

Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Relationship, if not a spouse _____

In case the person above is unable to serve, please name an alternative personal representative:

Name _____

Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Relationship _____

YOUR GUARDIAN FOR MINOR CHILDREN

A very important decision for you is to decide who would be the guardian of your minor children. Your guardian will raise your children, teach them values, select the schools they attend and perform the functions of a parent. If you do not have a guardian nominated in a will, a court will select a person without any guidance from you. That person may not share your cultural background, your religion, your general world view or any other aspects of the character that you think important for the person who raises your children. By selecting a guardian and an alternate in your will, you have a much better prospect of finding someone that you think is the right person to raise your children.

If there are two parents, the survivor will usually be selected as the guardian of the children. In this case enter "Spouse" as the primary guardian. But if both parents pass away, then it will be necessary to select an alternate guardian. If you are a single parent, it is especially important to carefully select a primary and alternate guardian. You can also select two guardians; one to handle financial matters and a second to provide for actual physical care.

Guardian _____

Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Relationship, if not a spouse _____

Your Alternate Guardian

Guardian _____

Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Relationship _____

POWER OF ATTORNEY FOR HEALTH CARE

There are two primary documents that will provide for your future health care. A durable power of attorney for health care empowers another person you select to make key decisions on your care. These could include whether an operation should be done or other major health care decisions should be made.

A second document is an Advance Directive for Health Care. If you are in your final weeks or days of life, then decisions must be made with respect to nutrition and life-sustaining treatment and artificially administered nutrition and hydration.

A durable power of attorney for health care is important to ensure that the right person has been selected. It is called a “durable” power because it is effective even if you are ill and not capable of making your own decisions. A durable power of attorney should be in addition to a living will.

Please select your primary and secondary health care decision makers.

Power of Attorney For Health Care

Health Care Power of Attorney _____

Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Relationship, if not a spouse _____

Alternate Power of Attorney for Health Care

Name _____

Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Relationship, if not a spouse _____

POWER OF ATTORNEY FOR FINANCES

A common concern is, “What if I am sick and am no longer able to manage my property?” Unfortunately, there are far too many cases in which the property of senior persons are mismanaged or taken away by fraud or misrepresentation. A very good plan to protect yourself and your property is to have a durable power of attorney for finances.

If you are no longer able to manage your property or later wish to have someone else manage your property, this durable power of attorney will give the person you select the legal authority to buy, sell and manage your property. Of course, if you have a revocable living trust, the successor trustee will manage the property in the trust. But it is still very possible that you own other property personally such as life insurance and retirement plans. The durable power of attorney for finances enables the individual you designate to manage your property.

For the durable power of attorney, please list information about the selected person.

Power of Attorney For Finances

Primary Name _____

Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Relationship, if not a spouse _____

Alternate Power of Attorney For Finances

Name _____

Address _____

City _____ State _____ Zip _____

Home Phone () _____ Email: _____

Relationship, if not a spouse _____

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!

Asset	\$ Total Value of Asset	Check if Joint Property	Check if Husband's Property	Check if Wife's Property
Example Property	\$298,000		✓	
Real Estate				
Main Residence Address				
Second Residence Address				
Vacation Home				
Checking Accounts				
Bank, Account Number				
Savings Accounts/ CDs/ Money Market Funds/Credit Union Accounts				
Bank, Account Number				
Tax Sheltered Annuity— not in Retirement Plan				

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

Liabilities	\$ Total Amount of Debt	Check if Joint Debt	Check if Husband's Debt	Check if Wife's Debt
Mortgage on Personal Residence				
Mortgage on Second Residence				
Mortgage on Vacation Home				
Vehicle Debts				
Charge Accounts				
Installment Contracts				
Loans on Life Insurance				
Other Debts				
Total Liabilities/Debts: \$				
TOTAL ESTATE: \$ (Assets Less Liabilities)				

Sources of your Property

THE “RIGHT AMOUNT” INHERITANCE

What is the “right amount” to leave for children, nephews or nieces? Here are three guiding principles for deciding on that amount.

First, everyone should provide for the needs of his or her family.

Second, this means that the inheritance provides a reasonable level of increased standard of living for the child, nephew or niece.

Third, there are many children who have received an inheritance large enough to cover both needs and wants. An inheritance that covers too many “wants and desires” may lead to unhappiness, greed and lack of incentive to be a productive person.

Finally, are there guidelines for leaving children a substantial inheritance?

Some parents have been careful with their resources and have accumulated a significant estate. How can a larger estate be transferred with a good result for children?

First, a larger inheritance will generally 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. When asked where the inheritance went they may reply, “Well, I spent it on cars, boats and vacations, and wasted the rest!”

Second, transfer a larger inheritance over a period of years. A good plan might include a distribution or control of principal when the parents pass away, income for a period of years and an additional distribution or control of principal.

Third, set up a target percentage for the inheritance. The total inheritance can then be designed to pass that amount to a child, nephew or niece. A target percentage of the estate is the sum of the principal and income given through the inheritance plan. With careful thought, the plan can move a substantial amount to family, while still permitting your child to learn to know the joy and rewards of work.

PERSONAL PROPERTY DISTRIBUTION

List to Dispose of Personal Property

Your will or trust is designed to transfer property to the person you select. However, many states permit you to update and maintain a list of personal items that may be changed whenever you desire. The lists should be signed and dated, and describe the personal property and name the recipient.

Under the laws of most states, you are permitted to make a list of property that may include jewelry, silver, china, furniture and collections of stamps, coins, art and other personal items that are movable. The advantage of this list is that you may update it as you buy or sell these items or you may change your mind about who should receive china, silver, rings or other personal items.

By making and updating this list, you can change the recipients as your property changes. It is important to be certain that you have signed and dated each list. Only the last list you have completed before your demise will be valid.

Anytime you update your list, make at least one copy, keep the original in a safe place and keep a copy in two different locations. Please make your list here:

DESCRIPTION/LOCATION	RECIPIENT, CITY AND STATE
1. _____	_____
2. _____	_____
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____
8. _____	_____
9. _____	_____
10. _____	_____
11. _____	_____
12. _____	_____
13. _____	_____
14. _____	_____
15. _____	_____

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 health care and a living will. The person who holds your durable power of attorney for health care 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.

2. How can I avoid probate?

In many cases, property can be transferred without probate. IRAs, insurance policies and some other assets may be transferred through a beneficiary designation. If you hold 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 managed for the benefit of the trust beneficiaries. Oklahoma's Transfer-On-Death Deed allows real estate to transfer to your intended beneficiary(ies) upon your death.

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 can be 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 may be extremely strong. Possibly 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 health care or advance directive for health care will need to be available to your health care agent. They may not have access to your safety deposit box. Your health care powers should be given to a friend or advisor so they are available if you are in the hospital and need their assistance. You may also want to provide copies to your personal physician(s).

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 health care preferences for end of life care.

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

While you can select any family member who lives in another state as your health care 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 health care 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 nominate 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.

Sample Bequest Language

Suggested bequest language for a gift to the Oklahoma City Community Foundation through a will or trust:

1. Specific Charitable Bequest

I give to the Oklahoma City Community Foundation (EIN: 23-7024262), an Oklahoma non-profit corporation, the following money or property (*describe gift*):

The gift is to be administered in accordance with the purposes and pursuant to the terms of the Articles of Incorporation and By-Laws of the Oklahoma City Community Foundation. I request that this gift: (choose whichever is applicable)

I. Be used for such charitable purpose of the Oklahoma City Community Foundation as the Board of Trustees may from time to time determine;

OR

II. Be added to a special fund known as “_____Fund” and used for the following specific purpose:

OR

III. Benefit the following charitable organizations:

by additions to the Designated Fund of such organization as maintained by the Oklahoma City Community Foundation.

Charitable Organization Endowment of: _____

Charitable Organization Endowment of: _____

2. Residuary Bequest

I hereby give, devise and bequeath all the rest, residue and remainder of my estate to the Oklahoma City Community Foundation (EIN: 23-7024262), an Oklahoma non-profit organization (for such charitable purposes as the board might from time to time determine) or (for the following charitable purposes)

or to benefit the following charitable organizations:

Online Resources for Estate Planning

www.occflegacy.org – the Oklahoma City Community Foundation’s comprehensive planned giving website for donors and their professional advisors. The site features a gift calculator, examples of estate gifts and up-to-date information on estate planning tax issues.

www.senior-law.org – The Senior Law Resource Center provides low-cost and free legal advice, legal services and educational materials to the elderly and their caregivers, as well as professionals who work with the elderly.



OKLAHOMA CITY COMMUNITY FOUNDATION

Helping you help the community

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www.occf.org

[Facebook.com/occf.org](https://www.facebook.com/occf.org) | [Twitter.com/occforg](https://twitter.com/occforg)

Disclosure on Attorneys and the Oklahoma City Community Foundation

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, health care, estate and planning circumstances.