

Estate Planning

One of the best ways to legally prepare for a disaster is to make sure there's a plan in place if you were to pass away or become incapacitated. This can benefit you and your loved ones in several ways. The law calls this process "estate planning." It includes creating legal documents such as a will, power of attorney, living will, and funeral planning declaration.

It is important to consult with an attorney when creating any of these documents. The law has certain requirements in order for these documents to be legally valid. AppalReD's Disaster Response Team can help disaster survivors with estate planning so that they have peace of mind that their affairs are in order if another disaster occurs.

Why do I need a will?

If you pass away without a will, your loved ones will likely end up in probate court to legally distribute your property and settle your debts. This is the case whether you passed away as a millionaire or a person with very few assets. Probate court can be a long and frustrating process when someone dies without a will. This creates additional stress for your loved ones during an already difficult time. Properly drafting and executing a will makes this process much faster.

The law is picky when it comes to wills. There are certain things that your will must include for it to be legally valid. If your will is drafted incorrectly, it is possible that it will be thrown out by the judge and the probate process will continue as if you never had a will.

It is very common in rural areas for families to pass homes down for generations without creating any legal record of this transfer of ownership. This can be a problem in disaster-prone areas, because in order to qualify for FEMA assistance, the applicant must prove legal ownership of the damaged property. If you own property, having a will that states your intent to pass down your home to your descendants makes it easier for them to obtain true legal ownership of the home when you pass away.

Why do I need a power of attorney (POA)?

A power of attorney document allows a trusted person, called an "agent," to act on your behalf while you are alive but incapacitated.

Your agent can be anyone who is a competent legal adult.

A POA can take effect if you are temporarily incapacitated (for example, if you are very sick but are expected to recover) and end when you are better. It can also take effect if you are

permanently incapacitated (for example, in a vegetative state) and end upon your death.

POAs are helpful because your loved ones will need to manage your affairs while you are incapacitated. This could include paying your bills, filing your taxes, and making insurance claims. Most businesses and government bodies will not allow a loved one to act on your behalf without a legally valid POA.

You can specify the powers you want your agent to have. The agent can have broad authority over most or all your affairs, or very limited power.

Why do I need a living will?

A living will, sometimes called an “advanced directive,” protects your right to make your own medical decisions even when you are incapacitated.

The two most common topics discussed in a living will are whether you want to be resuscitated in a medical emergency, and whether you want life-prolonging measures to be taken in a medical emergency, such as being put on a ventilator or feeding tube.

A living will assigns someone the role of “medical surrogate,” usually a loved one or other trusted person, who has a duty to make your wishes clear.

Why do I need a funeral planning declaration?

You deserve to have your final wishes recognized.

Planning a funeral is a difficult experience in an already sad time. Your loved ones may argue over your final wishes, adding additional stress to the situation.

A funeral planning declaration typically designates one person to ensure that your wishes are followed.

You can include any and all provisions that are important to you. The two most important provisions state what you want to happen to your body, and your wishes for your funeral, wake, or other memorial service.

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