

OREGON ESTATE PLANNING CHECKLIST

An estate can be prepared and secured by following the instructions in the guide below. Residents of Oregon are encouraged to obtain competent legal advice before officially completing the paperwork as this will ensure that the documents correspond with their financial and medical interests and that they were executed legally.

Step 1 – Make an Advance Directive

An **Advance Directive** is a document that states an individual's desires concerning medical treatments administered when they are unable to communicate. Included in the Advance Directive is a medical power of attorney form which allows the principal (the estate owner) to nominate a **health care representative**. The health care representative will be responsible for consenting to or refusing medical treatments for the principal when they cannot make decisions on their own.

[Advance Directive](#) – This form includes a **living will** and a **medical power of attorney**. The principal can use the Advance Directive to outline their end-of-life medical preferences and choose their official health care representative.

- **Signing Requirements** ([§ 127.515\(4\)](#)) – The Advance Directive must be signed in the presence of two (2) adults who witnessed either the signature of the principal or the principal's acknowledgment of their signature. The witnesses must also sign the document. One (1) of the witnesses must be a disinterested party who is not related to the principal by marriage, blood or adoption.

Step 2 – Choose a Financial Attorney-In-Fact

An **attorney-in-fact** is an individual that the principal authorizes to manage their financial affairs. Generally, the attorney-in-fact will handle the principal's taxes, bills, real estate, business operations, and personal property. The exact powers granted to the individual will be determined when executing the Durable (Financial) Power of Attorney form available below.

[Durable \(Financial\) Power of Attorney](#) – Allows the principal to appoint an attorney-in-fact and assign them with powers to handle their finances. The form is "durable" which means that the attorney-in-fact has permission to continue making decisions for the principal even if they are unconscious or unable to communicate.

- **Signing Requirements** ([§ 126.005](#)) – Oregon law does not specify how the form must be signed, however, it is recommended that the document be signed in the presence of two (2) adult witnesses and a notary public.

Step 3 – Create a Report of Current Assets

The principal should create an assets list and have it ready prior to the execution of a Will or Living Trust. The document should give a description of the principal's current property, real estate, financial accounts, business entities, and any other asset under their ownership. Individuals can utilize the [Current Assets List](#) to record this information in a clear and concise manner.

Step 4 – Select the Beneficiaries

Selecting the beneficiaries is important as these are the individuals who will inherit the principal's assets after they pass away. The principal should carefully consider who shall serve as their beneficiaries before determining which assets each will receive when the estate is transferred. Once this information has been decided, the beneficiaries should be contacted and made aware of the assets they are entitled to inherit.

Step 5 – Make an Estate Distribution Document

One of the more critical aspects to estate preparation is the execution of a legal document that identifies the beneficiaries and describes the assets each will receive after the principal dies. Either of the following documents may be used to accomplish this task:

[Last Will and Testament \('Will'\)](#) – Allows the principal to appoint beneficiaries and assign assets for distribution after death. Creating a Will is a relatively simple process and can be done with no initial costs. However, once the principal dies, the document **must go through the probate court** before the assets can be transferred to the beneficiaries. Depending on the value of the estate, the probate process can result in legal fees that must be paid by the executor of the estate.

- **Signing Requirements** ([§ 112.235](#)) – Must be signed by the principal in the presence of two (2) witnesses who must also sign the Will.

[Living Trust \(Revocable\)](#) – This form creates an entity that can be managed by the principal or another individual of their choosing. Ownership of the principal's assets can be transferred to the entity and held there until the principal dies or the document is revoked. Just like a Will, a Living Trust allows for the appointment of beneficiaries. The most significant difference between a Will and a Living Trust concerning estate distribution is that a

Living Trust **does not go through probate court**. Consequently, the beneficiaries can receive their assets immediately after the principal dies.

- **Signing Requirements** ([§ 130.155](#)) – No specific signing regulations. However, it is always best to sign in the presence of a notary public and two (2) adult witnesses.

Step 6 – Storing the Forms

For the Advance Directive and the Durable (Financial) Power of Attorney, the original documents should be given to the elected representatives (the health care representative and financial attorney-in-fact). The Last Will and Testament and Living Trust can be given to the principal's attorney, spouse, children, or the beneficiaries. This process assures that the forms can be accessed quickly upon the death or incapacitation of the principal.

Oregon Estate Planning Laws

- **Advance Directive** – [§ 127.515](#)
- **Durable (Financial) Power of Attorney** – [§ 127.005](#)
- **Last Will and Testament** – [Chapter 112](#)
- **Living Trust** – [Chapter 130](#)