

Avoid Problems of Do-it-Yourself Estate Planning

By [Wesley E. Wright](#) and [Molly Dear Abshire](#), as published in the Houston Chronicle on June 18th, 2014

Many people only find out when it's too late that their estate plans contain costly errors. Mistakes aren't necessarily limited to lay people using do-it-yourself kits; inexperienced estate planners make mistakes too. Here are some overlooked issues that may occur without the advice of a practiced estate planning attorney.

Non-probate asset titling has increased in popularity over the years. The benefits of joint titling of assets and beneficiary designations are often overlooked when planning one's estate without professional help. For example, assets allowed to pass to designated beneficiaries upon the death of a principal include life insurance, trusts, joint tenancy with right of survivorship (JTROS) accounts, pay on death (POD) accounts, annuities and 401K/IRA accounts. These are all non-probate assets. However, virtually any asset, including a homestead, can be set up as a non-probate asset.

Though the documents are completely different, confusing a Will for a power of attorney and a Living Will is a common mistake. A Will expresses who will inherit your assets, and it goes into effect after you die. A power of attorney appoints an agent of your choosing to handle your financial affairs during your lifetime, and upon your death it becomes invalid. While modern medicine has increased longevity, diseases like Alzheimer's, Parkinson's and Dementia are creating financial hardships for many families. Having a properly drafted and executed POA, before mental capacity is lost, is essential for a family to be able to access and restructure assets when seeking eligibility for long-term care benefits. A Living Will, also known as a Directive to Physicians, is a document that controls decision making involving the use of life support.

Low cost estate planning kits offered on television commercials or Internet websites present a host of problems potentially costing a family thousands to hundreds of thousands of dollars. These kits contain one-size-fits-all forms into which you fill in the blanks. Using these documents jeopardizes the choices you thought you had carefully made. Here are a few issues that could arise.

- Even if enforceable by the court, because of the document's form or phrasing, what you intended is open to challenge;
- What you intended may not be enforceable by the court;
- You did not intend what may otherwise be enforceable by the court;
- Though the document is correctly drafted and enforceable at the time of signing, the document may not account for changes in circumstances that would alter your intentions, making it potentially unenforceable;
- Though the document is correctly drafted and enforceable at the time of signing, you may be unaware of options, such as certain types of trusts, that would better protect your assets or reduce taxes;
- When you die, your Will could be challenged by an unhappy relative, forcing your heirs to hire an attorney in a costly probate battle.

Estate plans should be reviewed annually for updates and changes in the law, or, upon major life events, including birth, death, marriage and divorce, disability and large asset gains.

Don't put your life and your hard-earned assets into a cookie-cutter plan. Seek advice from an experienced estate planning attorney before you make some of the most important decisions of a lifetime.