



**EARTHJUSTICE**  
BECAUSE THE EARTH NEEDS A GOOD LAWYER

# PLANNING FOR PEACE OF MIND

## Estate Planning Essentials

*A great egret among the geometric figures of the marsh reeds as the sunrise turns the wetland waters of the Everglades pink. For decades, Earthjustice has been fighting to stop construction projects and restore the Everglades to nature.*

**L**ife is unpredictable, and it makes sense to be prepared. Making sure that your four core documents — will, powers of attorney, HIPPA release, beneficiary designations — are up to date may protect you and your family, and as much as possible in unsettled circumstances, your peace of mind. Planning gives you control and affords you the opportunity to provide for loved ones, for your community, and for the causes you value.

It's a good idea to revisit your plan after certain key life events, including changes in health, finances, or family status. To help you take control, we offer the following steps for ensuring that your essential documents are in place to protect yourself and your family:

## 1. EXECUTE POWERS OF ATTORNEY FOR FINANCIAL AND HEALTHCARE MATTERS

Letters of authorization or power of attorney documents are two legal instruments that name a person who will make healthcare or financial decisions for you if you are unable to do so yourself. Often a spouse is given both financial and healthcare power of attorney, but anyone can be chosen for this responsibility — and it is not uncommon to choose one person for health and another for financial duties. If you do not execute power of attorney documents, the court may appoint a conservator to make these decisions for you. Start with these questions in mind to ensure you make an informed decision. No matter whom you choose for these important responsibilities, be sure to talk about your wishes and secure that person's agreement to respect and follow them.



*Earthjustice continues to take legal action to stop attacks on the Endangered Species Act, the most essential law we have for protecting animals like the gray wolf.*

### FINANCIAL POWER OF ATTORNEY

Typically, the financial power of attorney is given broad power to handle all of your finances. But you can give your designee as much or as little power as you wish. You may want to give the person authority to do some or all of the following:

- Use your assets to pay your everyday expenses and those of your family.
- Buy, sell, maintain, pay taxes on, and mortgage real estate and other property.
- Collect Social Security, Medicare, or other government benefits.
- Invest your money in stocks, bonds, and mutual funds.
- Handle transactions with banks and other financial institutions.
- Buy and sell insurance policies and annuities for you.
- File and pay your taxes.
- Operate your small business.
- Claim property you inherit or to which you are otherwise entitled.
- Transfer property to a trust you've already created.
- Hire someone to represent you in court.
- Manage your retirement accounts.



## ADVANCE HEALTHCARE DIRECTIVE

If you are not able to participate in making decisions about your treatment, someone will have to make them for you. The person you designate as your healthcare power of attorney will talk to doctors and your healthcare team on your behalf, and can make healthcare decisions according to your directions. Thinking now about what you want and making clear plans are the best ways to ensure that the choices you specify are followed by the people you want to make them. It can help family, friends, and physicians know they are doing the right thing for you.

In addition to the healthcare power of attorney, you will also want to write down instructions that tell your family and healthcare team what you want done in case you have a serious injury or illness and are not able to speak for yourself. The advance healthcare directive guides you through this process. The power of attorney document and the instructions are often combined as an Advance Healthcare Directive.

Before you make your Advance Healthcare Directive, think about what kind of medical treatment you do and do not want if you are incapacitated. Then decide who will be your agent(s). The Advance Healthcare Directive comes into effect when you are not able to speak for yourself. Until that time, your doctors will talk with you directly about your treatment choices, even if you have named an agent.

Even if you have a current Advance Healthcare Directive, you may want to review it again, with current social distancing restrictions in mind. Because many hospitals are limiting or prohibiting visitors, consider adding language to your documents expressly authorizing your healthcare agent to give directions by telephone, web conference, email, Skype, FaceTime, or other forms of communication, and expressly permitting medical providers to accept and rely on your agent's instructions using those forms of communication.



*Pronghorn are among the wide variety of wildlife found in Yellowstone National Park, one of the many public landscapes we fight to protect from outside interests.*



*Beautiful lily pads adorn the waters of Ward Lake, which can be found in the Tongass National Forest in Ketchikan, Alaska. Earthjustice continues to defend this landscape from threats of logging.*

## CHOOSING WISELY

Here are suggestions for how to choose the right person for financial and healthcare powers of attorney:

- Choose someone who is likely to be nearby, so that he or she is readily available if you need help.
- Choose someone who knows you very well, who cares about you and who is able to make difficult decisions.
- Choose someone you trust to make decisions for you if you cannot make them for yourself. Keep in mind that you can change your designee at any time.
- No matter whom you choose for these important responsibilities, be sure to talk about your wishes and secure that person's agreement to respect and follow them.

## 2. A HIPAA RELEASE

Hospitals are responsible for protecting the privacy and confidentiality of their patients, as well as patient information. This was mandated by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The law requires doctors and other healthcare providers to get written authorization from the patient before they can share most health information with a third party. That includes providing information to most caregivers, even those who are close relatives. The form used to obtain this permission is called an Authorization for Disclosure of Medical or Dental Information, commonly known as the HIPAA release form.



You will always have access to information regarding your own care, but you should take steps to make sure others have the information they need. In the absence of a signed form, the same privacy regulations that protect your personal health data can also impede the flow of needed information among members of your care team. Medical providers have forms available that allow them to release your medical records to your insurance company and other healthcare professionals. Your health insurance company may also have release forms it requires to share your health information with others.



*Giant Sea Bass, also known as Black Sea Bass, are an endangered species that play a critical role in the ecosystems of the Southern California kelp forests. With the help of Earthjustice, they are currently protected from commercial and sport fishing.*

The best way to ensure that your family members, caregivers, and advisors have access to needed information is by using the legal avenues already discussed: advance directives and power of attorney for healthcare. These documents let you indicate who gets what information and will help others honor your wishes.

### 3. CREATE OR UPDATE YOUR WILL AND/OR TRUST

Your will or trust allows you to accomplish three important things:

- Transfer your assets to heirs and to the causes you care about.
- Provide for guardianship of minor children.
- Name an executor, the person who will carry out your instructions and has the important job of settling your estate.

As a companion to your will or trust, you may want to create a “letter of instruction.” This document, while legally non-binding, gives your heirs information crucial to helping them tie up your affairs. Without such a letter, it can be easy for loved ones to miss important items or become overwhelmed trying to sort through all of the documents you left behind. The following are some items that can be included in your letter:

- A list of people to contact when you die and a list of beneficiaries of your estate plan.

- The location of important documents, such as your will, insurance policies, financial statements, deeds, and birth certificates.
- A list of assets, such as bank accounts, investment accounts, insurance policies, real estate holdings, and military benefits.
- Passwords and PIN numbers for online accounts.
- The location of any safe deposit boxes.
- A list of contact information for lawyers, financial planners, brokers, tax preparers, and insurance agents.
- A list of credit card accounts and other debts.
- A list of organizations that you belong to that should be notified in the event of your death.
- Instructions for a funeral or memorial service.
- Instructions for distribution of sentimental personal items.
- A personal message to family members.

If you wish to name Earthjustice as a charitable beneficiary in your will or trust, please refer to the last page of this publication for suggested language.

## 4. REVIEW YOUR BENEFICIARY DESIGNATION FORMS

Many assets do not transfer through a will or revocable living trust. Instead, they transfer through the beneficiary designation forms we completed when we set up our accounts.

Examples are retirement accounts, life insurance policies, certificates of deposit, and bank and brokerage accounts.

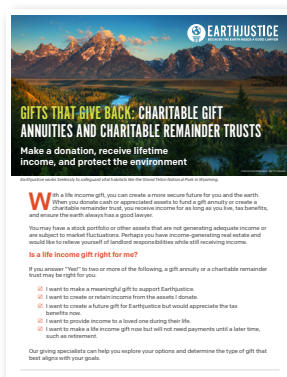
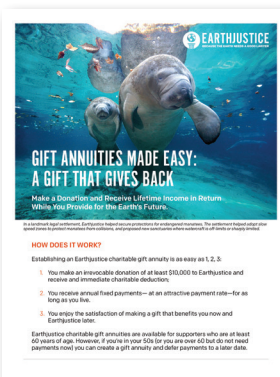
These should be reviewed to make sure that the form you have in your file matches the form on file with the account administrator. Because retirement plans are taxed differently than most assets, they may actually become a tax liability if left to heirs other than a spouse or a charity. Often, beneficiary designations are a good way to include a gift to charity in your plans. Should you wish to name Earthjustice as a beneficiary, you will need our tax ID number for your form: 94-1730465.

## 5. SPECIAL CONSIDERATIONS

Many attorneys are set up to meet with clients remotely; some people choose to create a will online through various will-writing services. But wills almost always require two witnesses, and a healthcare power of attorney document generally requires two witnesses that are not related to the individual.

While some states have relaxed their rules regarding requirements that documents be notarized in person, documents that require multiple witnesses rather than just notarization present a larger problem. The requirements for executing a will are governed by the law of your state, and you should discuss with your attorney the best way to execute your documents in accordance with the law.

Download our other complimentary planning publications at  
[earthjustice.org/legacy/resources](http://earthjustice.org/legacy/resources)



## We are here to help.

If you wish to include Earthjustice as a beneficiary of your will or trust, the following language may be helpful:

*I give to Earthjustice, a nonprofit corporation currently located at 180 Steuart St., #194330, San Francisco, CA 94105, federal tax ID number 94-1730465, or its successor thereto, \_\_\_\_\_ \* [written amount or percentage of the estate or description of property] for its unrestricted use and purpose.*

To name Earthjustice as a beneficiary of your retirement plan or other financial account, please include our federal tax ID number: 94-1730465.

For assistance in crafting your personal legacy, for more information, or to notify us that you have left a gift for Earthjustice in your will, please contact our team of gift planning experts:

**EMAIL:** [legacy@earthjustice.org](mailto:legacy@earthjustice.org)

**MAIL:** 180 Steuart St., #194330  
San Francisco, CA 94105

**WEB:** [earthjustice.org/legacy](https://earthjustice.org/legacy)

**PHONE:** (800) 584-6460

