



Dignity and Determination



MARYLAND VOLUNTEER LAWYERS SERVICE

Intro: What should I plan for?

- Protect your **person and your health**
- You can decide on what happens to you when you are sick or dying
 - *Advance Directive* and a *Living Will*
- Protect your **property and assets** when you cannot make decisions
 - *Financial Power of Attorney*
- Protect your **family**
 - Make hard decisions for them
 - Protect your family belongings



What Is Estate Planning

- Putting planning documents in place for unexpected life events
 - Health
 - Finance
 - Death

Why Do Estate Planning

- Peace of mind
- Family Unity
- Keeping assets in your family

Estate Planning Myths

- One document will take care of all needs
- I don't have a lot of money or property, so I don't need to do estate planning
- I can write down or tell someone my wishes

Effective During Lifetime – Advance Medical Directive

- It goes into effect when a doctor determines you can't make decisions, like if you are unconscious
- There are two parts:
 - First, it appoints a '**Healthcare Agent**', or someone who can handle your health decisions if you can't communicate
 - Second, it lays out your **Living Will**—or what your preferences are in end of life situations. This part is optional.



Advance Medical Directive

- Why is it a good idea to appoint an agent?
 - You can pick a person who will understand your values
 - For example, they could decide if you would want pain management drugs even though they would likely shorten your lifespan
 - Client that is Seventh Day Adventist – no blood transfusion
 - Doctors may need a quick, decisive answer from just one person
 - You may have many eligible family members who could legally make decisions for you if there's no advance directive
 - It takes the burden off family members to choose who will decide.

Advance Medical Directive

- The 'Living Will' aspect of the medical directive is where **you** write out your personal preferences for your care
 - Can help your family and your appointed health care agent make decisions on your behalf
 - This part of the advance directive is not legally binding
 - You can skip the living will, but still name your medical decision maker

Decisions You Have To Make

- Who to name to make your medical decisions
 - 1st choice
 - Back-up
 - Is there anyone you want them to consult
 - Need contact information for each person – full name, address, phone number
- For Living Will
 - What level of care do you want
 - All, some or no medical interventions
- Funeral Instructions
 - If you want to include

Advance Medical Directive

- The process:
 - For the Advance Medical Directive, you need to sign it and have two witnesses sign it. They can be anyone, but not someone who could inherit property from you
 - Once it's signed, make copies to give to your primary care physician and if you feel comfortable, to the Healthcare Agent you just chose
 - The document ends at death

Advance Medical Directive

- To download the standard form, visit:
<https://www.oag.state.md.us/healthpol/AdvanceDirectives.htm>
- The Advance Directive is not the same as a Do Not Resuscitate order. To learn more about Medical Orders for Life Sustaining Treatment (MOLST), visit <http://marylandmolst.org>

Effective During Lifetime – Financial Power of Attorney



- The person you appoint can make decisions about what happens to your property, assets and insurance while you are living
 - Caution: as soon as you make this document it goes into effect, unless you specify otherwise (like in the case of disability)
 - Power of attorney lasts until your death, or if you decide to change it
 - Document ends at death

Financial Power of Attorney

- If you don't have property or wealth, are there any reasons to give someone Financial Power of Attorney?
 - Yes, they can deal with insurance on your behalf to get your full benefits for you
 - They can also help manage bills or oversee regular business you conduct

Decisions You Have To Make

- Is a financial power of attorney right for you?
- Who should you name as your financial power of attorney?
- Do you want to name one person or make it a joint power of attorney?
- Who would be your back-up power of attorney?
- Need contact information – full name, address and phone number

Financial Power of Attorney

- This document must be **notarized**
- This document is free and easily available:
 - http://mgaleg.maryland.gov/2017RS/Statute_Web/get/17-203.pdf

Effective After Death – Will



- It names someone to handle your estate (personal representative)
- It names the guardians of any minor children
- It says where and to whom your assets will go
- If you have the resources, it will authorize payment of funeral expenses

Will

- It's a good idea to get help from an attorney, since they can help spot any issues
- If you choose to do it yourself, you can download the forms online and have two witnesses sign
 - Store the will somewhere safe (a bank may limit access to safe deposit boxes)
 - Make sure that your representative knows where it is
 - It can't be handwritten
- You can store it at the Register of Wills for \$5.00. You are not required to file your will there, although it is encouraged. Reminder – only the original will counts (not a photocopy)

Decisions You Have To Make

- Who will be your personal representative?
 - This person oversees the distribution of your assets
- If you have children, who will you name as guardian?
 - And identify back-up guardian
- How do you want any assets distributed?
 - Goes to one person, evenly divided, etc.
 - Are there special requests – ex. doll collection, family bible

What happens if I have no will?

- What happens to your property will be determined by Maryland laws called “intestate succession”
 - This means that your spouse, then your children, then your other surviving family will inherit your assets
 - If you have a nontraditional family, like a partner or an unofficially adopted child, they will be overlooked
 - Minor children will be placed in the custody of whoever seeks guardianship, or the court will decide
- If you do nothing, your belongings will be divided by someone else, not you - often conflict
- If heirs cannot be identified, your **property will go to the state**

Other planning options

- There are other ways to control what happens to your assets after you pass:
 - ‘Beneficiary designation’
 - Requires completion through each agency
 - For life insurance
 - Retirement funds
 - ‘Transfer on Death’ and ‘Payable on Death’
 - Requires completed forms through each agency
 - For bank accounts, stocks, bonds, and cars (through the MVA)



Other planning options

- Joint ownership of houses, cars, and other assets
 - Proceed with caution if the person you want to add has debts:
 - Their creditors may force the selling of the house or other property while you still live there or need it
 - May **invalidate** any other plan for the property you may have laid out in the will

Other planning options

➤ Life estate deed

- Grants future ownership of your house or land to someone else
- Depending on the type, it can help count for the 5 year lookback period for Medicaid
- Caution—you may give up the ability to sell with approval from the future interest holder

➤ Benefits

- Avoid estate administration/probate
- Avoids risks of joint ownership
- If homeowner (and low-income), name on deed =
 - Homeowner's Property Tax Credit, Water Credit (Baltimore City), Home Repair programs

Will my personal representative have to open an estate and go through probate?

- Probate **will need to happen** whether or not there is a will, **IF** assets are in your name only when you pass
- What kind of assets and possessions go through the probate process?
 - A house or car that is only in your name at the time of your passing
 - A bank account that is only in your name
 - Any other property that doesn't automatically pass to someone else

How to Avoid Probate

➤ Designating Assets/Property Prior To Death

- Beneficiaries – pensions, life insurance

- Life Estate

➤ Anna's story

- Only child

- Both parents have passed

- No will

- Anna has spent over a year trying to close an estate and transfer property into her name

- Hundreds of dollars spent, still waiting, can't afford to pay down her tax bill

- Life Estate Deed would have required a \$60 land records filing fee and would have avoided all of the delay

- Still waiting to get homeowner's property tax credit, water bill credit and home repair programs.

Picking A Trusted Advisor

- Close family or friends
 - Someone you trust
 - Be careful
- Lawyer or Financial Advisor
 - May request a fee to perform this service
 - Seek recommendations

What should I have in place?

- ☐ Advance Medical Directive
- ☐ Financial Power of Attorney
- ☐ Will
- ☐ Other Planning Documents



Do I Need a Lawyer?



- For the Advance Healthcare Directive and Financial Power of Attorney, it's helpful but not necessary to have an attorney.
 - Executing & Notarizing a document
 - You don't need an attorney for either
 - You can download and print premade forms
- For wills and estate administration, it's advisable to get help from an attorney.

Free Legal Assistance

- Free Legal Help is available for low to moderate income Marylanders through the Maryland Volunteer Lawyers Service (MVLS)
 - Wills, Financial Power of Attorney, Advanced Health Care Directive, Life Estate Deeds
- If you're unsure, seek legal help!
 - An attorney may be able to spot issues you wouldn't have known about
 - An attorney's advice can make the process much easier

General Income Eligibility Guidelines

JULY 1, 2017 – JUNE 30, 2018			
Family Size	Annual Income	Monthly Income	Weekly Income
1	\$28,610	\$2,384	\$550
2	\$37,413	\$3,118	\$719
3	\$46,216	\$3,851	\$889
4	\$55,019	\$4,585	\$1,058
5	\$63,822	\$5,319	\$1,227
6	\$72,625	\$6,052	\$1,397



Need legal help?

MVLS is a nonprofit organization that provides quality pro bono civil legal assistance to Marylanders with limited or no income at low or no cost. If we can't provide legal representation, we will point you in the right direction to find legal help.

Sample of cases MVLS can assist with:

Family

- Divorce & Custody
- Adoption
- Guardianship (Adult and Child)
- Name Changes/Birth Certificate Corrections

Housing

- Landlord/Tenant Disputes
- Foreclosure & Tax Sale
- Deed Changes
- Ground Rent

Consumer

- Bankruptcy (Chapter 7)
- Collections
- Contract Disputes

Other

- Expungement/Shielding /Vacatur
- Income Tax Disputes
- Estate Planning and Administration
- Uninsured Motorist Tort
- Non-Profit Organizations

