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**EXCUSE #1**

You're not going to die.

**EXCUSE #2**

You've been too busy.

**EXCUSE #3**

You can't stand thinking about a future that doesn't include you.

If you're coming up with these or other reasons for not planning for death, you're in good—if not smart—company. »



# HOW TO DIE RIGHT

BY JANE BENNETT CLARK, PATRICIA MERTZ ESSWEIN AND LISA GERSTNER

**JUST OVER ONE-THIRD OF AMERICANS HAVE A WILL, AND** fewer than half have any estate-planning documents at all, according to a 2011 survey conducted for EZLaw.com. “People don’t want to think about dying. They’re uncomfortable with the topic,” says Danielle Mayoras, coauthor with Andrew Mayoras of *Trial & Heirs* (Wise Circle, \$20). “For that reason, they don’t do anything about estate planning.”

But making arrangements for your final days and beyond isn’t just about helping your family through difficult times. It also lets you designate representatives to make decisions about your care, withdraw money from your accounts to pay your bills and celebrate your existence in exactly the way you want—even if that means letting you take your last ride, to the cemetery, in a less-than-likely vehicle.



» WILLS

# PUT IT IN WRITING

**DIE WITHOUT A WILL AND YOU LET COMPLETE STRANGERS DECIDE HOW TO** split up your estate and raise your children. It’s called dying *intestate*, an act (or failure to act) that leaves the divvying-up process to state law. In lieu of a will, the court gives first dibs to a spouse and children, followed by other relatives. If you have no family, your property goes to the state. And unless you appoint a guardian for your minor kids in a legally executed will, their future will be determined by the court.

Don’t let those screw-ups happen. You can make out your own will for \$70 or less at a do-it-yourself Web site, such as [www.legalzoom.com](http://www.legalzoom.com). If your circumstances are at all complex, you’ll need a lawyer, who will charge about \$300 to draw up a simple will and \$1,000 to \$3,000 for an estate plan that involves a will and a trust.

Be sure to update these documents periodically to account for major events, such as the birth of a child. If you don’t, you could create the very mess you were trying to avoid.

» LIFE INSURANCE

## PROVIDE FOR BASIC NEEDS

**YOU CAN SKIP LIFE INSURANCE IF YOU** have no one to support or you have enough money socked away to provide for your spouse or partner. Otherwise, you’ll need enough coverage to meet your family’s expenses when you can’t.

To figure out how much life insurance you need, estimate what it would cost to pay off your debts, such as a mortgage and car loans, and to fund savings goals, such as college for your kids. With these needs accounted for, your family may be able to live comfortably on about half of your current pretax income. Divide that amount by

5% to determine how much you’ll need. So it would take \$1 million to produce \$50,000 of annual income.

To calculate your total death-benefit needs, add up the amounts for paying off your debts, funding savings goals and providing annual income. But don’t take that number as gospel, says Tim Maurer, a fee-only financial planner in Hunt Valley, Md. “It can be geared up or down, depending on your situation.”

Term life insurance, which carries a fixed premium over the life of the term (usually 20 years), can be surprisingly affordable, even for large amounts. For instance, a 35-year-old male non-smoker might pay \$470 a year for a 20-year term policy carrying a \$1 million death benefit.

» END-OF-LIFE DOCUMENTS

## Delegate Control

**“A LOT OF PEOPLE THINK THAT ESTATE** planning is only for when they die,” says Danielle Mayoras, of *Trialandheirs.com*. “It’s also to take care of us during our lifetimes.” To help family members carry out your wishes if you cannot, provide them with these documents:

**A durable power of attorney** lets your agent manage your finances and legal affairs.

**A release-of-information form** gives doctors permission to share your medical records with designated representatives.

**Advance directives.** A durable power of attorney for health care names a representative to make medical decisions on your behalf. A living will specifies the medical treatment you do or do not want at the end of your life.

# PASS IT ON WITH LESS MESS

**TO LISTEN TO SOME PEOPLE, YOU'D** think letting your estate go through probate was worse than death itself. Don't take their word for it. The probate process, by which your executor settles your debts and disburses your property, could be a simple matter of filling out forms and paying a few hundred dollars in filing fees. But it could also be a months-long ordeal that ties up your estate and costs thousands of dollars in legal fees and other expenses.

Before you start fretting about the latter scenario, consider that some property isn't subject to probate at all. Life insurance death benefits and the money in retirement accounts pass directly to your named beneficiaries, and property owned jointly with the right of survivorship—say, a house or a car—transfers automatically to the co-owner. You can also arrange for bank and other accounts to be transferable

or payable on death, giving the recipient immediate access to the money.

Take enough off the plate and your estate could qualify for small-estate treatment, which is much simpler than regular probate, says Mary Randolph, author of *8 Ways to Avoid Probate* (Nolo, \$22). Most states offer simplified probate or waive it altogether for estates valued at \$200,000 or less, depending on the jurisdiction. (To find out how your state handles probate, see [www.nolo.com/legal-encyclopedia/avoiding-probate-in-your-state-31015.html](http://www.nolo.com/legal-encyclopedia/avoiding-probate-in-your-state-31015.html).)

One good reason to avoid probate: privacy. Probate puts your affairs in the public record and requires that your executor notify your relatives and give claimants time to challenge your will. If you don't want snoops looking at what you left, or your prodigal child fuming at what you didn't leave, make other arrangements to avoid probate.

## Stay Tuned on Taxes

### WORRIED ABOUT FEDERAL ESTATE

taxes? Lucky you. Only estates valued at more than \$5 million (\$10 million for married couples) in 2011 and more than \$5,120,000 (\$10,240,000 for married couples) in 2012 are subject to this tax, rendering it a nonissue for all but a tiny percentage of the population. And anyone can give away up to \$13,000 per year (\$26,000 for couples) to an unlimited number of people without the amounts counting toward the lifetime exemption.

Although you will probably dodge federal estate taxes, your estate could be subject to state estate tax, which in some states comes into play at a much lower level than the federal tax.

## TRANSFER OWNERSHIP

**POSSESSIONS OWNED SOLELY IN YOUR** own name go through probate. But if you transfer title of those possessions to a revocable living trust, naming yourself as trustee, you retain control over the assets during your lifetime and the property inside the trust goes directly to your heirs upon your death. Result: no probate, no fees, no public airing of your business.

In fact, living trusts can be a valuable tool for people who want to keep their affairs private, avoid a drawn-out probate or disinherit a family member. "It's more difficult to challenge a trust than a will," says Richard Durso, a certified financial planner in Philadelphia. But the arrangement requires punctilious attention to detail. Fail to retitle even one asset and you kick the estate into probate, defeating the purpose of the living trust.

A lawyer will likely charge \$1,000 to \$3,000 to draw up the document, and more if you have the lawyer do the retitling.



» BEQUESTS

# DIVVY UP YOUR STUFF

**YOUR LEGACY WILL SURELY INCLUDE**

stuff, from the kitchen broom to heirloom jewelry. A will typically leaves such “tangible personal property” (that you own without a title) to a spouse or children, leaving them to sort out who gets what. The process may not be pretty.

To head off family conflict and avoid the cost of updating your will in the future, state in your will that you have left a separate, signed list of bequests. You may revise the list at any time free, but date it in case survivors find an earlier version. You can also specify a strategy for divvying up the rest of your property. For ideas, see *Who Gets Grandma’s Yellow Pie Plate?* (\$12.50; [www.yellowpieplate.umn.edu](http://www.yellowpieplate.umn.edu)). One option: Your executor can set up an online auction at [eDivvyup.com](http://eDivvyup.com) (99 cents per 100 items). Invitees bid on items posted by your executor, with allotted credits.

If you own something you think is valuable, get an appraisal and have it updated every five years or so. (To locate an appraiser, visit the Web site of the American Society of Appraisers at [www.appraisers.org](http://www.appraisers.org).) From your survivors’ point of view, an equitable distribution may have nothing to do with monetary value. Discuss your plans in advance, or better yet, give gifts now, while you can still receive the recipients’ thanks.

» PLANNING

# What My Mom Did Right

**AFTER MY DAD DIED, MY MOM DILIGENTLY** updated her end-of-life documents—will, durable power of attorney and advance directives—and filed them away. But even the best-laid plans can wobble. During her first brush with death in early 2008, she didn’t have the advance directive documents with her. I was four hours away by car and my sister even farther, and cousins sent to her house to retrieve the “manila folder” couldn’t find it. Later, I found the critical papers in a big white envelope, which I labeled, “THIS IS IT.”

After our wake-up call, Mom sent me to register the power of attorney at the county courthouse so that I could begin managing her financial affairs while she could still answer my questions. That experience proved to be great training for me in my later role as executor. We visited her bank (a phone call wouldn’t suffice) to add me as a co-signatory of her safe-deposit box, giving me access as needed.

Well before Mom’s death in December

2010, she asked for the same funeral arrangements she had made for my dad, and we discussed other details, such as what dress she would wear and who should serve as pallbearers. Her detailed preparations were an invaluable legacy.

Mom’s holiday card and e-mail lists made it easy to notify family and friends of her death. The “THIS IS IT” file included the names of Mom’s “team”—her lawyer, stockbroker, accountant, insurance agent and priest—and their contact information. “When the time comes, call them. They will help you,” she said. And they did, providing not only their professional services but also useful referrals to other service providers (such as real estate agents) and unexpected reminiscences.

Mom left enough cash to cover her funeral as well as her bills and the cost of preparing her home for sale. Her well-organized files proved hugely useful, especially when her life insurer, which had acquired her policy from another insurer, demanded to see the original paperwork (from the 1980s) before it would pay any benefit.

When I opened the safe-deposit box, I found the original copy of her will as well as a letter of instruction. In it,

Mom made bequests of specific belongings and outlined a strategy for distributing the rest. She also admonished us: “Please do not have any hard feelings over things. Your relationship as sisters is far more important.” She acknowledged the blessings of our family, and said, “I really did enjoy my life.” Per her request, her gravestone says, “She had fun!” **PATRICIA MERTZ ESSWEIN**



# PERSONALIZE YOUR SEND-OFF

**OVER THE PAST FEW DECADES, THE** tone of funerals has shifted. “It used to be an event where we came to mourn,” says Rick Noel, manager of Walton’s Chapel of the Valley funeral home, in Carson City, Nev. “Now it’s an event where we come to celebrate a life.” You can personalize your “party” by leaving your family with photographs, music and objects that reflect your interests to include in a service.

And you’re not limited to the usual ideas. A fire truck carried one of Noel’s clients, a firefighter, from the church to the cemetery. Another man, who collected antique cars, made his last road trip in a procession of them. In lieu of a viewing, you could request that your friends and family commemorate your life at a place you love—say, a restaurant, a beach or a park. Most states don’t require you to use a funeral home’s services.

Don’t let your carefully laid plans go to waste. If you include them in your will, your survivors may not see the instructions until it’s too late because they may not be able to get the will from your lawyer or safe-deposit box in time. Make a separate list detailing your funeral and burial wishes, and give copies to your family. Or for \$12, buy a fill-in-the-blank booklet from the Funeral Consumers Alliance ([www.funerals.org](http://www.funerals.org)), which includes a checklist of legal documents plus templates for advance medical directives.

You can also store the information online. For example, at [www.mywonderfullife.com](http://www.mywonderfullife.com), you can fill out forms detailing your arrangements, upload photographs, music and letters to family and friends, write your obituary, and more. The site lets you notify up to six family members and friends via e-mail to carry out your wishes.



» THE BILL

## Plan, Don't Prepay

**PLANNING YOUR OWN FUNERAL GIVES**

you time to shop around. Plus, your family won't be left to make big—and potentially costly—decisions while they're grieving. Funeral homes must give you a general price list, which includes fees for each product and service. You don't have to buy a package; each item is available individually. (The full list of consumer rights is available at [www.ftc.gov/consumer](http://www.ftc.gov/consumer). Select “Shopping for Products and Services,” then click on “Funerals.”)

Although you can prepay the expenses, you may not want to. State and federal investigations into these plans have revealed cases of mismanaged funds and excessive fees. Instead, set up a payable-on-death account at your bank to cover the expenses and a named beneficiary who can easily access the money.

» THE END

## BURIAL OR CREMATION?

**YOU MAY ALREADY HAVE A STRONG SENSE OF HOW AND WHERE YOU'D LIKE TO REST** for good, based on your religious beliefs or personal preferences. If you don't, the decision may come down to price. The average cost of a funeral, not including cemetery expenses, was \$6,560 in 2009 (the most recent year for which data was available), according to the National Funeral Directors Association.

Choosing cremation could save money, depending on whether you have a viewing before the cremation and where you want the remains to be interred or scattered. A direct cremation—one that doesn't include a visitation or funeral service—typically runs \$1,500 to \$1,800. You can spare your family some headaches by signing a legal authorization for your cremation in advance. Otherwise, depending on your state's laws, each of your children may have to give consent for cremation, which could be a hassle if your family members are spread across the country or disagree about whether you should be cremated.

A burial without a viewing could also save money, but you'll still have to factor in costs for a casket and any cemetery-related expenses, such as a plot, marker or vault. In most states, you can designate an “agent for body disposition”—a person who has legal rights to handle your final arrangements—which can override next-of-kin rules. ■