

MICHIGAN ESTATE PLANNING CHECKLIST

To ensure one's wishes are carried out after one dies or becomes incapacitated, creating an Estate Plan is of the utmost importance. The following guide will help an individual select the necessary documents to make sure their personal property, real estate, and other assets are distributed as intended. It is highly recommended that an attorney be sought out to assist in the execution of all estate planning documents.

Step 1 - Choose a Patient Advocate

Referred to as an attorney-in-fact or health care proxy in other states, a **patient advocate** is an individual authorized to make health care decisions for a principal (person to whom care will be administered) in the event that they are unable to do so for themselves. Any adult (18 years or older) can be a patient advocate but it's important to select a trustworthy individual such as a family member or close friend.

[Patient Advocate Designation](#) - Also known as Form DCH-3916, the Michigan Patient Advocate Designation Form is a document that includes instructions regarding medical decisions for an individual who is incapacitated or otherwise not able to make decisions for themselves.

- **Signing Requirements** ([§ 700.5506](#)) - Must be executed in the presence of and signed by two (2) witnesses; the witnesses cannot be a family member (by blood or marriage), an heir, the patient's physician, or an employee of their insurance provider or of the health care facility that is treating the patient.

Step 2 - Choose a Financial Agent

To ensure that their financial affairs are in good hands, a principal should appoint a trusted individual to be their **financial agent**. This agent will have Durable Power of Attorney (POA), meaning they will make sure the principal's estate and all their assets are looked after if they become incapacitated.

[Durable \(Financial\) Power of Attorney](#) - Allows the principal to have some assurance that their wishes will be carried out regarding their financial matters.



- **Signing Requirements** ([§ 700.5501](#)) – The POA must be signed by the principal and two (2) witnesses OR acknowledged by the principal before a notary public (completion of [Certificate of Acknowledgement](#) is required).

Financial Powers Allowed:

- Banking;
- Government benefits;
- Investments;
- Retirement plan;
- Taxes;
- Insurance;
- Real estate;
- Personal property;
- Legal advice and proceedings; and
- Estate plan.

Step 3 - Make a List of All Assets and Real Estate

Creating a list of all assets, real estate, personal property, and liabilities will help a principal and their financial agent make appropriate plans and instructions for the distribution of said assets following the principal's death. All assets should be compiled and listed on a [Current Assets List](#) to keep things organized.

Step 4 - Select Beneficiaries

After a Principal's death, their estate will be divided up amongst selected individuals (**beneficiaries**), or bequeathed unto a sole individual. The Principal should not make this choice lightly; the ultimate decision of 'who gets what' can have a tremendous impact on the lives of those closest to the Principal.

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



For the beneficiaries to receive their inheritance, a document must be drafted by the Principal outlining precise instructions in regard to the distribution of assets.

Choose One (1)

[Last Will and Testament](#) - A Last Will and Testament, or simply a Will, is a common tool for a person to outline their intentions of property distribution after death. This document provides instructions for an executor (person who handles the Will after the individual's death) to hand over the testator's (individual who created the document) assets to each named beneficiary. The estate will go through probate upon the testator's death; the process typically takes seven (7) months to a year unless there are significant federal taxes owed, in which case it may take longer.

- **Signing Requirements** ([§ 700.2502](#)) - Testator (or an individual on their behalf) and two (2) witnesses.

[Living Trust \(Revocable\)](#) - Similar to a will, a Revocable Living Trust manages a grantor's (creator of trust) assets but has the added benefits of avoiding probate court and not being made public after the grantor's death. The grantor transfers ownership of their property to the Trust (usually making themselves, or a trusted individual, trustee) and appoints a successor trustee as representative of the Trust once the grantor dies.

- **Signing Requirements** ([§ 700.7402](#)) - No signing requirements mentioned; other trust-creation requirements are set forth in the linked statutes.

Step 6 - Storing the Documents

The principal should keep the original copies of all estate planning documents in a safe place, i.e., a fire/waterproof safe in their home or office. If the principal decides not to give copies of a Will/Trust to the named representative or beneficiaries, they should at least provide the location of said documents. It is common for involved parties to receive copies of certain documents, such as the attorney-in-fact and patient advocate receiving copies of the POA and Patient Advocate Designation, respectively.