



Fall has not always been my favorite season. For many years after my first husband died, Fall foreshadowed Winter, the cold and desolation of which reflected the condition of my soul. As the years passed and I did my grief work, Fall became my friend, signifying happy things to come, like the holidays and college basketball season.

Aging or a dreadful diagnosis can represent the Fall of our lives...a time when we need to prepare for the end of our lives. This article addresses some basic legal and practical issues involved with preparing for death.

First, consult with an estate planning lawyer. Please refer to my article in the Spring 2010 issue of this magazine about identifying a lawyer to assist you. The suggestions in that article apply here as well.

Second, acquire a copy of the booklet, "What Do You Do Now?" published by LIMRA, which contains many practical suggestions about navigating through the pre- and post-death legal, financial, and emotional issues that need to be addressed. Contact LIMRA at www.limra.com or 800-235-4672 to obtain a copy.

Third, do estate planning, which means preparing to take care of yourself and your property, both during your life and after your death. Your estate plan should include the following documents listed below. If your state has standard forms for these documents, use their current versions. (Some of the Ohio forms are posted on my website.) Be sure to name your first, second, and third choices, in succession, of the people who will act for you, and make sure to sign your documents.

1. *Will*. A will is a written document that describes how your probate property will be distributed, who will be in charge of your probate estate, and who will be guardian of your minor or disabled children. You should always have a will even if you know that your property will avoid probate.
2. *Funeral and Burial Instructions*. Put your wishes in writing and discuss them with the people important to you. Be very detailed about what you want, and spell out who will be in charge of carrying out your wishes. Write your obituary, describing your life according to how you want to be remembered.

Roberson Law
1225 East David Road
Kettering, Ohio 45429-5574
Phone - (937) 643-2000
Fax - (937) 643-1555
info@Dayton-Attorney.com
www.Dayton-Attorney.com

3. *General Durable Power of Attorney.* A general durable power of attorney ("GDPOA") is a written document authorizing another person, who is called your agent or attorney in fact, to perform acts on your behalf during your life. Death terminates the agent's authority in a GDPOA. Assuming that you do not need a GDPOA if you are married is a common but dreadful estate planning mistake. If you are married, you do not automatically have legal authority to handle personal and financial matters for your spouse. A married person therefore needs a GDPOA as much as a single person.
4. *Health Care Directives*, including a Living Will, Durable Power of Attorney for Health Care, and HIPAA Consent Form. You may also want a Do Not Resuscitate (DNR) Order. These documents enable health care decision making and foster understanding of your choices. The forms should be used to supplement, not replace, communication among you, your family, and your physicians.

Your estate plan may need to include the following documents:

1. *Trust.* A trust is a written document that describes how your property will be managed and distributed. You may need to incorporate a trust into your estate plan to minimize Federal or state estate taxes, defer distributions to beneficiaries, avoid probate, or carry out other worthy estate planning goals. Be sure to ask your lawyer how estate or inheritance taxes will affect your estate or its beneficiaries.
2. *Buy-Sell Agreement.* If you own a business with others, you should have a written document that spells out the rights and responsibilities of the owners upon the death or other event terminating an owner's interest in the business.

Your estate plan should include the following:

1. *Current beneficiary designations.* You should coordinate the beneficiary designations of your payable on death (POD) and transfer on death (TOD) assets (life insurance, IRA's, pension plans, annuities, some bank accounts) with your overall estate plan. (These assets pass independent of your will.) Any POD and TOD assets that do not have beneficiary designations must go through probate and would be distributed according to the terms of your will, which may or not be what you want.

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2. *An "estate roadmap" letter.* The best written legal documents and professional advisors are useless if they cannot be located when needed. Write a letter of instruction to the people who will assist you during disability and after death so they can find your documents, advisors, and assets.
3. *An estate organizer,* which could be a notebook or file folders in a secure cabinet. You should organize your personal and financial paperwork and protect it from fire and theft. Because you do not know under what circumstances your illness or death may occur, having your paperwork in order can be one of the best gifts that you give to your family.
4. *An ethical will.* Leave a written document for future generations about your values, ideals, and dreams. Include a final blessing for your family. This could be the most significant legacy you leave.

Finally, some practical suggestions:

1. *Don't delay!* Declining health could affect your mental, emotional, and physical stability, all of which are vital to making wise decisions about these matters.
2. *Don't panic about probate.* If avoiding probate is important to you, insist that your lawyer advise you how to set up your estate to avoid probate before and after you die. At the same time, realize that your estate may need to be probated after you die for important reasons that your lawyer can explain.
3. *Don't do it yourself.* "A man who is his own lawyer has a fool for his client." 1809 Port Folio (Philadelphia) Aug. 132. If money is a problem, call your local bar association or faith community and explore the availability of financial assistance, or offer to barter services with your lawyer.

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