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# NAPFA

## *Planning Perspectives*

### Estate Planning Is Not Just for the Wealthy

*By Kevin Adler, Editor, NAPFA*

This issue of *NAPFA Planning Perspectives* is focused on estate planning, which might seem to be an unlikely topic for a publication that is read by an audience that ranges widely in income, wealth, and age. By reputation, estate planning is deemed an activity that matters only to the very wealthy.

Let this publication dispel that notion. As NAPFA members regularly tell their clients, estate planning is about much more than money. Estate planning enables you to identify your wishes and intent on financial matters, but also on numerous medical decisions that you might face at some point in your life. By making your intentions known, the people who are designated to act on your behalf can do so with the confidence that they are doing what you want.

In the articles that follow, NAPFA members explain why estate planning is important and identify its key pieces. They also outline the steps for developing an estate plan that will ensure that your major decisions, choices, and preferences have been clearly identified, and can be put into action when necessary.

### NAPFA Shares Information With Divorce-Planner Group

NAPFA has started a partnership with the Association of Divorce and Financial Planners (ADFP), an organization that is dedicated to the advancement of divorce planning as part of the financial planning process. Through the partnership, NAPFA members will have access to courses and other training materials developed by ADFP and can consider seeking an ADFP certification.

“The financial impact of divorce can be immense, and it is an area in which the details can be very complex,” said NAPFA CEO Ellen Turf. “Unfortunately, at some point in his or her career, almost every financial advisor is faced with counseling clients who are going through divorce. Given the emotional difficulties that often accompany divorce, it’s important that financial counsel ease the burden, not increase it. ADFP is taking a leadership role in building standards for divorce counseling, and we believe that many of our members will want to take advantage of ADFP’s expertise.”



# Estate Planning

## Estate Planning is Alive and Well

By Scott A. Michalek, MBA, CFP®, Wescott Financial Advisory Group LLC ([www.wescott.com](http://www.wescott.com))

When people hear the term “estate planning,” they typically think of the distribution of one’s assets after death. Add to this the recent attention paid to the increase in the federal estate tax exemption, and the misconception becomes twofold. When people realize that the estate tax (“death tax”) only applies to estates over \$5 million (or double for married couples) for the next two years, they are lulled into a false sense of security.

The truth is that estate planning is for everyone. Actually, estate planning encompasses the accumulation, conservation, and distribution of an individual’s assets.

The goal of estate planning is to enhance and maintain the financial well-being of individuals and families during life and at death. For this reason, estate planning needs to be addressed sooner, rather than later. Consider marriage or the birth of a child to be a good occasion to begin the process.

Regardless of your age or financial situation, estate planning can accomplish the following:

- ◆ Specify who will care for your minor children (guardianship).
- ◆ Identify who will manage your assets during your lifetime if you become unable to manage them yourself (power of attorney).
- ◆ Ensure that your assets are distributed to the right people, at the right age, and in the proper form (outright, in trust, etc.).
- ◆ Minimize the time, taxes, and expenses involved in settling your estate.
- ◆ Specify what life-sustaining medical care you should—or should not—receive (health care directive).
- ◆ Identify who will make medical decisions for you, if you are not be able to make those decisions yourself.

**Who needs estate planning? You do!** Proper estate planning can provide you with peace of mind because you know that your affairs are in order and the needs of your loved ones will be met.

### The Estate Planning Process

In its most basic form, estate planning involves the following steps:

1. Gather your data and assess your current situation.
  - Make a list of everything you own.
  - Note how each item is owned (individually, jointly, in trust).
  - In the case of life insurance and retirement benefits, identify the beneficiaries.
2. Identify your goals.
  - Who should receive what, at what age, and in what form?
  - Determine the needs of your family members after your death.
3. Develop strategies to meet your goals
  - What documents need to be drafted (will, trust, durable power of attorney, etc.)?
  - What tax and/or gifting strategies need to be implemented (GRAT, CRUT, LLC, family limited partnership, etc.)?
  - Who should be assigned the roles of executor, trustee, and guardian?
  - What beneficiary designations need to be updated?
  - What insurance (if any) should be purchased?
4. Implement your strategies.
  - Have the appropriate documents drafted by a qualified estate planning attorney.
  - Make the necessary beneficiary designations.
  - Sign the documents.
  - Put copies of them in the hands of people who can provide them in an emergency
  - Buy insurance, as needed.
5. Periodically review your estate plan. Estate planning is a process. Review your plan periodically or whenever there is a major change in your personal or financial situation.

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# Estate Planning

## Avoiding Family Conflicts that Can Arise with Your Illness or Death

By Michael Chamberlain, CFP® Chamberlain Financial Planning ([www.chamberlainfp.com](http://www.chamberlainfp.com))

The last thing anyone wants is to have conflicts within a family. Unfortunately, many people fail to have proper and updated estate planning documents, so a serious illness or death of a family member can create major ramifications at a stressful time.

Below is a summary of the documents that can help to ensure that your desires are clear and legal, hence minimizing conflicts and confusion within your family:

The Advanced Health Care Directive lists your healthcare preferences. It is used only when you cannot communicate your wishes. It puts your family, doctors, and hospitals on notice as to the types of treatments, tests, and care you would or would not want. The proper format of the advanced healthcare directive varies from state to state, so make sure you obtain the right form.

Power of Attorney for Asset Management appoints those who you trust to handle your financial affairs if you are unable to do so. The form also lists the areas in which you are allowing the individual to assist you. This form can help avoid conservatorship if you become incapacitated. Work with an attorney to make sure you are using the proper form for your situation.

HIPAA Release Form (named for the Health Information Portability and Accountability Act of 1996) allows individuals named in your Advanced Health Care Directive and/or Power of Attorney for Asset Management to have access to your healthcare information when you are incapacitated.

A will is the most common document for indicating how you want your assets to be distributed when you die. People who own real estate or significant levels of assets might be better served by having a Living Trust (see below). However, even if you have a Living Trust, you still need a will.

A Living Trust is the preferred method for transferring assets upon death for many people. Trusts will enable the heirs to avoid

a “probated will.” The result usually is that assets can be transferred on a more confidential basis, with less cost and faster distribution, and with more flexibility in terms of timing and tax impacts. Trusts also are less likely to be contested than wills under probate. For those with substantial wealth, the trust might provide estate tax benefits, too. The downside of a trust is that it is usually more expensive to create and maintain.

A few more notes about trusts. First, make sure the trust is properly funded. Real estate, savings accounts, mutual funds, and other investments (not retirement accounts) should be transferred to the trust. Second, assigning your personal property to the trust and having the proper documentation will allow the trustee to distribute your personal property to those that you list, thus helping to avoid conflicts within the family when you’re gone.

In conclusion, do yourself and your family a favor and make sure you have completed (or updated) your estate planning documents. Avoid the family issues that can be caused by your lack of planning.

### Be Careful

You should always consult with an attorney who specializes in estate planning to make sure you have the correct estate planning documents for your situation. Do not rely on documents you download from the internet because they might not be legally binding in the state where you live, or they might be legally defective in some other way.

Also, some salespeople will claim that purchasing a financial product is the equivalent of estate planning. Don’t believe them. Life insurance or specific investments might be part of a smart estate plan, but they are not substitutes for having all of the necessary documents and for keeping them updated.

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# Estate Planning

## Talking with Kids About Values

By Rick Kahler, CFP®, CCIM

Kahler Financial Group

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**W**ith my clients, I emphasize how important it is for parents and children to talk about the parents' estate plans and the provisions of their wills. Actually having such a conversation can be difficult, whether you approach it as the parent or the child. But it's necessary.

Although it is seldom expressed, perhaps the strongest reason for not discussing estate plans with family members is simple fear. Parents may be afraid that children will disapprove of their plans, will depend on an inheritance, or will be resentful of other siblings and heirs. The following suggestions might help to ease the awkwardness of the situation.

### 1. State Your Values.

Presumably, your will reflects your values around money, giving, and providing for your family. The more openly you are able to communicate those values during your lifetime, the more family members will know what to expect from your estate. For example, if your children know you strongly support a particular charity, they won't be surprised to find that charity included in your will.

**2. Define "Equal".** If your will does not treat your children "equally," it may be best to share that information individually, rather than announcing it at a family get-together or letting the children find out about it when your will is read. Maybe you've given one child significant financial help to help him or her find their footing as an adult, and as a result, you are leaving less of your estate

to that child than to siblings. Or maybe you're leaving money outright to one child but leaving a sum in trust for another child who is less responsible. Talking about such provisions privately with each child can reduce conflict between siblings after you are gone.

**3. No Surprises.** One of the most unfair things you can do is allow children to assume they are inheriting more than has been set aside for them. Don't leave them guessing. Not telling them might avoid conflict now, but you're sowing seeds for conflict and resentment after your death.



**4. Early Gifts.** It can be difficult for children to unexpectedly inherit a large amount. If your estate will be substantial and you have more than enough for your own needs through old age, one possibility might be to begin giving to your children now. Such gifts can open the door to conversations

about their expectations, helping them begin to think about how they will handle their inheritance.

True, talking to your family about your will and your wishes can be difficult and even painful. However, those discussions will almost certainly be less painful than the stories a child may make up after you're gone about why you made the choices you did. Having the courage to discuss your estate plans with your family can be a valuable piece of the legacy you leave.

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# Estate Planning

## Lady Bird Deed

By Warren F. McIntyre, CFP® VisionQuest Financial Planning, LLC ([www.visionquestfinancial.com](http://www.visionquestfinancial.com))

**Y**ou've got to love an estate planning document named after a former first lady! The Lady Bird Deed permits real property to transfer efficiently upon death, while enabling the holder of the deed to maintain control during his or her lifetime. A good candidate for a Lady Bird Deed is a single person whose most valuable asset is a home. That person might want to control this asset during his or her lifetime, but leave the house to children.

There are complex legal principles underpinning this strategy, but for practical purposes, a Lady Bird Deed allows a person to place a beneficiary designation on a house, while avoiding the problems and costs of other techniques. A living trust, for example, could accomplish the same task, but it's usually more costly.

Alternatively, a parent can add an adult child to the deed of a house or use a quit claim deed. But these techniques can create tax obligations because the conveyance could be considered a gift.

Also, those new assets might be exposed to the creditors of the recipient of the gift. Gifts during lifetime also could invoke Medicaid divestiture rules or cause property taxes to be reassessed.

The Lady Bird Deed is not considered a gift, so it avoids edging into those areas. Yet upon the owner's death, the property can go to the intended beneficiary without going through probate. That's what makes it a simple, yet effective way, to achieve some of the most common goals of estate planning. As with most legal issues, you should consult with a qualified attorney to formulate the best plan for your situation.

Lady Bird Deeds are valid in Florida, Michigan, and Texas. Similar results can be obtained using a "beneficiary deed" or "transfer-on-death deed" in Arizona, Arkansas, Colorado, Kansas, Minnesota, Missouri, Montana, Nevada, New Mexico, Ohio, Oklahoma, and Wisconsin. In recent years, legislatures in other states, such as California, have considered creating beneficiary deed provisions.



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# Consumer Education



## Financial Planning for the New Family May 6, 2011 - Noon - 1:00 pm CT

Instructor: Peg Downey, CFP®  
NAPFA-Registered Financial Advisor

Starting a family raises many concerns and issues. From increased health care costs and childcare to increased daily expenses, the financial ramifications of having kids are extensive. This session will cover how couples can create a financial plan that addresses these financial concerns and many others.

## Deciphering Financial Acronyms June 3, 2011 - Noon - 1:00 pm CT

Instructor: Lauren Locker, CFP®, CSA  
NAPFA-Registered Financial Advisor  
Member of the NAPFA National Board of Directors  
Chair of the Northeast/Mid-Atlantic Region

CFP, CFA, CMFC, UGMA, UTMA, IRA, ETF. The financial world is full of confusing acronyms. Talk to any financial advisor and you will hear these and dozens of others thrown around in conversation. But what are they? What do they mean? This session will help you cut through the confusion.

Visit our website [www.napfa.org](http://www.napfa.org) to register.

All NAPFA consumer webinars are **FREE**.

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