

# Common Estate Planning Errors

Have you and your family thought through all of the issues related to long-term planning? Find out by using this checklist from nationally known elder-law expert Bernard A. Krooks, Esq.

It is essential for individuals to address their estate planning sooner rather than later. However, it is equally important to make sure that the planning is done correctly. Too often, people fail to address the issues involved in proper estate planning. Here are eight important points to keep in mind:

- **Lack of, or inadequate, disability planning.** Many people fail to plan for the management of their financial and medical affairs should they become incapacitated. A customized, durable power of attorney and an advance medical directive should be parts of the estate plan of every person.
- **Failure to plan for the cost of long-term care.** Long-term care is extremely expensive. The cost of staying at an assisted living facility could run in excess of \$50,000 per year, and care at a nursing home could cost more than \$150,000 per year. All who can afford long-term care insurance should consider it.
- **Outdated wills and beneficiary designations.** Many people fail to regularly review and revise their estate plans. They frequently have wills, beneficiary designations, or retirement plan accounts that are outdated. Review these whenever there has been a significant change in circumstances or at least every three to five years. *Informing a family member about where these documents can be found also helps eliminate confusion.*
- **Poor choice of agent, trustee, or executor.** The choice of an agent under a power of attorney and an advance medical directive, a trustee of a trust, or an executor of an estate is an important decision. Many people choose an agent, trustee, or executor for the wrong



reasons. For example, they choose their oldest child or the child who lives closest to them; however, they fail to consider whether this child has the ability, the time, the respect of other family members, or the willingness to care for their parents. In cases where family members are not getting along, it may be wise to appoint a professional to serve as agent, trustee, or executor.

- **Lack of adequate records.** Many individuals fail to keep organized records. This makes it difficult to assist them if they become disabled or to settle their estates upon their deaths.
- **Overuse of revocable trusts, joint ownership, or beneficiary designations.** Many people fear probate. As a result, they seek to avoid it by executing revocable trusts, creating payable-on-death accounts, and re-titling assets jointly with the right of survivorship. However, the consequences of setting up these types of accounts are often misunderstood. For many, a will is the better choice.
- **Failure to hold a family meeting.**

Many family disputes can be eliminated or the damage minimized if the individual would hold a family meeting to discuss his estate planning objectives and the terms of the estate planning documents.

- **Inadequate financial planning.** Many individuals have accumulated diverse investments over their lifetimes. Frequently, they hold these investments in accounts at several financial institutions without an overall investment plan. It is generally a good idea for you to retain a financial planner to assist in determining the appropriate level of investment risk to assume and to develop an asset allocation to maximize the investment return based on the assumed level of investment risk.

*Bernard A. Krooks, J.D., CPA, LL.M (in taxation), CELA is President, and a founding member, of the NY Chapter of the National Academy of Elder Law Attorneys and a nationally known and widely quoted expert on elder law. For more information, visit [www.littmankrooks.com](http://www.littmankrooks.com).*