

ILLINOIS ESTATE PLANNING CHECKLIST

These instructions can be followed by Illinois residents to make sure that they have all the legal instruments necessary to plan for their end-of-life medical treatment, as well as the distribution of their property when they pass away. (This guide merely relays information and should not be interpreted as legal advice.)

Step 1 - Select a Health Care Agent

A **Health Care Agent** is an individual who is given the authority to make medical decisions on behalf of the principal (the patient) when the principal is incapable of making those decisions themselves due to some form of incapacitation. Any moment, some kind of medical emergency could impact a family member and render them unable to decide what types of medical treatment we will receive. By assigning a Health Care Agent, individuals can relay their wishes regarding end-of-life treatment to the assigned agent.

[Health Care Power of Attorney Form](#) - Allows an individual to assign a representative who will be authorized to make medical decisions on their behalf if they are mentally incapacitated.

- **Signing Requirements** ([§ 755 ILCS 45/4-10](#)) - The form must be signed by the principal and one (1) witness.

Step 2 - Select a Financial Agent

A **Financial Agent** is authorized by the pPrincipal to make financial decisions in the event that they are incapacitated due to an accident or medical event. Making this preparation helps to ensure that the principal's assets and finances will be managed in line with their wishes and best interests. For example, a Financial Agent can authorize the financing of the best available health care for the principal if the principal is incapacitated.

[Durable \(Financial\) Power of Attorney Form](#) - This form is used to authorize an individual to represent the principal (the person for whom the document is created for) in making financial decisions in the event that the principal is unable to make such decisions for themselves.

- **Signing Requirements** ([§ 755 ILCS 45/ Art. II](#)) - The principal and one (1) witness are required to sign a Power of Attorney form. The Financial



Agent can also be asked to sign a Certification and Acceptance of Authority at the principal's behest.

Financial Powers Allowed:

- Real estate transaction;
- Transactions involving tangible personal property, chattels, and goods;
- Bonds, shares, and commodities transactions;
- Banking transactions;
- Business operating transactions;
- Insurance transactions;
- Estate transactions;
- Gift transactions;
- Claims and litigation;
- Personal relationships and affairs;
- Benefits from government programs and military service;
- Records, reports, and statements;
- Delegation;
- Voter registration and absentee ballot requests; and
- and other requests as allowed within the State by the Principal.

Step 3 - Make a List of All Estate Items

After assigning a Health Care Agent and a Financial Agent, the individual planning the distribution of their estate should make a list of all their assets (the [Current Assets List](#) can be used to accomplish this). Creating a complete list of the individual's estate will help to determine what needs to be distributed and to whom.

Step 4 - Determine the Beneficiaries

Once the individual has created an organized Current Assets List, they will need to decide who the beneficiaries of their estate will be. For their estate to be distributed in the most efficient way possible, the individual should decide exactly how their property and other assets will be divided amongst their beneficiaries.



Step 5 - Create a Last Will and Testament or Living Trust

There are **two (2) options** that residents can choose to distribute their estate and property; the Last Will and Testament and the Living Trust. An individual may choose to use one (1) or both options to administer their estate.

The [Last Will and Testament](#) is a legal instrument in which an individual (the testator/settlor) bequeaths their property to a list of named beneficiaries as specified within the document. When the testator dies, their estate will be divided among the beneficiaries according to the Will's specifications after the Will has been proven in court (probate).

- **Signing Requirements** ([§755 ILCS 5/4-3](#)) - Must be signed by at least two (2) witnesses.

A [Living Trust \(Revocable\)](#) is similar to except for the fact that the individual who makes it (the grantor) transfers the ownership of the assets to the Trust as a separate entity. During their lifetime, the grantor continues to benefit from their assets, and at the time of their death, all of the assets held by the Trust will be distributed to its beneficiaries without probate.

- **Signing Requirements** ([760 ILCS 5/ § 8.5](#)) - A certification of the Trust must be signed by one or more of the trustees and a Notary Public.

Step 6 - Store the Documents

All the above-mentioned documents should be kept in a secure place following their execution. A copy or original of the Health Care Power of Attorney and Durable Power of Attorney should be left in the possession of the individual(s) name as attorney-in-fact.

Illinois Estate Planning Laws

- **Health Care Power of Attorney** – [§ 755 ILCS 45/4-10](#)
- **Durable Power of Attorney** – [§ 755 ILCS 45/ Art. II](#)
- **Last Will and Testament** – [§755 ILCS 5/4-1](#)
- **Living Trust (Revocable)** – [§ 760 ILCS 5/8.5](#)

