

Make estate planning your New Year's resolution

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If you think estate planning is only for the wealthy and elderly, then you are not alone — but you are wrong. Such an erroneous assumption can lead to unforeseen, and even tragic, results. “Estate planning” includes determining disposition of your assets on death, determining who will care for your children if you die, planning for management of your financial affairs during periods of disability, and providing for your health care needs. None of these issues are dependent on advanced age.

If you own anything — whether it fills a closet or a mansion — then you have an estate that must be distributed if you die. Do you want it to be distributed according to your wishes, as set forth in a will or trust, or pursuant to rules established by the California legislature?

Without proper planning, your estate may end up in the notorious probate system, at considerable delay and expense, when it easily

could have been avoided. If you care about where, how and when your belongings go after you die, about protecting your estate from unnecessary costs and taxes, and about minimizing stress and uncertainty to your loved ones, then you need an estate plan.

Perhaps most painfully, if you have minor children, consider what happens to them in the event of your death. Who will raise them and who will handle their financial affairs? If you want your voice to be heard, you have to make those hard decisions and sign the appropriate documents. Otherwise, if the worst occurs, a judge will decide — without any input from you.

It is also important to understand that estate and healthcare planning goes into effect immediately, while you are alive, and can help avoid a court conservatorship proceeding if you ever become unable to manage your financial or medical affairs. Instead, you already will have tools in place such as powers of attorney, a trust, or both, empowering people whom you have

selected to assist you with your financial matters. Similarly, if you suffer an injury or medical event that leaves you unable to make your own medical decisions, or unable to communicate your wishes, you will have your health care planning already in place.

You select the people whom you trust with your medical information and to assist you during such times, and determine what they can and cannot do on your behalf. You determine when artificial means of prolonging your life should be refused or terminated, and when they should be employed. Imagine the emotional burden on your loved ones if you have not made those decisions and signed the proper documents.

The bottom line is that estate planning allows you to address financial and medical issues now, while you have capacity to do so, in a way that protects you now and into the future. Despite the many reasons for estate planning, there are at least three reasons people put off doing it. First, a common mis-

conception is that estate planning is only for the elderly. Because statistically it is more likely that an elderly person will die before a younger person, there is less sense of urgency on the part of younger people. However, a good argument can be made that estate planning is even more important for young families, because of the need to provide for children.

Second, thinking about these issues and making such fundamentally important decisions is very uncomfortable for all of us. Without question, it is unnerving to make arrangements about what will happen to us if we are disabled or die, and often even more disconcerting to make decisions about who will care for our children. It is important to overcome this discomfort in order to provide for our loved ones.

Finally, people delay their estate planning because of an assumption that it is expensive. Simple comprehensive estate and healthcare planning can typically be accomplished for less than \$1,000, and more sophisticated

planning, including creation of a revocable living trust, can be completed for approximately \$2,500.

While that may be a lot of money, the cost of becoming disabled or dying without a plan is much greater.

For example, assume that you are married and own a home in Ojai valued at \$500,000. When the second of you dies, or if you die together, without having a trust in place, your estate will be probated. The California legislature sets the amount of attorneys' fees and executors' fees that may be charged for ordinary services in the probate of your estate (known as the "statutory fee"), and the probate judge has discretion to award additional fees for extraordinary services. For your \$500,000 estate, the statutory fee is \$13,000 each for the attorney and the executor, for a total of \$26,000. That cost could be avoided by preparing an estate plan that includes a revocable living trust, at approximately one-tenth of the cost. That is a bargain by any measure.

Unfortunately, the truth is that remaining

unprepared is not an effective strategy in the face of the possibility of our disability, the certainty of our eventual death, and the uncertainty about when those events might occur.

The one thing over which we have control is the level of preparedness we achieve before our disability or death, to ensure that things are handled as we wish, and to relieve the burdens on our loved ones.

Timely estate planning is imperative to shield them from the time, expense and stress that the lack of estate planning guarantees. Put bluntly, to delay is to roll the dice with your own and your loved ones' well-being. That is not a gamble any of us should take

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