



First Quarter 2024

New Year Checklist – Essential Documents

The start of a new year is a good time to review your essential documents to make certain they are up-to-date and reflect your current wishes. It's also a good idea to make sure you have the following documents in the event of a health issue or accident.

- **Up-to-date beneficiaries** on your retirement accounts, life insurance and transfer-on-death accounts. To check your current beneficiaries, contact your financial institutions.
- If you have used **transfer-on-death deeds** to property or automobiles, make certain those are up to date as well. Property deeds should be on file with your county. Your automobile title will indicate any transfer on death instructions. Not every state allows transfer-on-death titles for real estate or vehicles, but if available they are very handy for keeping property out of probate. These designations take priority over your will. It doesn't matter what your will states or your intentions, if an account has a designated beneficiary that is who inherits.
- **Durable Power of Attorney** – This document designates someone to make legal decisions if you are no longer competent to do so. Make certain any existing Durable Power of Attorney designation names someone you trust and who is capable of making decisions on your behalf.
- **Power of Attorney for Healthcare** – This document designates someone to make healthcare decisions for you in the event you are not able to represent yourself.
- **Living Will** – This puts in writing what you want done when it comes to healthcare decisions in the event you cannot speak for yourself. A living will also provides binding guidelines for your Healthcare Power of Attorney designate to follow.
- **Last Will and Testament** – Should you die, this states who you want to receive your personal property and belongings. Without a Will, your assets will be distributed according to state law through probate.
- **Funeral Planning Declaration**. If you have specific preferences as to what happens to your remains should you die and the type of services you want, these should be in your Funeral Planning Declaration. If you have made pre-paid arrangements, this declaration should include those details.

Share these documents with family members and your Power of Attorney designees. Often doctors would like a copy of your living will. It doesn't do any good to have these documents if no one knows about them when they are needed.

There are circumstances where wills and named beneficiaries don't count. Married spouses are automatically entitled to 401(k) assets on the death of the account holder unless they formally waived that right. The waiver must be notarized.

Defined contribution plans are commonly written so that protections apply for surviving spouses.

With respect to Individual Retirement Accounts (IRAs), in most states the accountholder can name someone other than their spouse as an account beneficiary without getting a waiver from the spouse. In a community property state, the accountholder must get a waiver from the spouse.

While no one likes to think about death or illness, it is a kindness to family and heirs to have these documents in place. Without them, you lose control over these decisions. Estates without a will in place are subject to probate in accordance with the state's probate laws and incur legal expenses in the process.



Brian R. Carruthers, CFP, CMT



BRIAN CARRUTHERS & ASSOCIATES

Your Conservative Advisory Firm Since 1990
301 Forest Avenue
Laguna Beach, California 92651-2115 USA
Telephone: 1-949-464-1900
www.gobcafunds.com
brian@gobcafunds.com