

Preparing End-of-Life Paperwork



Protect your assets and give your heirs an enormous gift—organize your personal papers (especially insurance and financial documents) and complete your end-of-life paperwork. It is very hard to make good decisions while grieving, and after your death, unscrupulous people may prey upon your heirs or your assets.

Even if your assets are modest, you will save your heirs a lot of stress, time and money if you consult with an appropriately trained lawyer and properly complete all necessary paperwork. (See page 21 for **State Bar of CA** listing, or contact your **County Bar Association**, to locate an elder law or estate planning specialist.)

Be sure to review all your documents (preferably with an elder law or estate planning lawyer who practices in your home county) at least every 5 years, and update your paperwork as necessary.

Plan for contingencies—for instance, include additional people to make health care decisions on your behalf or to serve as trustee if your first choice is not able to do so. Also specify in writing anyone you **don't** want to make decisions or manage your finances.

Durable Power of Attorney for Finances

Designate the person who will make financial decisions on your behalf if you become incapacitated. This includes day-to-day bill paying, investing, decisions regarding your home and other property, applying for government benefits, and gifts or estate plans. In California, a durable power of attorney for finances remains in effect when you become incapacitated. If you decide to make changes

to the durable power of attorney for finances, it is important to revoke the document and create a new one, so there is no legal question of your intent.

BE VERY CAREFUL—these powers are often very broad and can give the agent complete control over your financial assets. Carefully review your choices and consider limiting the power of attorney to certain transactions. It is estimated that 50-60% of elder financial abuse is perpetrated by the person granted power of attorney for finances!

Advance Health Care Directives

Designate the person who will make medical and health care decisions on your behalf if you become incapacitated. This includes medical care and treatment options, end-of-life choices (for example, “do not resuscitate” and organ donation), and placement into care facilities. You must specifically designate someone in writing, or they will be unable to oversee your medical care. Also be sure to also file a copy with your doctor and your health insurance provider.

You can download a free copy of a CA Advance Health Care Directive form from the **CA Office of the Attorney General**: <http://www.ag.ca.gov/consumers/pdf/AHCDS1.pdf>

Wills and Trusts

The purpose of a will is to distribute your property as you indicate after your death. Under California law, if you die without a will, the Probate Code directs the distribution of your assets to your relatives.

The purpose of a trust is to provide for management of your assets during your lifetime, and distribution of assets after your death. A trust generally means your estate avoids probate, and may minimize legal fees and taxes.

Fiduciaries

If money matters, health care, and end-of-life issues seem too challenging, you may want to appoint a trusted family member or qualified professional as a fiduciary, to oversee your personal affairs. Such a person must be trustworthy because they have legal jurisdiction over major life decisions. Sadly, many people take advantage of their fiduciary duties for personal gain—in many cases stealing assets for themselves.

California has a **Professional Fiduciaries Bureau** (see page 20) that licenses and regulates non-family member private fiduciaries that act as trustees on your behalf. If you are considering a private fiduciary, contact the Bureau to check if the person holds the proper license. Family members, many attorneys, and financial professionals are exempt from this licensing requirement.

Alzheimer's Association

If you or a loved one is facing Alzheimer's, dementia, or other mental impairment, contact the **Alzheimer's Association** for important additional resources and information (see page 18).

Cemeteries and Funerals

- Communicate your preferences for your funeral/memorial and burial/cremation, and be an informed consumer.
- DO NOT pre-pay—instead, pre-arrange. Funeral homes and cemeteries often go out of business, are purchased by other companies, or stop providing certain services.
- Research and shop around—don't fall for high-pressured and over-priced sales tactics. By law, funeral homes must provide detailed price lists over the phone or in writing. Ask about lower priced items. Require itemized, written plans and carefully review contracts and purchase agreements before signing. Ask if agreements can be transferred to other funeral homes.
- CA law does NOT require embalming or a casket, although some cemeteries require these for burial.
- Some people prefer "green burials" to reduce environmental impacts of embalming chemicals, plastics, and other non-organic substances.

Contact the **Federal Trade Commission** (see page 22) for a free consumer guide or to file a complaint. Go to www.ftc.gov/bcp/menus/consumer/shop/funeral.shtm to download a copy of "Funerals: A Consumer Guide."

Contact the **CA Cemetery and Funeral Bureau** (listed under **CA Department of Consumer Affairs**, page 18) to file a complaint and for a free pamphlet: *Consumer Guide to Funeral and Cemetery Purchases*.