

Key Estate Planning Documents for Seniors

BY **DAVE LINDORFF**
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When financial planner Darcie Guerin's 20-something daughter informed her she was getting married, Guerin says she replied, "Well, if you want me to come to the wedding, you and your fiancée have to first have your HIPAA and Power of Attorney forms signed for me."

Guerin, regional manager and vice president of a Raymond James branch in Marco Island, Fla., is clearly one to practice what she preaches. She tries to ensure that all her clients, and especially her older ones, have all their financial and health documents in order, including the Health Insurance Portability and Accountability Act (HIPAA) form which grants certain named parties access to the person's health information, in case something should happen to them.

"Nobody wants to have these discussions," she says, "but anything can happen, and if you haven't signed a HIPAA release form, and something happens where you cannot communicate, a relative cannot even get information about your condition."

Particularly when it comes to older clients, experts say advisors need to stress the importance of getting documents in order, starting with a will (only half of Americans who die leave a will legally laying out how they want their estate handled).

That might be okay if a person's assets are so low -- under \$150,000 in California for example -- that the state you live in offers a quick and low-cost probate option. But in other cases, lack of a will can lead to costs, delays in distribution of assets, and avoidable dissension among heirs.

LIVING TRUST

One big question involves the setting up of a living trust. In the case of clients with larger assets and multiple properties, this can make sense. A trust can allow an estate to avoid probate court, where costs can run into the thousands of dollars and where delays can run into months. But trusts themselves can be costly, running well over \$1,000, and as Rebecca King, a partner with Northwest Elder Law Group in Seattle, says, for many people they really aren't necessary. She says depending upon the state you and the client live in, a simple will can sail through probate quickly and at little cost.

Meanwhile, King notes that some key assets, such as life insurance policies, annuities, and in some states, even bank accounts and investment accounts, can have beneficiaries designated, or where that can't be done, a Payable on Death (POD) or Transfer on Death (TOD) form can be prepared in advance. "In fact," says King, "if you don't have real property, in some states you don't even need a will because your other assets can be assigned to beneficiaries."

Listing a client's chosen heirs as beneficiaries on a life insurance policy is a particularly good idea, since insurance companies typically send out the death benefit check or checks quickly to listed beneficiaries upon receipt of a death certificate. Such payments can provide survivors with ready

cash that may be needed immediately for various other costs that arise when a loved one dies (cremation, funeral, cleaning, packing and moving belongings in the deceased's home, doing any necessary repairs in the event that inherited property is being put on the market, etc.).

LIVING WILL

And then, of course, there are the documents that may become needed if the client, while alive, begins to suffer from dementia, or has an accident or stroke that renders the person temporarily or permanently unable to communicate. For this you need a living will that assigns the role of health advocate to a trusted person, who for instance can act in the client's stead in determining when "heroic efforts" to sustain life should be halted. Also needed: a signed power of attorney form to allow a trusted person to handle a client's financial affairs.

"A lot of clients balk at giving even a close relative a POA that is immediately effective," says King, "but we recommend that over having a POA that goes into effect only if the person becomes disabled, because often banks (and other entities) will require one or two doctors' signatures, which can sometimes be hard to get.

And really, if you are going to trust someone with your finances when you're incapacitated, you should be able to trust them when you know what's going on."

King, who consults with a number of advisors, recommends that all advisors find an elder law attorney whom they trust and can bring into discussions about end-of-life issues and documents.

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