

# OHIO ESTATE PLANNING CHECKLIST

This guide will help Ohio residents establish a plan that describes how their finances and health care should be administered while they are incapacitated or disabled. In addition, the guide will explain how to create a document that identifies the beneficiaries of an estate and indicates how assets will be divided between each party.

## Step 1 - Appoint a Health Care Agent

A **health care agent** is an individual who acts on behalf of the estate owner (a.k.a. the principal) and communicates their medical preferences when they're unable to make competent decisions. Selecting a health care agent can be achieved by completing a Power of Attorney document. The appointed agent will have the capacity to make decisions concerning life support, cardiopulmonary resuscitation (CPR), and other life-prolonging treatments.

[Durable Power of Attorney for Health Care](#) - Gives an individual the legal capacity to make health-related decisions for the principal while they are unable to communicate. Executing this document is a precautionary measure often applied to individuals going into surgery or experiencing end-of-life medical conditions.

- **Signing Requirements** ([§ 1337.12](#)) - Must be signed by the principal and either:
  - Witnessed by two (2) or more disinterested adults who are not related to the principal by marriage, blood, or adoption; or
  - Acknowledged by the principal before a notary public.

## Step 2 - Appoint a Financial Agent

The principal will need to nominate someone to serve as their **financial agent**. This individual will be responsible for maintaining the principal's finances while they are mentally incapacitated or disabled. The agent's duties may vary but will generally involve paying bills, conducting business transactions, managing real property, and overseeing financial accounts.

[Durable \(Financial\) Power of Attorney](#) - This document is used to nominate a financial agent and to designate powers with which the agent will manage the principal's finances. The principal may revoke the form at any time should they wish to appoint a new agent or terminate the document altogether.

- **Signing Requirements** ([§ 1337.25](#)) - The principal must sign the document or direct another individual to sign in their presence. The signature is presumed to be authentic if the principal appears before a notary public and acknowledges the signature.

### **Financial Powers Allowed**

- Real Property ([§ 1337.45](#));
- Tangible Personal Property ([§ 1337.46](#));
- Stocks and Bonds ([§ 1337.47](#));
- Commodities and Options ([§ 1337.48](#));
- Banks and Other Financial Institutions ([§ 1337.49](#));
- Operation of Entity or Business ([§ 1337.50](#));
- Insurance and Annuities ([§ 1337.51](#));
- Estates, Trusts, and Other Beneficial Interests ([§ 1337.52](#));
- Claims and Litigation ([§ 1337.53](#));
- Personal and Family Maintenance ([§ 1337.54](#));
- Benefits from Governmental Programs or Civil or Military Service ([§ 1337.55](#));
- Retirement Plans ([§ 1337.56](#));
- Taxes ([§ 1337.57](#));
- Digital Assets ([§ 1337.571](#)).

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

Before making efforts to draft a Will or Living Trust, the principal should create a report of the assets currently part of their estate. The report should include a description of the principal's real estate, motor vehicles, insurance plans, household property, financial accounts, and other items under their ownership. For this purpose, the principal can use the [Current Assets List](#) and include it with their estate planning documents once completed.

### **Step 4 - Decide Who the Beneficiaries Are**

Next, the principal will need to nominate the recipients of their assets. These individuals are known as the "beneficiaries" and will inherit specific property following the death of the principal. Usually, the beneficiaries will be the principal's spouse, children, siblings, or other related family members. However, if no such individuals are available, the principal can leave their assets for a charity or close friend.

## Step 5 - Make an Estate Distribution Form

The next step requires the principal to create a document that states how their assets will be distributed following their death. This document will be used to identify the beneficiaries and provide a description of the assets that each party is entitled to inherit. The following documents are applicable in this circumstance:

[Last Will and Testament \('Will'\)](#) - This is a legal document used by the principal to nominate beneficiaries and allocate assets for distribution. Upon the principal's death, the Last Will and Testament **will go through the probate process**, meaning that a court will assess the document before allowing the assets to be distributed. The probate process can take several months to complete and may require additional costs paid by the executor of the estate.

- **Signing Requirements** ([§ 2107.03](#)) - Every Will must be signed by the principal and two (2) or more competent individuals who either saw the principal sign the Will or heard the principal acknowledge their signature.

[Living Trust \(Revocable\)](#) - This form creates an entity to which the principal can transfer ownership of their assets. The principal is allowed to manage the trust and benefit from the assets until their death. Like a Last Will and Testament, a Living Trust will specify the beneficiaries and describe the assets that each will inherit. However, a Living Trust **will not go through the probate process** thus the estate can be distributed to the beneficiaries immediately and without the supervision of the court.

**Signing Requirements** (No Statutory Signing Requirement) - A Living Trust should be signed by the creator in the presence of two (2) witnesses and acknowledged before a notary public.

Note: Both the Last Will and Testament and Living Trust may be used together.

## Step 6 - Find a Secure Location to Store the Estate Documents

The final step in the process will be to store the estate planning documents in a safe place that can be accessed quickly in the event of a medical emergency or upon the principal's death. Original copies of the Power of Attorney forms can be kept with the appointed agents. The Last Will and Testament and/or Living Trust should be retained by the principal's attorney,

spouse, or children. The principal may wish to submit the completed documents to a licensed attorney so that they can be reviewed.

## Ohio Estate Planning Laws

- **Durable Power of Attorney for Health Care** - [§ 1337.12](#)
- **Durable (Financial) Power of Attorney** - [§ 1337.60](#)
- **Last Will and Testament** - [Chapter 2107](#)
- **Revocable Living Trust** - [Chapter 5804](#)