

To be an effective advocate for a loved one, or to step in and make critical decisions when a loved one is unable to do so, you must have the correct legal permissions. Being related to someone is not enough. Both relatives and non-relatives will need proper legal authority. Communication is key regardless who is appointed to make decisions for you.

COMMUNICATION IS KEY!

When you are planning for yourself, consider what steps you need to take to clarify who has or does not have legal permission to review documents and make decisions for you. Remember, if you don't properly and legally identify who can make decisions for you, the courts may have to name a legal guardian (referred to in California as a "conservator") who can make decisions for you if you are unable to do so. In the best of all worlds, plan in advance and schedule a time to meet together with the person(s) you identify, your physicians, advisors, and/or attorney.

- **Bank accounts:** Is there someone who you trust to be a co-signer on your accounts? Plan to meet with your banking institution to determine who that should be and the forms that need to be completed. In order to allow someone to sign on your behalf, they should be named as your agent under a document titled 'Durable Power of Attorney (DPA).' Do not add someone to your account as a "joint tenant" unless you understand all the ramifications of such a form of ownership. In many cases, joint tenancy ownership can destroy a carefully crafted estate plan.
- **Credit cards, bills and debts:** List all of your credit cards and specify who can manage them for you if you are unable. Most of these can be managed by your agent under your DPA. If no DPA exists, the person must be a legal user of the account. Powers of Attorney: General authority (can be broad or specific) that ends when its purpose is fulfilled, or at the incapacity or death of the person who enacted it.
- **Durable Power of Attorney:** Serves the same functions as a general Power of Attorney, but remains in effect even if the person becomes incapacitated. There are two "flavors" of Durable Powers of Attorney - those that are immediately effective (recommended generally) and those that "spring" into effect upon the occurrence of an event, such as the determination of incapacity. Although previously favored, "springing DPAs" can be difficult to activate in this age of privacy rights and varying state laws.
- **Medical Power of Attorney or Healthcare Proxy:** Power of authority specific to healthcare decisions.
- **Insurance Plans:** Life, long-term care, disability. Be sure your loved ones know what type of insurance policies you hold and how to access them. Also, be sure your beneficiary designations are up to date and reflect your wishes.
- **Retirement Plans:** Update beneficiaries as needed; be sure to communicate with the beneficiaries who have been designated.
- It's also important to communicate with charitable organizations when you name them as a beneficiary of your estate, insurance, or retirement plans. This allows the charity to honor your wishes and intentions, and is an opportunity to ensure that your estate plan correctly identifies the charities you wish to benefit.
- Review your plans and beneficiaries annually.

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YOUR PROPERTY AND ASSETS

Choosing the person to be listed owner or “title holder” to your assets is very important. Meet with professionals to determine the best way to title your assets so you can be sure they are distributed as you wish upon your death. The method of ownership may also affect creditor interests. Be sure to inquire about the implications for assets titled in one name only, with a spouse, with a non-spouse, and how common property ownership laws affect your plans. Ask how assets titled in trust can provide for your beneficiaries.

Some questions to ask include:

- Will your choice result in the outcome you want?
- Is the co-owner the intended recipient?
- What happens if a co-owner is sued?
- What happens if a co-owner divorces?
- What happens if a co-owner dies first?

*Knowing in advance where important documents are kept helps to reduce stress when your attention is needed in other areas. Consider cataloging all these documents in our organizing tool **Notes to My Family**.*



**NOTES TO
MY FAMILY**

BUSINESS OWNERS

Be sure your business plan includes details on who will inherit and/or run your business upon your death. There are several choices for how your business entity can be structured and each choice has implications for estate planning.