

Planning Your Financial Future

Most people want to make their own decisions about their finances. Although talking with your loved ones about the future can be upsetting, you should decide with family members how they will care for themselves should you become unable to provide for them and how your assets should be distributed should you die. Planning in advance may protect your family from the upsetting situation of having to make these decisions without your input. Planning in advance may also save taxes and legal fees.

What does it mean to plan for your financial future?

Planning for your financial future means creating legal documents that provide instructions for managing your finances and property when you are unable to do so. These legal documents also ensure that your property will be distributed (divided among those you want to have it) exactly how you intended in the event of your death. Although you may have only limited control over the progress of your disease, with proper planning, you can affect how decisions concerning your property will be made even after you become unable to do so yourself.

Why should cancer survivors plan for their financial future?

Survivors should plan for their financial future to make sure that their property is distributed exactly how they intend and as efficiently as possible. Three types of documents — wills, trusts and powers of attorney — help ensure that your property goes to whomever you want to have it.

What is a traditional will?

A traditional will is a written document that states how you would like your property to be distributed when you die. Although thinking about writing a will causes anxiety for some (few people are comfortable thinking about their own death), it is important if you want to control how your property is distributed after your death. A traditional will is one way to ensure that your decisions about your property and family are respected. Even the simplest will should perform three tasks:

- ✓ Explain how your property should be distributed.
- ✓ Appoint someone to care for your minor and/or disabled children.
- ✓ Appoint an executor (the person you choose to make sure the instructions in your will are followed).

What happens to your property if you do not have a will?

If you die without a valid will, your state will distribute your property according to state probate laws (laws that apply to wills). The state may or may not distribute your property as you would like. State probate laws are designed to promote fairness and predictability by allowing only very close relatives, such as a surviving spouse and children, to inherit. They are not designed to protect your family's long-term financial needs after your death.

Do I need an attorney to prepare my will?

You may write your own will. However, your will is more likely to withstand any legal challenge if it is prepared by an attorney. If your will is challenged by a family member you did not name in your will and declared invalid, the state may ignore your intentions and distribute your property according to its probate laws. This process could cost a great deal of money.

What must a will contain to be valid?

Each state has laws that describe what makes a valid will. For example, these laws state how many witnesses must see you sign the will and whether your will must be typed. Every state requires, at a minimum, the following three elements to recognize a will as valid:

- If you are preparing a will, you must be capable of making decisions about your property. You must understand what the purpose of the will is, know the nature of your property, know the beneficiaries you name (the person(s) you name to receive your property), and be acting of your own free will (no one is forcing you to make these choices).
- Your will must be witnessed by disinterested witnesses. These are adults who do not stand to gain by your death and who are not named in your will as a beneficiary, executor or trustee.
- You must sign and date the will in the presence of the disinterested witnesses. You must also make it known to them that you intend the document to serve as your will and that you are signing it without coercion (being forced to).

What is a trust?

A trust is a fiduciary relationship in which one party (the trustee) holds title to property for the benefit of another party (the beneficiary). Different types of trusts accomplish different purposes. Trusts may legally shield your assets to keep you qualified for government benefits such as Social Security and Medicaid. For example, one way to avoid having to spend down your money (reduce your assets) to qualify for Medicaid is

to give your money to a family member or friend in the form of a trust. Under the terms of such a trust, the family member or friend agrees to spend the money on your care.

By establishing a trust, you may appoint a trustee to use his or her discretion in making all decisions about your assets or you may restrict the types of decisions the trustee may make. Some trusts take effect only once you become disabled, while others transfer decision making powers to a trustee as soon as you sign the documents. You should choose as your trustee someone who is able to make competent financial decisions, such as operating your business, borrowing money, managing real estate, and filing your tax returns.

Trusts can be quite complex, must comply with state laws, and have a variety of tax consequences. Contact an attorney to help you draw up a trust to be certain that it will accomplish the purpose you intend.

What is a power of attorney?

You may grant another person the right to make financial decisions for you by granting a power of attorney. This is a simple and inexpensive procedure in which you select another person (your agent) to act in your place and on your behalf.

When you give a power of attorney to your agent, you permit him or her to manage your assets, such as your bank accounts, stocks and house. Many cancer survivors can relieve themselves of the burden of paying bills and making financial decisions by granting that authority to a responsible person.

Because granting or revoking a power of attorney involves the power to manage your property and must comply with state laws to be valid, consult with an attorney to prepare the documents that will express your intentions and be accepted by banks and other institutions.

What are the differences between a will, a trust and a power of attorney?

A will can be a relatively simple document that accomplishes one goal: It states what you want to happen to your property when you die. A trust, however, can accomplish several goals, such as avoiding taxes and probate (the process of having a will declared valid by a judge).

Unlike a will, a trust does not have to be reviewed by a probate court. Probate costs time and money.

A trust is a private document; a will may be open to public inspection.

A power of attorney is less complicated and expensive than a trust. A trust, however, is more flexible than a power of attorney.

How can I protect my children?

If you are concerned about your ability to care for your children in the future, you can appoint a guardian to care for your children, which includes providing them with food, clothing, shelter, education and medical care. You may also appoint a conservator or guardian of the estate to manage your children's finances. As the biological parent, you are still responsible for financially supporting your children, and your children may inherit from you.

How long does the guardianship last?

A guardianship will last until:

- The child becomes a legal adult.
- The child dies.
- A judge rules that the child no longer needs the guardian.
- The child no longer has any assets (if the guardianship was created to manage the child's assets).

Should I appoint a guardian for my children?

State laws vary as to the rights of adults who are not biological or adoptive parents of children in their care. Consult with a family law attorney to decide whether you should legally appoint another adult to care for your children should you become unable to do so.

Local Resources

Cancer Lifeline Seattle

Dorothy S. O'Brien Center
6522 Fremont Ave N
Seattle, WA 98103
206-297-2100
www.cancerlifeline.org

Seattle Cancer Care Alliance

Social Work Department
825 Eastlake Ave E
PO Box 19023
Seattle WA 98109-1023
206-288-1076
e-mail socialw@seattlecca.org

Works Cited

Lance Armstrong Foundation Survivorship Topics

www.livestrong.org

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Barbara Hoffman, JD

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