

# NEBRASKA ESTATE PLANNING CHECKLIST

This guide can be helpful while planning one's estate; however, it is highly recommended that legal counsel is sought out before proceeding.

## Step 1 - Appoint Health Care Agent

A **health care agent**, or attorney-in-fact, is an individual selected to represent another's best interests in regard to medical decisions. This position is established only if the principal (person receiving medical care) cannot make decisions for themselves; that is, a medical professional determines they are disabled or incapacitated in such a way that prevents them from forming sound judgments.

[Durable Power of Attorney for Health Care](#) – This form must be completed by the principal and must include the name of the individual that they have selected as their attorney-in-fact for medical decisions. Instructions pertaining to the principal's wishes should be provided on the document so the attorney knows what type of health care they wish to receive depending on their condition.

- **Signing Requirements** ([§ 30-3404](#)) – Two (2) witnesses OR a notary public.

## Step 2 - Appoint Financial Agent

A **financial agent**, or attorney-in-fact, is the person appointed by the principal to handle their financial affairs. The agent's position is effective immediately unless state otherwise in the Durable (Financial) Power of Attorney. A financial agent becomes invaluable particularly when the principal is unable to make important decisions for themselves. The agent should be a trusted individual who will act with the principal's (and their family's) best interests at heart.

[Durable \(Financial\) Power of Attorney](#) – A legal instrument designed to hand over control of a principal's financial affairs to a financial agent. This form, once executed by the principals, grants the agent power over all financial matters even in the event the principal dies or becomes incapacitated.



- **Signing Requirements** ([§ 30-4005](#)) – Must be acknowledged before a notary public or other authorized individual.

### **Financial Powers Allowed:**

- Real property ([§ 30-4027](#));
- Tangible personal property ([§ 30-4028](#));
- Stocks and bonds ([§ 30-4029](#));
- Commodities and options ([§ 30-4030](#));
- Banks and other financial institutions ([§ 30-4031](#));
- Operation of entity or business ([§ 30-4032](#));
- Insurance and annuities ([§ 30-4033](#));
- Estates, trusts, and other beneficial interests ([§ 30-4034](#));
- Claims and litigation ([§ 30-4035](#));
- Personal and family maintenance ([§ 30-4036](#));
- Benefits from governmental programs or civil or military service ([§ 30-4037](#));
- Retirement plans ([§ 30-4038](#));
- Taxes ([§ 30-4039](#)); and
- Gifts ([§ 30-4040](#)).

## **Step 3 - Create List of Assets**

The principal should draft a list of all their assets, property, accounts, investments, debts, and liabilities to make sure nothing gets left out while creating their estate plan. A [Current Assets List](#) might be a helpful tool for this process.

## **Step 4 - Choose Beneficiaries**

A **beneficiary**, or heir, is a person who will receive or benefit from a portion of the principal's estate after their death. A principal should choose their beneficiaries wisely and should think carefully when deciding what is a fair percentage or portion to bestow upon each heir.

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

An essential stage in the estate planning process is drafting a Last Will and Testament or a Living Trust. Both documents are used to instruct representatives in how to distribute the principal's assets after they die, but they each have their unique benefits and drawbacks.

[Last Will and Testament](#) – A document created by a person, “testator”, to convey their wishes regarding the distribution of their estate after they die. After the testator's death, the executor is in charge of making sure each beneficiary receives their allotted portion of the estate. This estate planning document must go through probate court before the estate can be divided up. This can be a lengthy process, depending on the size of the estate and the amount of debt the testator had. A [Self-Proving Affidavit](#) can be completed to speed up the probate process.

- **Signing Requirements** ([§ 30-2327](#)) – Two (2) witnesses.

[\(Revocable\) Living Trust](#) – Unlike a Will, a Revocable Living Trust is an entity to which the grantor (principal) will transfer ownership of their property and assets. The grantor continues to benefit from their estate while they're alive and, after they die, the beneficiaries inherit their designated portion. A Living Trust can also contain instructions concerning the management of their estate in the event of incapacitation or disability. Furthermore, a Revocable Living Trust will not have to go through probate court after the grantor's death. Instead, the trustee (or successor trustee if the grantor has appointed themselves trustee) will be able to carry out the grantors wishes without court approval and while avoiding public record.

- **Signing Requirements** – Not mentioned in State law; a Self-Proving Affidavit (requires 2 witnesses) or a Notary Acknowledgement is highly recommended.

## Step 6 - Store Documents

Place the original copies of all estate planning documents into a safe or locked cabinet until they are needed. A trusted individual (agent or attorney) should be able to gain access to these documents should the principal die or become incapacitated. Safety deposit boxes should be avoided as a court order is required to open these, which may cause setbacks when it comes time to distribute the principal's estate.