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National Make a Will Month

A Thinking Consumer's Guide to Wills, Trusts, Incapacity Planning, Insurance, Asset Titles, Beneficiary Designations, and the Human Side of Legacy Planning

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Introduction

This paper will provide practical information for consumers about wills. However, while the discussion begins with wills, the central message is broader: having a will is not the same as having a complete estate plan. If you already have a will, it should be current and coordinated with your other documents, assets, and beneficiary designations. If you do not have a will, adulthood—not wealth—is the better threshold for beginning to plan. Estate planning can help preserve what you have, reduce disruption, and create a clearer path for the people you care about.

What the Statistics Really Mean

The most important lesson from National Make a Will Month may not be how many Americans have wills. The more important question may be whether Americans are actually planning. Further, if someone is planning, is the planning completed adequate to meet their current needs, and flexible enough to achieve their future goals?

Recent survey data suggests that estate planning participation remains far lower than many professionals assume. Trust & Will's 2026 Estate Planning Report reported that 56% of U.S. adults surveyed had none of the core estate planning documents (which would include a will, potentially a revocable trust, health care documents to name someone to make medical decisions, and a power of attorney to name someone to address finances if you are unable to do so), and only 26% had a will. The same survey found that 42% of Americans would not know what to do if a family member died today.

At first glance, those statistics seem shocking. Many professionals assume that a majority of adults have wills. In reality, multiple national surveys point in the opposite direction. Caring.com's 2025 Wills and Estate Planning Study reported that only 24% of Americans had a will, while Pew Research Center reported that approximately 32% of adults had created a will. The more interesting question is not why so many Americans lack wills. The more important question is what the statistics reveal about planning itself.

Age Matters More Than Most People Realize

One of the strongest trends in the available data is the relationship between age and planning. Pew Research found that approximately 46% of adults in their 60s had wills, approximately 66% of adults in their 70s had wills, and roughly 80% of those age 80 and older had wills. These differences across age groups also show why a single national percentage can hide important details in how people plan across stages of life.

Yet these age-based statistics create another important question. Having a will is not the same thing as having an effective plan.

Many Americans may have wills that were drafted decades ago. The surveys identify whether a will exists but generally do not tell us whether the will still reflects current family circumstances, beneficiary needs, fiduciary choices, tax considerations, account ownership structures, insurance arrangements, or modern planning concerns.

A forty-year-old will may technically satisfy the definition of "having a will," but it may do little to address the realities of today's family. In fact, having a will that old may do more harm than good.

Professionals know that family structures, laws, assets, and beneficiary circumstances change. Children become adults. Grandchildren are born. Marriages occur. Divorces occur. Disabilities emerge. Businesses are sold. Retirement accounts become a dominant asset. Beneficiary designations multiply. None of those changes are automatically reflected simply because an old will exists. Those changes could have reactions with provisions in the old will that cause the legal requirement to take actions that are the opposite of what you may have expected or wanted to be done.

While it is important to identify how many people have wills and how many do not, it is imperative to delve deeper and determine the quality, fit, and effectiveness of said planning for those individuals and families.

The Hidden Problem: Document Ownership Versus Planning

Estate planning statistics often measure the existence of documents. Consumers, however, experience the outcomes of planning.

A person can have a will and still have:

- Incorrect beneficiary designations.
- No financial power of attorney.
- No health care documents.
- No review of account titles.
- Inadequate insurance coverage.
- No disability planning.
- No instructions for digital assets.

- No trust protections for beneficiaries.
- No coordination among advisers.

In fact, many estate administration problems arise not because the deceased lacked documents, but because the documents were not coordinated with assets.

- An outdated beneficiary designation can override a carefully drafted will.
- A jointly titled account can defeat an intended distribution scheme.
- A retirement account may bypass protective trusts entirely.

As a result, planning statistics may actually overstate preparedness. Possessing a will is a useful starting point, but it should not be confused with having a coordinated plan. Merely having a will is not enough to protect you or your loved ones.

Income and Estate Planning

The correlation between income and planning is also revealing. Survey data has consistently shown that higher-income individuals are more likely to possess wills and other estate planning documents. Lower-income Americans are less likely to have wills and frequently report that they do not believe they have sufficient assets to justify planning. Caring.com's survey found that many respondents who lacked wills cited "not having enough assets" as the primary reason for avoiding estate planning. But not planning may in fact perpetuate “not having enough assets.” Planning both for you and your loved ones may be one of the key factors in helping you and your family increase your economic position.

But the belief that planning is only for people with substantial wealth can become self-defeating. Good planning may help families preserve assets, avoid unnecessary costs, and protect financial stability across generations. A modest financial legacy can still help pay for education, reduce debt, maintain housing stability, fund a first home purchase, support caregiving, or provide emergency reserves.

Without effective planning, even limited assets may be consumed by confusion, conflict, administrative costs, delays, preventable mistakes, or poor financial decisions. The practical result is that families with fewer resources often have less margin for error. While wealthier families may be better able to absorb planning mistakes, families with limited resources often cannot.

Estate Planning as an Economic Mobility Tool

One of the least discussed roles of estate planning is its potential contribution to intergenerational stability. Economists often focus on wealth accumulation, home ownership, education, savings, and access to capital. Estate planning can function as part of that financial infrastructure by helping families preserve assets and continuity when death or incapacity occurs.

A well-designed plan can:

- Preserve assets.
- Reduce unnecessary costs.
- Pass knowledge from one generation to another.
- Protect vulnerable beneficiaries.
- Coordinate family decision making.
- Prevent avoidable mistakes.
- Create financial continuity during crises.

When viewed through this lens, estate planning is not just about the legal aspects of wealth transfer. It becomes about family harmony and transmission of values. It may help create a family legacy and ethos that drives more opportunities for wealth accumulation. Families with greater resources often benefit not only from more assets but also from more planning, more professional advice, and more coordinated implementation. The resulting advantage may compound over generations. The planning gap may also be an opportunity gap. Families that believe they are "not wealthy enough" to need planning may be the very families that could benefit most from planning's ability to preserve stability, reduce disruption, and create opportunities for the next generation.

A More Meaningful Measure of Success

National Make a Will Month focuses attention on wills because wills are understandable and visible. However, consider whether the preparation of a will answers the following questions:

- Would your family know what to do tomorrow?
- Are your beneficiary designations coordinated?
- Have you planned for disability as well as death?
- Would fiduciaries understand their responsibilities?
- Are beneficiaries protected?
- Have you reviewed the plan recently?
- Does your plan reflect current realities?

Often, a gap in planning will not be identified until an issue has arisen. Reviewing these questions and contemplating if your planning is sufficient, or "stress testing" the plan, while you are healthy and able to make changes may create a more adaptable, comprehensive plan that better protects your family.

Sources: Trust & Will, *2026 Estate Planning Report*; Caring.com, *2024 Wills and Estate Planning Study* and *2025 Wills and Estate Planning Study*; Pew Research Center, *How Americans Are Thinking About Aging: Experiences with Estate Planning and Discussing End-of-Life Preferences* (Nov. 6, 2025). Statistics and observations cited throughout this paper are drawn from these sources.

1. Start With the Plan, Not the Document

August is National Make a Will Month, so it is natural for consumers to focus on the will. That is useful, but it is only the beginning. A will is a legal document. Estate planning is a decision process. The document records decisions, but it does not make the hard decisions for you. A consumer who asks only, "Do I need a will?" may miss the more important questions: What do I want to accomplish? Who will need help? Who should be trusted with authority? What risks should be reduced? What values should be reflected? What assets pass outside the will? What happens if I become disabled before I die?

The national data summarized above show the practical gap: many Americans lack not only a will, but also the incapacity documents and coordinated planning needed to protect their health, finances, privacy, and facilitate family decision-making.

The gap is not only about awareness. Trust & Will reported that 73% of Americans surveyed said estate planning was personally important, yet the majority had not acted. It also reported that 42% of Americans would not know what to do if a family member died today, and that figure rose to 56% among those with no estate planning documents. Caring.com's 2025 Wills and Estate Planning Study, based on a YouGov survey of more than 2,500 American adults, similarly reported that only 24% of respondents had a will, 13% had a living trust, and 4% had other estate planning documents. The consumer lesson is that a will is essential, but concentrating solely on creating a will is generally too narrow a goal because the real need is a complete package of estate planning documents (will, perhaps a revocable trust, health proxy, living will and durable financial power of attorney) and coordinated planning.

Those statistics should be read as an invitation, not a reprimand. Many people avoid planning because they think they do not have enough assets, do not know where to start, fear the subject, worry about cost, or assume family members will somehow work things out. But estate planning is not reserved for wealthy families. If you own anything, care about anyone, have minor children, live with a partner, worry about medical decisions, want privacy, have retirement accounts or life insurance, support a charity or faith community, or want your values remembered, you have planning decisions to make.

A good plan begins with an understanding of the unique considerations related to the family, the assets, the risks, and the people who will have to carry out the plan. That means listing details about every family member (whether or not involved) and all important people, taking inventory not only of money, real estate, retirement accounts, insurance, and valuables, but also of health realities, caregiving responsibilities, family tensions, beneficiary maturity, charitable commitments, religious values, business interests, digital assets, and the practical ability of named fiduciaries to serve. The point is not to make every plan elaborate. The point is to make the plan appropriate. More specifically, the point is to make your plan appropriate for you. You might have family issues, or religious beliefs, but not be concerned about integrating them into your plan. Or perhaps you may.

Simplicity has value, but oversimplification now can create complexity later. Having no plan may seem simpler today, yet it can create far greater cost, delay, and conflict later. Giving assets outright may look simple, but it may leave a child exposed to divorce, lawsuits, creditor claims, addiction, disability, imprudent spending, exploitation, or loss of government benefits. Leaving everything to a surviving spouse may feel loving, but in a blended family it may leave children from a prior relationship vulnerable to future redirection or conflict. The proper question is not whether the plan is simple. The question is whether it is simple enough to be understandable and robust enough to handle the foreseeable risks you wish to address.

Questions that should come before drafting

- What would a successful estate plan need to accomplish for the people I care about?
- What family circumstances should the plan be prepared for, even if they are uncomfortable to discuss?
- Which assets are controlled by the will, and which pass by title or beneficiary designation?
- Who would handle my finances or health decisions if I could not?
- Would outright inheritances protect beneficiaries, or would trusts better serve them?
- How will the plan be explained and implemented after I am gone?

2. What a Will Actually Does

Generally, a will is the document through which you direct how assets in your individual name, with no effective beneficiary designation or survivorship feature, should be handled at death. The will typically names an executor, sometimes called a personal representative, who gathers assets, pays debts and expenses, addresses taxes, and distributes property according to the will. It may nominate guardians for minor children. It may create trusts. It may make charitable gifts. It may address personal property. It may direct how taxes and expenses are allocated among beneficiaries.

A will also allows you to make decisions that state law would otherwise make by default. If you die without a will, state intestacy law decides who inherits probate assets and who may be entitled to administer your estate. That default plan may not match your wishes, often it doesn't. It may omit close friends, charities, unmarried partners, stepchildren, or other people you consider family. It may also place authority in the hands of someone you would never have chosen.

A will can also express values. A charitable bequest, a letter explaining the reasons behind a gift, or trust provisions designed to encourage education, stewardship, philanthropy, religious commitments, entrepreneurship, or family engagement can help make the plan about more than money. The document should not be treated merely as a document to transfer assets, or as a mere form. It can be part of a broader statement of responsibility and care.

3. The Key Decisions Inside a Will

A thoughtful will requires more than filling in names on a "standard" will form (and there is no such thing as a "standard" legal document, just like there is no "standard" family situation). It requires decisions about control, timing, protection, fairness, and implementation. The most common decisions are deceptively simple, but each has real consequences.

- Who should serve as executor? This person (or institution) may need to open the probate estate, communicate with beneficiaries, work with advisers, pay debts and expenses, obtain valuations, resolve practical issues, and manage emotionally difficult family dynamics.
- Who should receive particular items of tangible personal property? Jewelry, art, vehicles, family memorabilia, furniture, tools, firearms, collectibles, religious objects, and sentimental items can cause disproportionate conflict. Consider that sentimental value can often be more important than the financial value of some of these items.
- Should gifts be made outright or in trust? Outright gifts are easy, but they may sacrifice asset protection, divorce protection, financial oversight, tax flexibility, and protection for vulnerable beneficiaries.

- Should different beneficiaries be treated equally, equitably, or differently? Equal shares may be perceived as fair, but different needs, prior gifts, caregiving contributions, disability, dependency, or family business interests may justify a different approach.
- How should taxes and expenses be allocated? A technical tax clause can materially affect what beneficiaries actually receive.
- What happens if a beneficiary dies before you? Should that share pass to that beneficiary's descendants, to surviving siblings, to charity, or somewhere else?
- What happens if the estate shrinks? If you make several large dollar gifts, and the remaining estate is smaller than expected, the will should address who bears the shortfall.
- Should charitable or value-based provisions be included? A will can make gifts and can also explain why causes, communities, institutions, or family values matter.

A will should be reviewed as a practical and vital document. Ask whether the fiduciary can understand it, whether the beneficiaries will know why the plan was structured as it was, whether asset titles support the plan, and whether other documents are needed to make it work. Finally, consider that part of the decisions will be choosing the person who will carry out the plan you have devised- determining who that individual will be can make a difference between if all your other decisions are implemented how you wanted them to be or if they fall to the wayside.

4. Choosing an Executor: Practical Judgment Matters

Executor selection is one of the most important consumer decisions in a will. Many people automatically name the oldest child (or other relationship or heir), the child who lives closest, the child who is "good with money," or all children together to avoid hurt feelings. Those choices may be appropriate, but they should not be automatic. Serving as executor is work. It can involve deadlines, court filings, tax returns, appraisals, sale of property, dealing with creditors, communication with beneficiaries, and management of personal property. It can also require diplomacy.

A family member may know the family history and understand personal property, but may lack time, neutrality, or administrative skills. A professional or institutional fiduciary may bring experience and continuity but may cost more and may be less familiar with family nuance. Co-executors may add checks and balances, but they can also add delays and deadlock. One-at-a-time succession may simplify administration but can create sensitivity if one child receives authority and others do not. The right choice depends on the work involved, the family dynamics, and the strengths of the people available to serve.

Executor selection checklist

- Is the person honest, organized, patient, and able to communicate clearly?
- Does the person have time to serve, or is the appointment an unfair burden?
- Will the appointment intensify family conflict or help contain it?
- Does the person have conflicts of interest, creditor problems, health issues, or geographic obstacles?
- Should a professional fiduciary, co-fiduciary, or adviser support the family executor?
- Should compensation be permitted, limited, waived, or explained in advance?
- Should the executor have authority to hire lawyers, accountants, real estate brokers, appraisers, investment advisers, insurance professionals, and property managers?

Consumers often resist professional fiduciaries (banks, trust companies, or individuals who professionally serve in the role) because of cost. Cost matters, but so does the risk of family conflict, errors, lost assets, missed tax deadlines, fiduciary liability, and resentment. A thoughtful plan can use a mix of family knowledge and professional support. For example, a responsible child may serve with authority to hire professional help, or a professional executor/personal representative may handle complex or time consuming matters for the estate, i.e., preparing a house for sale, mediating if there is disputes between beneficiaries on items they were going to receive, preparing paperwork for transferring assets or taking administrative steps for the estate, etc., while the child serves in an advisory role.

5. Guardians for Minor Children and Financial Stewards for Minors

For parents of minor children, nominating a guardian may be the most emotionally difficult and important part of a creating a will. The guardian is the person who would care for the child if both parents are gone or unable to serve. This decision should consider values, parenting style, religious or cultural commitments, geography, family relationships, health, age, finances, and willingness to serve.

The person who is best to raise a child may not be the person best to manage money for that child. Parents can separate those roles. A guardian may care for the child day to day, while a trustee manages inherited assets. This separation can be protective. The guardian does not have to become the financial manager, and the trustee can provide oversight and structure.

Parents should also consider whether to name temporary guardians, successor guardians, and emergency contacts. They should discuss the appointment with the proposed guardian. A nomination that has never been discussed may fail in practice if the person is unwilling, unable, or surprised by the responsibility.

6. Why a Will Alone Is Not Enough

A will generally operates at death. It does not authorize someone to manage your finances during incapacity, make health care decisions for you, access medical information, manage retirement accounts, sign tax returns, deal with digital assets, supervise caregivers, or pay bills while you are alive but unable to act. That is why every adult should consider a broader suite of documents to address planning the will does not:

- A durable financial power of attorney authorizes an agent to handle financial, legal, tax, and property matters during life if you cannot or choose not to act.
- Health care decision documents, often called a health care proxy, medical power of attorney, or advance directive depending on state law, name someone to make medical decisions if you cannot.
- HIPAA or medical information authorizations may allow trusted people to obtain medical information, which can be essential even when they are not making final decisions.
- A living will or statement of health care wishes may express preferences about end-of-life care, pain management, artificial nutrition and hydration, religious considerations, and related issues.
- A revocable trust may provide continuity in asset management during incapacity and at death, especially for people with real estate, non-retirement accounts, complex family needs, privacy concerns, or vulnerability to exploitation.

Incapacity planning is not only for the elderly. College-age adults, young professionals, divorced people, caregivers, business owners, people living alone, and those with chronic illness should all consider who would have authority to act if they could not. An accident or illness can create immediate problems if no one has legal authority to obtain information, pay bills, manage accounts, or make decisions.

7. Revocable Trusts: More Than Probate Avoidance

Many consumers first hear about revocable trusts as probate-avoidance tools. A properly funded revocable trust can reduce or avoid probate for assets transferred to it, while beneficiary designations and survivorship ownership may also transfer assets outside probate. Those simpler techniques, however, may bypass protective trusts incorporated into the revocable trust, or other planning goals. The issue is not which technique is universally 'better,' but how the pieces are coordinated.

The greater value of a revocable trust may be continuity, privacy, incapacity planning, administrative organization, and the ability to connect assets to long-term protective trusts after death.

A revocable trust can create a safer transition if the person who created the trust begins to decline. Cognitive decline is often not a light switch. A person may be capable in many areas but increasingly vulnerable to mistakes, scams, confusion, fatigue, or pressure. A revocable trust can allow a co-trustee to begin helping before a crisis, or a successor trustee to step in more smoothly when appropriate. The document can include guardrails, reporting duties, consent requirements for major transactions, account consolidation, and mechanisms for trustee removal or replacement.

A pour-over will can direct remaining probate assets into the revocable trust at death. The trust can then govern the more detailed dispositive, tax, trustee, beneficiary-protection, special-needs, and administrative provisions. This structure may also keep more of the dispositive plan private than placing every detail in a will filed with the court.

Common revocable trust misunderstandings

- Misunderstanding: A revocable trust replaces all other planning. Reality: It must be coordinated with wills, powers of attorney, health care documents, insurance, beneficiary designations, tax planning, and funding.
- Misunderstanding: The trust works automatically once signed. Reality: Assets must be titled correctly, and beneficiary designations must be coordinated.
- Misunderstanding: Probate avoidance is the only reason to use it. Reality: Continuity, privacy, management during incapacity, and long-term beneficiary protection may be more important.
- Misunderstanding: Joint accounts and POD/TOD designations are equivalent. Reality: They may avoid probate but often transfer assets outright, bypassing trusts and protections.

8. Trustee Selection and Trust Governance

Trustee selection deserves as much attention as executor selection, and often more. An executor may administer your estate and transfer all estate assets into trusts for your heirs. The executor's job may be over in a year or less. A trustee may serve for years or decades, or even the life of a beneficiary. A trustee may decide whether to make distributions, how to invest, how to communicate with beneficiaries, how to balance current and future beneficiaries, how to address tax issues, and how to protect assets from creditors, divorce, exploitation, or imprudent use.

Choosing right trustee depends on the kind of trust and what administering it will entail. A surviving spouse may be appropriate for a marital trust (a trust for the surviving spouse). A child may be appropriate for a simple trust for their benefit if they are mature and unbiased. A professional trustee may be appropriate where there is conflict, significant wealth, special needs, substance abuse, tax complexity, blended family issues, investment complexity, or a desire for consistency. The decision process can be more complex than merely naming a trustee. A directed trust structure may separate investment authority from distribution authority. A trust protector may provide flexibility to remove and replace trustees, change situs, address tax law changes, or adapt administrative provisions.

Consumers should not assume that naming every child or other beneficiary as a co-trustee is necessarily fair or advisable. It may be fair emotionally, but difficult administratively. Sibling co-trustees may disagree, delay decisions, or use the trustee role as a proxy for old family conflicts. Conversely, naming only one child may create resentment. A better discussion asks: What work must be done? Who has the skill and temperament? What checks and balances are needed? What support should be available? What happens if the first choice cannot serve?

Trustee selection questions

• Should the trustee be independent, family, professional, or a combination?

• Should investment and distribution decisions be separated?

• Should a trust protector or advisory committee have authority to remove and replace trustees?

• Should a beneficiary ever serve as trustee of that beneficiary's own trust, and if so, should powers be limited to a health education and maintenance (HEMS) standard? If a beneficiary that is serving as a trustee is not limited to an "ascertainable standard," i.e., a HEMS standard, for distributions they can make to themselves, then their unfettered access to the trust funds will cause any assets held in the trust to be included in the beneficiary's estate and reachable by their creditors.

• Should the trustee have broad discretion to respond to disability, addiction, divorce, creditor threats, or changing family circumstances?

• How will beneficiaries be educated so they understand the trustee's role before conflict arises?

9. Asset Titles and Beneficiary Designations Can Override the Will

One lesson to take away is that a will may control fewer assets than people assume. Retirement accounts, life insurance, annuities, transfer-on-death accounts, payable-on-death accounts, joint accounts, jointly owned real estate, and some business interests may pass outside the will. If the beneficiary form or account title is inconsistent with the estate plan, the will may not fix the problem.

This can be devastating. A parent may create trusts for children in a will or revocable trust, then name children directly on beneficiary forms. The result may be outright distributions that bypass the carefully drafted trusts. A person may add one child as joint owner of an account for convenience, intending that child to help pay bills. At death, that child may receive the account outright, even if the parent wanted equal shares among children. A financial institution may suggest POD or TOD titles to avoid probate, but that simple step may defeat more thoughtful planning.

Implementation matters. After documents are signed, accounts should be reviewed. Real estate deeds, brokerage accounts, bank accounts, business ownership records, retirement plan beneficiaries, life insurance beneficiaries, annuity designations, and digital asset access should all be coordinated. This is not merely clerical. Asset coordination is the bridge between the legal documents and the property the family owns—and it is where many plans fail.

Asset coordination checklist

- Make a current list of all assets, debts, accounts, insurance policies, retirement plans, real estate, business interests, and valuables.
- Identify how each asset is titled and whether it has a beneficiary designation.
- Determine whether each asset should pass under the will, through the revocable trust, by beneficiary designation, or by survivorship.
- Confirm beneficiary designations after account transfers, custodian changes, employer changes, divorce, death, birth, adoption, and remarriage.
- Coordinate retirement account designations carefully because income tax, asset protection, trust, and special needs rules can conflict.
- Retain confirmation copies of all beneficiary designations and account title changes.

10. Robust Trusts for Heirs: Protection, Not Punishment

Many consumers still think trusts are only for the very wealthy, tax planning, or minor children. That is too narrow of a view. Trusts can protect inheritances from risks that ordinary families face: divorce, lawsuits, creditors, poor financial judgment, addiction, disability, exploitation, remarriage, tax changes, family conflict, and loss of benefits. A trust is not necessarily a judgment that a beneficiary is irresponsible. It can be a structure that preserves opportunity.

A robust trust for an heir can be designed to hold assets for that beneficiary's life or for a long period. It may permit distributions for health, education, maintenance, support, which may include housing, business opportunities, medical needs, family support, or other purposes. It may allow the beneficiary to serve as trustee at a certain age or with a co-trustee. It may provide for independent trustees during periods of vulnerability. It may include a trust protector who can adapt fiduciary arrangements or make certain changes or take protective actions. It may preserve assets for grandchildren if the beneficiary dies. It may provide asset protection if properly structured and administered.

The consumer challenge is emotional. A beneficiary may hear “trust” and think “control.” A parent may fear that a trust says, “I don’t trust my child.” That framing should be challenged. A trust can say: “I trust you, and I also want to protect you from risks you cannot control.” A trust may protect a beneficiary from a divorcing spouse, a lawsuit, identity theft, exploitation, creditor pressure, or a future period of illness. Trusts can also be educational. Beneficiaries can learn how fiduciary decisions work, how distributions are evaluated, and how wealth can be used responsibly.

Robust trusts can also support or encourage desired values. A trust can encourage education, philanthropy, family meetings, stewardship, entrepreneurship, home ownership, or community involvement. It can provide assistance in difficult circumstances without creating entitlement. It can use loans instead of gifts where appropriate. It can require documentation, budgeting, or adviser involvement before distributions. The trust should be practical, should address current and reasonably foreseeable circumstances, and should match the family’s wealth level and administrative capacity.

11. Special Needs and Disability Planning

Special needs planning should not be an afterthought. If a child, grandchild, spouse, parent, or other beneficiary has a disability, receives or may receive government benefits, or may need support because of chronic illness or incapacity, an outright inheritance can cause harm. Assets received outright may disqualify the person from means-tested benefits, expose assets to claims, or place funds in the hands of someone unable to manage them safely.

A supplemental or special needs trust may allow funds to be used to improve quality of life while preserving access to governmental programs when properly drafted and administered. This is a specialized field. A general estate planning attorney may need to co-counsel with an elder law or special needs attorney, particularly if public benefits, Medicaid, Social Security-related benefits, housing, guardianship, or long-term care issues are involved. The goal is not merely to draft a trust, but to integrate benefits planning, caregiving, housing, fiduciary succession, financial planning, and family realities.

Special needs planning is also broader than planning for a beneficiary currently known to have a disability. Modern trusts may last for decades or generations. A descendant may later become disabled, develop an illness, suffer an accident, experience addiction, become financially vulnerable, or qualify for benefits. For that reason, many robust trusts include contingent supplemental needs provisions even when there is no known special needs beneficiary today.

Including those provisions may create evidence that protecting future beneficiaries with disabilities was part of the original intent, which can be important if the trust later needs to be modified.

Planning must also consider the caregiver. A common gap is failing to address what happens if the parent or caregiver becomes incapacitated or dies. The plan should identify successor caregivers, successor trustees, guardians where appropriate, housing arrangements, medical information access, letters of intent, care managers, and a process for communicating with schools, doctors, agencies, and advisers. The plan should ask not only who will receive assets, but who will help the person live safely and with dignity.

Special needs planning questions

- Could any beneficiary be receiving, or later need, government benefits or public assistance?
- Should a special needs attorney review the plan?
- Who will serve as trustee, and does that person understand benefits rules and fiduciary duties?
- Should a care manager, advocate, family member, or trust protector have a role?
- What housing, transportation, caregiving, medical records, and support arrangements should be documented?
- Are retirement accounts, life insurance, and beneficiary designations coordinated with the special needs plan?

12. Religious and Cultural Considerations

Estate planning can reflect more than legal mechanics. Wills, trusts, powers of attorney, health care documents, letters of instruction, beneficiary designations, and fiduciary choices can also reflect faith, culture, family history, stewardship, charitable commitments, and the legacy a person hopes to transmit. Not every client wants these considerations incorporated, but the planning process should create space to ask.

Christian planning. Christian views vary widely, so no single clause or structure should be described as universally Christian. A Christian may want the plan to reflect stewardship: how wealth should be used, how charitable giving should be modeled, how heirs should understand generosity, and how health care decisions should be made considering beliefs about nutrition, hydration, last rites, burial, cremation, organ donation, or end-of-life care. Example: the will or revocable trust might include a charitable bequest with a statement explaining to heirs that the gift is intended to model stewardship and encourage future charitable giving, while the health care documents might name an agent who understands your Christian values.

Jewish planning. Jews may approach estate planning in different ways. Some may have no interest in religious considerations. Some may wish to transmit Jewish identity and values culturally. Some may seek planning that is more closely aligned with Jewish law and custom. The central point is that inheritance, end-of-life decision-making, family harmony, and charitable commitments may be shaped by Jewish religious and cultural identity. Example: Someone who wants religiously sensitive inheritance planning might supplement conventional will and trust documents with a separate religious-law-informed instrument or guidance and might also use faith-sensitive health care decision resources, so family members and agents understand your values.

Muslim planning. Muslim estate planning may require coordination between conventional American estate planning documents and Islamic inheritance principles. Islamic law can affect how wealth is earned, spent, invested, and distributed at death. Conventional planning techniques need to be adapted to help reduce conflict and controversy. Example: a Muslim may wish to design a will or trust structure, perhaps using fiduciary discretion or a limited power of appointment, to better align distributions with Sharia inheritance objectives while still satisfying applicable state law and practical family administration needs.

African American planning. Planning for African Americans should not assume a uniform set of experiences or goals. Planning may require trust-building, and awareness that historical barriers, institutional mistrust, land loss, wealth gaps, and different lived experiences may influence planning even for affluent families. Planning might be framed as empowerment, legacy-building, healing, and community uplift rather than merely asset transfer. Example: a legacy trust might be designed to preserve family history, support descendants, assist education or home ownership, encourage family meetings, and include community or charitable purposes that reflect the family's broader sense of responsibility.

Hispanic planning. Planning for Hispanic families may require cultural fluency, empathy, and the ability to bridge legal systems, language expectations, family traditions, religious commitments, informal business succession practices, and multigenerational family dynamics. Planning can miss the mark if it does not account for family unity, legacy, caring for elders and children, reluctance to discuss death, language preferences, and misunderstandings about probate, trusts, and powers of attorney. Example: a Hispanic family business owner may need a formal succession plan that replaces an informal handshake understanding, while still respecting family expectations that each child or family branch be acknowledged in some meaningful way.

Takeaway: values can be planned for

- No group is monolithic. Your personal wishes should control.
- Planning can transmit beliefs, not merely assets.
- Faith and culture can affect fiduciary selection, charitable gifts, health care documents, funeral instructions, trustee standards, and family communication.
- The question is not whether every plan should include religious or cultural provisions. The question is your taking the opportunity to consider them.

13. Defining Descendants, Children, and Family in Modern Planning

The words “child,” “children,” “issue,” “heirs,” and “descendants” may look ordinary, but they can determine who inherits. Traditional definitions often assumed biology, marriage, and conventional family structures. Modern families may include adoption, assisted reproductive technology, surrogacy, posthumous conception, donor genetic material, stepchildren, foster relationships, name changes, gender changes, same-sex couples, unmarried partners, and blended families. If the document does not define these terms thoughtfully, someone you consider family may be excluded, or someone you intended to exclude may be included.

Consumers should not assume state default law will match their intent. A grandparent may want a child born through surrogacy to be included. A parent may want adopted children treated the same as biological children. You may want stepchildren included or may want them excluded but provided for separately. A beneficiary’s name or gender change should not accidentally defeat a gift if you intended that person to benefit. Conversely, some people may have specific religious, moral, or personal views about assisted reproduction or family definitions. The document should reflect informed choices, not accidental omissions.

Flexible planning can help. Definitions can be drafted broadly or narrowly. A trust protector or special fiduciary may be given authority, within legal limits, to clarify status, address future reproductive technologies, or adapt administrative provisions. Letters of wishes can explain intent. The main point is simple: these definitions can determine who inherits. They are not boilerplate and should be read and discussed.

14. Financial Planning and Estate Planning Should Work Together

Estate planning should rest on a financial plan. Before deciding how assets should pass, you should understand what assets exist, what cash flow is needed, what insurance is in place, what debts exist, what retirement resources are available, what tax exposure may exist, what family members depend on you, and what risks could disrupt the plan. Legal documents drafted without financial context may be accurate but misdirected.

A financial plan can help determine if:

- A surviving spouse will have enough resources to survive to the end of their lives,
- If gifts to friends/family or charitable donations you are making are sustainable in the long term,
- Life insurance is needed, if life insurance owned is sufficient, or even if you can reduce the total life insurance owned,
- Long-term care costs could derail the plan,
- Disability would impair retirement security,
- Assets placed in trust will be sufficient for intended purposes.

It can also make hidden habits visible. Spending habits, debts, high advisory fees, outdated insurance, insufficient emergency reserves, and more can all affect estate planning.

Because financial advisers often see their clients more frequently than attorneys, they are well-positioned to help keep estate plans current. Their role could be as simple as asking intentional questions about changes in marital status, family size, death, health, business growth, newly acquired assets, account transfers, family relations, etc. Clients could then follow up with an attorney to discuss possible changes if necessary. Collaborative planning can create better results. Attorneys, financial advisers, accountants, insurance professionals, and other advisers should coordinate where appropriate. If you do not have a full advisory team, identify which functions still need to be addressed and seek appropriate resources or limited professional guidance when needed.

15. Insurance as Part of Estate Planning

Addressing the myriads of ways insurance can be utilized is not separate from estate planning. It is part of protecting the plan. Life insurance may provide liquidity, equalize inheritances, support a surviving spouse, fund a trust, provide for minor or special needs beneficiaries, or support tax planning. Disability insurance may protect earned income, which for many people is their largest economic asset. Long-term care coverage or hybrid coverage may protect retirement assets and reduce the risk that care costs consume resources intended for a spouse or family.

Liability and property coverage also matter. Homeowners, auto, umbrella, business, valuable-articles, and specialty coverage can prevent a major loss from undermining the broader estate plan.

Insurance should be reviewed periodically. Ownership and beneficiary designations must be correct. A life insurance policy owned by the wrong person or payable to the wrong beneficiary may undermine tax or trust planning. An insurance trust must be administered properly. Policies require monitoring for performance, lapse risk, loans, maturity dates, premium requirements, and carrier strength. Property and casualty coverage should reflect actual ownership, including trusts or entities that hold assets. Valuable tangible property may need scheduling or endorsements.

An insurance review is also a family protection issue. A parent with minor children, a spouse dependent on income, a child with disabilities, a business owner, someone who transferred assets to irrevocable trusts, or a person with significant liability exposure may each need different coverage. The goal is not to assume that every family needs every form of insurance. The question is whether the family's risk-transfer strategy supports the estate and financial plan.

Insurance review questions

- Who owns each policy, and who is the beneficiary?
- Do policy beneficiaries coordinate with trusts, special needs planning, and tax planning?
- Are disability and long-term care risks addressed?
- Are valuable assets, homes, jewelry, art, collectibles, vehicles, and business interests properly insured?
- Are liability limits and umbrella coverage adequate?
- Have policies been reviewed for lapse risk, loans, maturity dates, and current performance?

16. AI, Online Will Services, General Practice Lawyers, and Specialists

Consumers now have many options: do-it-yourself forms, online will platforms, AI tools, general practice lawyers, and estate planning specialists. The right choice depends on cost, complexity, risk tolerance, family circumstances, and the consumer's willingness to learn. The danger is believing that because a document can be generated quickly, the planning has been completed and will work as intended.

Online services may be useful for some simple situations, when resources are limited, and especially when the alternative is no planning at all. But consumers should understand the limits of these tools. Online platforms do not provide individualized legal advice and are limited in how much they can tailor documents to your needs. They do not provide the comprehensive planning that some professional advisers can provide. They may not identify family dynamics, special needs issues, tax concerns, beneficiary designation conflicts, trust funding problems, executor suitability, state-specific signing details, blended family risks, asset protection concerns, or insurance gaps. Unsupported edits can create ambiguity, conflict, or unintended legal consequences.

AI can help organize questions, learn vocabulary, prepare inventories, locate documents, summarize general concepts, and prepare for attorney meetings. But AI output should not be treated as legal advice. It isn't. Also, AI output may be incomplete, generalized, or wrong, especially without full facts and governing law. Confidentiality and privacy settings matter. Consumers should avoid uploading sensitive documents to public AI tools unless they understand the privacy implications. A subscription that assures confidentiality (and that the input to AI isn't sent to the cloud for machine learning) may be safer. AI can make the planning conversation better when used wisely, but it can also create confusion if it generates irrelevant techniques or inaccurate critiques.

If you do not have the resources to engage an attorney specialized in estate planning, a general practice lawyer may be appropriate for your matters if they are too specialized or unique for using online services. But estate planning has become increasingly specialized. Consumers should consider a specialist when there are minor children, blended families, significant retirement accounts, real estate in multiple states, business interests, special needs beneficiaries, charitable planning, substantial wealth, estate tax issues, chronic illness, creditor concerns, family conflict, LGBTQ+ family definition issues, international issues, or a desire for robust trusts. The specialist's value is not just drafting. It is issue spotting, coordination, judgment, and implementation.

A practical way to choose your planning path

- If your situation is truly simple, a basic will and incapacity documents may be adequate, but still review titles and beneficiary designations.
- If you use an online service, educate yourself, avoid unsupported edits, confirm signing requirements, and review assets that pass outside the will.
- If you use AI, use it for education and organization, not as the final authority on your documents.
- If your family, assets, health, tax situation, or beneficiary risks are nuanced, seek a lawyer who focuses substantially on estate planning.
- If special needs, elder law, benefits, or long-term care issues are present, consider involving specialized counsel.

17. Signing, Safekeeping, and Updating the Plan

A will must be signed with the formalities required by state law. Formalities matter. An otherwise well-conceived will can fail if not executed properly. Consumers should understand witness requirements, notary practices, self-proving affidavits, who should not serve as a witness, whether pages should be initialed, and whether the signing ceremony should be supervised by an attorney. Even if state law doesn't require an attorney to supervise the signing of your will, if you believe that there is a significant risk, maybe even a modest risk, of a fight between heirs or another potential issue, you might want an attorney to supervise the signing. That may make it more difficult for someone to overturn your will. State rules vary, so general internet advice may be dangerous.

The original will should be stored where it can be found when you pass. A safe deposit box may be secure, but access after death can be difficult (in some cases you might need a court order to open the safe deposit box to retrieve the will). A home safe may be practical if trusted people know how to access it. Keeping the original with the attorney may be appropriate if the family knows whom to contact. But physical copies of the will should be safeguarded carefully from water damage, fire, mildew, etc. Electronic copies should be kept securely and backed up, but an electronic copy does not replace the original unless applicable law allows it, and that might require a costly court proceeding.

Estate planning should be reviewed regularly. A useful starting point is every two to five years, and sooner after major changes. Review after marriage, divorce, birth, adoption, death, disability, diagnosis, retirement, relocation, business sale, asset purchase, significant wealth change, family conflict, law change, institution change, beneficiary change, or shift in fiduciary availability. The review should include the will, trusts, powers of attorney, health care documents, beneficiary designations, insurance, account titles, digital assets, business documents, and letters of instruction.

18. Consumer Action Checklist

- Prepare a list of all family members including relationships, contact information, and whether they are included in your plan. Also, list all non-family members that you do want included in your plan and provide contact information.
- Prepare an asset inventory, including accounts, real estate, retirement plans, insurance, business interests, loans, digital assets, and tangible property.
- Identify which assets pass under the will and which pass by title or beneficiary designation.
- Review executor, trustee, agent, guardian, health care proxy, and successor choices.

- Decide whether beneficiaries should receive assets outright or in continuing trusts.
- Ask whether any beneficiary may need special needs, disability, addiction, creditor, divorce, or financial management protection.
- Review definitions of descendants, children, heirs, and family to confirm that the document reflects your intent.
- Coordinate with your financial adviser, accountant, insurance professional, and any relevant specialist. If you don't have one or all of these professional advisers, see how you can mimic the roles they would play using AI, online resources, or perhaps limited consultations with professionals.
- Review life, disability, long-term care, liability, property, and other insurance.
- Confirm proper signing formalities and safe storage of originals.
- Create or update letters of instruction explaining personal property, wishes, values, contacts, passwords, and practical guidance.
- Schedule periodic reviews and revisit the plan after life changes.

Conclusion: A Will Is Essential, But Planning Is the Goal

National Make a Will Month is a useful reminder that every adult should address estate planning. The broader lesson is not merely to obtain a document, but to build a coordinated plan—one that addresses incapacity, fiduciary choices, asset titles, beneficiary designations, insurance, financial realities, and the people who will have to live with the result.

Real life changes. Families change. Assets change. Health changes. A thoughtful estate plan cannot eliminate every risk, but it can reduce avoidable harm and give the people you love a clearer, more durable roadmap. At a time when your loved ones will be in mourning, one final gift you can provide for them is clear instructions on how to deal with aspects of life estate planning can help streamline, reducing stress and frustration and letting them concentrate on finding comfort in each other.

For More Information:

ShenkmanTietz.com

ShenkmanEducation.com

youtube.com/@shenkmaneducation