

Estate Planning Guide

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Common Questions

What is an Estate Plan?

- An estate plan is a set of documents that serve as a “road map” for personal, medical, and financial decisions in case of your incapacity or death.
- Your estate is simply everything you own – your home, other properties, bank accounts, investments, retirement benefits, IRAs, insurance policies, collectibles, and personal belongings.

What happens if I don't have an Estate Plan?

- Without an estate plan, Colorado's intestate (no will) succession laws will determine how your property will be distributed and court proceedings will determine who will be named guardian of any minor children. Other court proceedings like guardianships or conservatorships may occur during your lifetime to empower people to handle your affairs if you were unable. This process can be expensive, time consuming and may lead to family disputes.

Common Questions

What is the difference between a Will and a Trust?

How and when they take effect

- Wills don't go into effect until you pass away
- Trusts are effective immediately upon signing and funding

Control over distribution

- Wills offer somewhat limited control over the distribution of assets
- Trusts offer greater control over when and how your assets are distributed

Probate

- Wills must go through some form of probate which means a delay in distributing the estate
- Trusts are used to minimize or avoid probate entirely which means faster access to inheritance

Privacy

- Wills are a matter of public record and can be read by anyone
- Trusts are private

Cost

- Wills are less expensive upfront, but the estate will incur much more expense during the probate process
- Trusts are more expensive up front but can save the estate a considerable amount later by avoiding probate

You should consider a Trust if...

- ... your estate contains real property, especially in more than 1 state
- ... you have minor children
- ... you are a blended family
- ... you are a business owner
- ... your estate will be valued over \$88,000
- ... you have special needs beneficiaries
- ... you have firearms subject to the National Firearms Act
- ... you want to provide specifically for pets

Sample Estate Planning Packages

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Will Package

- Will *plus*
 - Advance Directive (Living Will)
 - Medical Power of Attorney
 - Financial Power of Attorney
 - Instructions for Disposition of Last Remains
 - Memorandum for Disposition of Personal Property
 - HIPAA Authorization
 - Digital Access Authorization
 - Vehicle Transfer on Death
 - Beneficiary Deed

With Minor Children

- Will with Testamentary Trust
- Appointment of Guardian
- Parents' Delegation of Powers

②

Revocable Living Trust Package

- Trust Agreement *plus*
 - Trust Funding Memorandum
 - Certificate of Trust
 - Statement of Authority
 - Deed
- Pourover Will *plus*
 - Advance Directive (Living Will)
 - Medical Power of Attorney
 - Financial Power of Attorney
 - Instructions for Disposition of Last Remains
 - Memorandum for Disposition of Personal Property
 - HIPAA Authorization
 - Digital Access Authorization
 - Vehicle Transfer on Death

With Minor Children

- Appointment of Guardian
- Parents' Delegation of Powers

Sample Estate Planning Packages (cont.)

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Living Document Package

- Advance Directive (Living Will)
- Medical Power of Attorney
- Financial Power of Attorney
- HIPAA Authorization
- Digital Access Authorization

With Minor Children

- Appointment of Guardian
- Parents' Delegation of Powers

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Guardianship Package

- Appointment of Guardian
 - Parents' Delegation of Powers
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Additional Services (include but are not limited to)

MARITAL AGREEMENT

Addresses the rights and responsibilities of two parties in a marriage. These can be executed before marriage (“prenuptial agreement”) or after marriage (“postnuptial agreement”). These are often used with blended families. Generally, each party must secure separate counsel.

BUSINESS SUCCESSION PLANNING

This planning may include business formation, assignments, operational agreements, bylaws, and Trusts to avoid probate, plan for incapacity, protect privacy, and guard assets from creditors.

TRUST RESTATEMENTS, TRUST AMENDMENTS, AND WILL CODICILS

For individuals who:

- ...have moved states from where their original Trust or Will was executed
- ...want to revise, omit, and/or add provisions to an existing Trust or Will

What are all these documents?

Will Estate Documents

WILL

Provides all of the essential details of who will inherit your property. You name an executor, also known as the Personal Representative, who will be in charge of settling your final affairs and guiding your estate through the probate process. This document is lodged with the court and is a matter of public record.

ADVANCE DIRECTIVE (“Living Will”)

Allows you to make end of life health care decisions in the event you have a terminal condition requiring life-sustaining procedures which only serve to prolong the dying process or are in a persistent vegetative state without hope for improvement.

MEDICAL POWER OF ATTORNEY

Allows you to designate an agent to make medical decisions on your behalf if it is determined by your doctor that you are incapable of making such decisions or are unable to communicate your wishes.

FINANCIAL POWER OF ATTORNEY (“Durable”)

Allows you to give authority to an agent to act in a broad range of financial matters and to immediately step in and make decisions on your behalf should you become incapacitated.

INSTRUCTIONS FOR DISPOSITION OF LAST REMAINS

This document allows you to designate how you want your remains laid to rest when you pass away and what kind of service you would like.

MEMORANDUM FOR DISPOSITION OF PERSONAL PROPERTY

A Memorandum is incorporated into your Will and allows you to list items of sentimental value that you would like to pass to certain people.

Revocable Living Trust Documents

TRUST AGREEMENT

Provides all of the essential details of who will inherit your property in addition to when and how. You name a Trustee, who will be in charge of settling your final affairs as instructed by the Trust. This document is private and not a matter of public record. A Trust must be funded by transferring ownership of your assets into your Trust's name before you pass. The Trustee is responsible for managing the Trust property.

TRUST FUNDING MEMORANDUM

This document provides guidance to properly fund your trust with your assets.

CERTIFICATE OF TRUST

This document is required to prove authority of the Trustee(s) to act on behalf of the Trust.

STATEMENT OF AUTHORITY

This document is required by law to transfer ownership of real property to the Trust.

DEED

A deed(s) will be created and recorded in the county in which the property resides if one is desired/needed. This may be a General Warranty deed, a Quit Claim deed, or possibly a Beneficiary Deed. Out-of-State properties may require the assistance of an attorney licensed in that state.

POUOVER WILL

This is a will that only requires probate if the value of the probate estate is valued over \$74,000 (2023) or contains real property. The purpose of this will is to "pour" any probate assets which are not owned by the Trust into the Trust prior to distribution.

PLUS

- Advance Directive (Living Will)
- Medical Power of Attorney
- Financial Power of Attorney
- Instructions for Disposition of Last Remains
- Memorandum for Disposition of Personal Property

Minor Children Documents

WILL WITH TESTAMENTARY TRUST (Minor Children)

This is a will which creates an irrevocable trust upon death and provides for the support and education of minor children.

APPOINTMENT OF GUARDIAN

Allows parents to designate a certain person(s) to assume guardianship of their minor child(ren) upon the incapacitation or death of the parents. Without an appointment of guardian, the court will have to select a guardian. Friends and family may request guardianship from the court, but having this document in place saves your loved ones time, money and stress during a difficult time.

PARENTS' DELEGATION OF POWERS

Allows parents to designate a person(s) to step into your shoes and assume care, control, and custody of your children if you are living but unavailable. This situation might arise if you are on vacation without your children.

How does the process work?

Estate Planning Timeline

Step 1: Free Initial Consultation	Step 2: Client Engagement	Step 3: Draft Review Meeting	Step 4: Signing Meeting
<p>Client to complete questionnaire prior to consultation if possible</p> <p>Meet to discuss estate, family, and goals to determine estate plan that best fits your needs</p> <p>*Client to make payment at consultation or with signed engagement letter to be held in trust.</p>	<p>Engagement letter sent to be signed by client</p>	<p>Draft documents sent to client and draft review held in-person or via Zoom</p>	<ul style="list-style-type: none">• Client comes in to sign documents• Client pays final balance if any• Client takes home signed originals in portfolio• We record any deeds and provide copies of all signed documents to client

The Law Office of Karen Monk, LLC specializes in Estate Planning. We bring a client-centered approach to every case and customize our support to your individual needs. We will work closely with you to ensure you and your loved ones are cared for and protected.

Visit us at: KMONKLAW.COM for more information or call (719) 210-7720

