

Selden & Youngs PLLC
105 Central Way Ste 201, Kirkland WA 98033
Office: (425) 284-1769
Fax: (425) 671-0485
www.seldenyoungs.com

ESTATE PLANNING QUESTIONNAIRE

ESTATE PLANNING has a lasting effect on you and your family. What you do now affects what they may have after you die. Your plan may include one or more of these: Will; Advance Medical Directive (“living will”); Durable Power of Attorney for Health Care; General Power of Attorney; a Letter of Instruction, and an anatomical gift designation (often on your driver’s license).

Depending on the value of your estate you may want to consider a marital trust, a community property agreement, a special needs trust, trusts to capture certain exemptions, or honorary trusts such as a pet trust.

I also work with Mental Health Advance Directives (MHAD). In fact, I helped write the legislation that created the directive in Washington State. If you or anyone you know needs an MHAD then please contact me about that specialized form.

A properly executed will leaves instructions to a probate court about your intended property distribution. It may provide simple instructions, or may contain a trust. A will is especially important for parents with young children. In this situation, you should name a guardian (and preferably a backup) for your children in case the natural parent also dies while the children are minors. You should consider naming a trustee to manage your property and properly invest on their behalf. Consider carefully who you trust with these important duties. You should also discuss your wishes with all of those named to ensure that they know that you named them, and what your desires are.

For more information about preparing your will read the Federal Consumer Information Center’s Life Advice publication, *Making a Will*, http://www.pueblo.gsa.gov/cic_text/money/will/makewill.htm. You can also find valuable consumer information on wills, trusts and other legal topics at the Washington Bar Association website: <http://www.wsba.org/public/consumer/default.htm>

Estate Planning may be even more important for people involved in *meretricious relationships* because the state does not provide default legislation for handling comingled property in event of death of one party or division of the relationship. The overall estate plan for people involved in such relationships can provide support for the other partner as well as incorporate a separate property agreement so all concerned parties agree to the character of each individual’s property.

This document uses the term *partner* to include your spouse if you are married, or someone you want to include in your legal documents as a partner because you are in a meretricious partnership with that individual. Washington State courts have occasionally determined a meretricious relationship existed when the relationship ended in separation or death even if one person in the relationship did not wish to consider the relationship that way. Individuals involved in a long-term relationship with someone other than a spouse should consider the potential impact of a court imposed constructive relationship in the estate planning process.

NOTE: This questionnaire is specifically addressed to one individual client. If you as an individual client want dual representation with you and your spouse or meretricious partner, we should first discuss a dual representation waiver and come to agreement on the identity of the “client”. I often represent a marital community as the client, but such representation does limit the attorney client relationship for the individuals in that relationship. I will explain differences in the scope of representation to those who wish to retain my services on behalf of their marital community.

PERSONAL INFORMATION

Client's Full Name: _____ SSN: _____ - _____ - _____
Are you a U.S. citizen? (circle) Yes / No Date of Birth: _____
Of what State or Country are you a legal resident? _____

MARITAL STATUS:

- _____ Presently married.
- _____ Presently married, and had a prior marriage (previous partner is deceased or divorced)
- _____ Widow / widower
- _____ Divorced, not presently married
- _____ Single, never married
- _____ In a *meretricious relationship*

(If applicable) Full name of client's partner: _____ SSN: _____ - _____ - _____
Is partner a U.S. citizen? (circle) Yes / No Date of Birth: _____
Of what State or Country is your partner a legal resident? _____

Client's current address:

Phone: (home) () _____ (office) () _____ (cell) () _____

E-mail: (client's) _____ (partner's) _____
[Provide only if you / your partner authorize legal office personnel to contact you by e-mail.]

CHILDREN:

How many children do you have (including adopted & stepchildren)? _____

If you have adopted children or stepchildren, do you wish to treat them the same as your natural children?
(circle) Yes / No

Is any child a minor? (circle) Yes / No

VALUE OF ESTATE:

The Current schedule for estate taxes is as follows:

Decedent dying in	Federal Exclusion Amount	State Exclusion Amount
2006, 2007, and 2008	\$ 2,000,000	\$ 2,000,000
2009	\$ 3,500,000	\$ 2,000,000
2010	repealed	\$ 2,000,000
2011	\$ 1,000,000	\$ 2,000,000

The Economic Growth and Tax Relief Reconciliation Act of 2001 completely phases out the federal estate and gift tax by 2010. The tax rates are lowered and the exemption is raised between 2002 and 2009, and the tax is completely eliminated in 2010. However, the post-act law will bring the Estate and Gift Tax back into existence in 2011. A unified credit of \$202,050 is available to offset both estate and gift taxes. Any part of the credit used to offset gift taxes is not available to offset estate taxes. As a result, although they are still taxable as gifts, lifetime taxable transfers no longer cushion the impact of progressive estate tax rates. Lifetime transfers and transfers made at death are combined for estate tax rate purposes.

To determine what type of will is appropriate for you, we need an estimate of the value of your estate. For this purpose, include the value of all of the property you own in your name, and if married, the value of your partner's property. If any of your property secures a debt (for example, a mortgage on your home), include your equity in the property. Also include the value of your life insurance policies (SLI, VGLI, etc.). Note that life insurance ordinarily does not pass according to your will; it will go to the beneficiaries you designated on the insurance forms. However, the value of the insurance is typically included in determining whether estate taxes will apply in your case.

Approximate value of your estate (not including life insurance): \$ _____

Approximate value of your partner's estate (not including life insurance): \$ _____

Value of your life insurance (self and partner): \$ _____

Total value of both you and your partner's estate including life insurance: \$ _____

FAMILY FARM / FAMILY-OWNED BUSINESS:

Do you have a farm or family-owned business? (circle) Yes / No

REAL ESTATE:

Do you own real estate jointly with your partner? (circle) Yes / No

Do you own real estate other than jointly with your partner? (circle) Yes / No

If yes, how do you wish to give your real estate?

_____ All to my partner.

_____ Different properties to different beneficiaries (list on a separate piece of paper):

_____ To pass with the rest of my estate.

_____ My home to my partner and the rest of my real estate to pass with the rest of my estate.

_____ My home to my partner for as long as my partner lives there and then my home and the rest of my real estate to pass with the rest of my estate.

***Please bring copies of your real estate deeds to our consultation.**

PERSONAL EFFECTS AND TANGIBLE PERSONAL PROPERTY: How do you wish to give your personal property?

_____ All to my partner.

_____ Specific items are to go to specific individuals, with all items not listed passing to my partner. (Please attach detailed list of items, beneficiaries, and relationship to you.)

_____ To pass with the rest of my estate.

_____ Other (please explain on separate sheet of paper)

SPECIFIC BEQUESTS: You may make specific gifts of cash, real estate, or personal property to specific people or charities in your will. However, these bequests will be distributed first and may deplete your estate. Also, specific bequests may complicate the probate of your estate if the property given cannot be found at your death. Therefore, if you make any specific bequests, you should only give property or amounts of cash that you are reasonably sure you will have when you die. If you make no specific bequests, all of your property will pass to your primary beneficiaries.

Washington State law allows you to make a memorandum in which you can give specific items of personal property to named beneficiaries in a writing separate from your will. The writing must be mentioned in the will but can be created at a later date. Certain other restrictions apply.

Do you wish to make any specific bequest in your will? (circle) Yes / No

If yes, please list your specific bequests and who you want to receive them. Use additional paper as necessary:

If you do not wish to include specific bequests of personal property in your will, do you wish to include a clause in your will to incorporate a memorandum that you prepare in the future? (circle) Yes / No

RESIDUARY ESTATE: Your residuary estate is whatever property remains after paying debts and expenses of administration, and any specific bequests. Because many people do not make specific bequests, the “residuary” usually describes all property left to your beneficiaries.

To whom do you want to leave your residuary estate?

_____ All to my partner if he/she survives me, and if not, then to my children and issue.

_____ A minimum bequest to my partner, disinheriting him/her to the fullest extent of the law, with remainder going to some other person(s).

_____ All to one specific beneficiary other than my partner.

_____ To more than one beneficiary.

If you have more than one beneficiary, are the:

_____ Specific people who are to share equally.

_____ A group of people described as a class (e.g., “my brothers and sisters”) who are to share equally.

_____ Some other unequal division between the beneficiaries (e.g., 50% to one beneficiary and 25% each to two others).

_____ Other (please explain):

If any of your beneficiaries is a minor, at what age do you want them to receive your gift?

18

21

Some other age (please indicate the age): _____ (NOTE: Selecting an age greater than 21 will likely require a trust, which may cause your estate to incur additional expenses for the administration of the trust. These expenses would therefore diminish the amount available for your beneficiaries.)

EXECUTOR: Your Executor ensures your estate is settled upon your death. This ordinarily involves going through “probate”, a court-administered procedure for settling an estate as provided in your will or under State law. Probate involves petitioning a court for letters of appointment, settling creditor claims, finding and distributing assets, and filing any necessary tax returns. Any adult may serve as your executor, although many States prefer or require an executor who is a legal resident of the State where probate is conducted. Therefore, if possible, you should select family members or responsible friends who are residents of the same State as your legal residence or the state where you own real estate.

Whom do you wish to have as your executor?

My partner.

My partner and a co-executor.*

My partner and a successor executor.**

One executor other than my partner.

Two co-executor, neither of whom are my partner.*

One executor and a successor executor, neither of whom are my partner.**

*This option is not usually recommended because conflicts can arise between the executor that will complicate the administration of your estate.

**The successor will act only if your first choice is unable to act as your executor.

If you named someone other than your partner, indicate name(s) and relationship(s):

GUARDIAN: If your children are minors when you die, and if the other natural parent is not alive or for any reason cannot act as guardian, the court will normally appoint the person(s) You name to act as legal guardian(s) of the children. The individual(s) named will have physical control and custody of the children until they reach 18. If you re divorced, remember the court will usually appoint your former partner to be the guardian (as the children’s other natural parent) even if you provide otherwise in your will. You should still name a guardian, however, in case your former partner dies before you or for any reason cannot act as the guardian.

Do you wish to appoint:

One guardian for any child when I die.

One guardian and a successor guardian.

Two co-guardians.

No guardian.

If you wish to appoint a guardian or guardians, whom do you wish to have named? (Please list name, relationship, & city, state of their residence):

1st choice: _____

2nd choice (optional): _____

3rd choice (optional): _____

TRUSTS (OPTIONAL): Instead of giving your estate directly to a beneficiary, you may give it to a Trustee, IN TRUST, for the benefit of your beneficiary/ies until he/she/they reach(es) the age you designate. The trustee will manage the trust under court supervision. Although the trustee’s primary purpose is to safeguard the inheritance, the money can also be used for any beneficiary’s health, education, welfare, or maintenance, at the trustee’s discretion. Also, you may create a trust that “pools” your estate. Through pooling, your estate and insurance proceeds remain in a single trust until **all** the beneficiaries reach the distribution age you choose. The trustee may provide funds from the trust to each beneficiary as each has a need. Thus, not all beneficiaries will receive equal amounts from the trust. Such an arrangement is useful where some beneficiaries will likely need more financial assistance over a longer period of time than other beneficiaries will. A trust is also useful where you desire to protect the assets from third parties who may have claims against one of your beneficiaries.

For many people, a trust is unnecessary because, under Washington State law, gifts to minors will be controlled by your executor/trix initially, and guardian after probate, without establishing a trust. The executor/trix and/or guardian can still use the child’s inheritance for the benefit of the child, and this is ordinarily less complicated and less expensive than a trust. Unless you have children from a prior marriage, disabled children, or a very large estate, you might prefer not to use a trust. One disadvantage, however, to statutory solution is that your estate will be divided in as many equal shares as there are minor beneficiaries designated; each beneficiary will receive the remainder of his or her share as they turn 18 or 21, at your option. In a nutshell, a trust may be more appropriate if you want the trustee/ guardian authority to spend more money on one child than another (e.g., a disabled child).

Do you want a trust: (circle) Yes / No

If yes, would this be:

_____ one trust for the benefit of all beneficiaries (“pooled” trust)

_____ individual trusts for each of the beneficiaries.

At what age do you want your beneficiaries to be when the trust to ends?

_____ 18 _____ 21 _____ other (please designate age): _____

Whom do you wish to name as Trustee? (Please list name and relationship):

1st choice _____

2nd choice (optional) _____

3rd choice (optional) _____

Do you want the trustee to have the power to dissolve the trust if it becomes uneconomical to maintain it?

_____ Yes (Selecting yes means that the trust assets may be under the guardian’s control if the child(ren) is(are) a minor when the trust is terminated).

_____ No

Do you want the trustee to exercise this power only if the trust is below a specific amount? (circle) Yes / No

If so, what amount? \$ _____

DISINHERITING SOMEONE:

Do you wish to disinherit someone other than your partner? (circle) Yes / No

If so, whom (please provide the name and relationship to you.)? _____

Do you wish to disinherit anyone who contests your will? (circle) Yes / No

If you wish to disinherit your partner, do you want your executor to have the authority to distribute your property, outright or in trust, to minimize any “right of election” your partner might have under the laws of any jurisdiction?” (circle) Yes / No

Disinheritance is insufficient by itself to avoid a statutory distribution of property; one is required to state who *will* take the property. You may want to discuss this further with me if this applies.

DISTRIBUTION OF ESTATE TO CHILDREN:

With regard to minors who may inherit under your will, do you want their gifts to be:

- _____ Paid at the election of the executor (the executor may pay the child some or all of the gift, at various times, as the executor sees fit, even though the child is a minor).
- _____ Held in trust until the child is not longer a minor (or has reached the distribution age you specified).

If you do (or were to) have stepchildren or adopted children, would you want to:

- _____ Expressly include them in your will (treat them the same as natural children).
- _____ Expressly exclude them from your will.
- _____ Have the will remain silent as to stepchildren and adopted children.

CHILDREN: Please list your children’s names, ages, and whether they are your biological, adopted, or stepchildren:

MILITARY STATUS: I am:

- _____ Active duty military.
- _____ Retired from the military.
- _____ Married to someone on active duty.
- _____ Married to a military retiree.
- _____ A dependent of someone on active duty.
- _____ A dependent of a military retiree.
- _____ Other (please specify): _____

If you are active duty or are the partner or dependent of an active duty military member, where are you, your partner, or your sponsor stationed?

PRIMARY BENEFICIARIES:

Whom do you want to receive all (or the majority) or your estate?

My partner, if he/she survives me, and if not, then my children.

Disinherit partner (to the fullest extent permitted by law).

My children.

My parents in equal shares, or if not, then my siblings in equal shares (please provide names and relationships):

To these beneficiaries (list name, relationship, and percentage of estate to each of the beneficiaries):

If any of the above beneficiaries i.e. before you and leave descendents (children/issue), do you want the share of the deceased beneficiary to

Pass to their issue, or

To pass only to the beneficiaries you indicated above?

For example, if one of your children predeceases you and leaves children, do you want the share of your deceased child to pass to his children (your grandchildren) or to go to your surviving children?)

To the children of any deceased beneficiary.

Only to the named beneficiaries listed above.

SECONDARY BENEFICIARIES: If all of the primary beneficiaries you designated predecease you or die within 30 days of you, to whom do you wish to leave your estate (please provide name, relationship, and percentage of inheritance of list of which item(s) are to go to which individual)?

ADVANCE MEDICAL DIRECTIVE/"LIVING WILL":

An advance medical directive or "living will" is separate from your will, but may be an important part of your estate plan. It states that in the event you have a terminal, incurable medical condition and your life is only being prolonged by means of artificially provided life support, and if you cannot communicate your desires, the living will "speaks for you" so your doctors know and can act upon, your desires regarding the termination of life support. The conditions that trigger your living will, and the extent of the medical care to be withdrawn, vary under State law. Your attorney can help you decide which State(s) forms to prepare. Once executed, the document is effective until you revoke it, which you may do at any time by physically destroying the document, or in an emergency, by verbally revoking it before witnesses who can testify that you did in fact revoke it.

Do you want a living will? (circle) Yes / No

SPECIAL POWER OF ATTORNEY FOR HEALTH CARE:

Another important health care document is a special power of attorney for health care. You may execute this in addition to, or instead of a living will. It appoints someone you name to make medical care decisions for you if you cannot make your own medical decisions. It applies to more situations than the living will, which addresses only continued life support if you have a terminal condition. The power of attorney for medical care gives the person you name as your agent the authority to make a wide range of medical decisions on your behalf. It also gives your agent access to your medical information and authority to fully participate with your treating physicians in deciding the care to be provided to you. Obviously, the person you designate to be your agent should be someone you trust with life and death decisions.

Do you want a Health Care Power of Attorney? (circle) Yes / No

Do you want your partner to act as your agent? (circle) Yes / No

Unless you have selected your partner to act as your agent and your partner has the same address you do, please provide the name, address, phone number, and relationship of your first choice of agent:

If you have a second choice, do you want:

- both agents to have the authority to act separately.
- to require both agents to act jointly unless one is incapacitated
- the second agent to be as a successor, acting only if the first choice is incapacitated

Please provide the name, address, phone number, and relationship of your second choice of agent:

Do you wish to specify that you desire to donate your body organs for transplant upon death?
(circle) Yes / No

If yes, are you also willing to donate organs and tissue for medical, educational, or scientific purposes?
(circle) Yes / No

If yes, did you list your intentions to do so on your driver’s license? (circle) Yes / No

Do you wish to specify that, if possible and if it does not place an undue burden upon your family that you prefer to die at home rather than in a hospital? (circle) Yes / No

SPRINGING DURABLE GENERAL POWER OF ATTORNEY:

Your will enables you to dispose of your property as you wish **after** you die. While you are living, you have the right to decide what happens to that property as long as you are of sound mind. But if you become incapacitated, whether through illness or accident, and are unable to handle your own affairs, a court order may revoke your right to manage your own money/property and appoint a guardian or conservator. To protect you from this, you may appoint an agent through a power of attorney.

A power of attorney is your written authorization for someone to act on your behalf, for whatever purpose you designate. Ordinarily, a power of attorney expires if you become mentally disabled – the time when you need help the most. A **springing, durable** power of attorney can take effect when you **become** unable to manage your own personal and financial affairs and will last as long as you are alive or until you revoke it. As long as you are

mentally competent, you can revoke a durable power of attorney whenever you like simply by destroying the document. If you choose to have a springing durable general power of attorney, remember to name someone you trust as your attorney-in-fact. Your agent will have great authority over your affairs. Not only can they keep your affairs in order, but they have the potential to abuse this document at your expense and his or her gain.

Would you like a springing durable general power of attorney? (circle) Yes / No

Do you want your partner to act as your agent? (circle) Yes / No

Unless you select your partner to act as your agent **and** your partner has the same address you do, please provide the name, address and relationship of your first choice of agent:

If you have a second choice, do you want:

- both agents to have the authority to act separately.
- to require both agents to act jointly unless one is incapacitated.
- the second agent to be as a successor, acting only if the first choice is incapacitated.

Please provide the name, address, and relationship of your second choice as agent:

If you selected your partner to act as your agent, at what telephone number can he or she be reached?

FUNERAL ARRANGEMENTS:

You may have a strong desire regarding funeral arrangement (for example, burial or cremation). As a practical matter, your funeral arrangements may have been carried out by the time your will is read. Finding out after the fact that arrangements were contrary to your will may cause some dismay for your survivors. Therefore, we recommend that you tell your desires to your next of kin at your earliest opportunity. If you wish, however, your preferences may also be recorded in the will or in the Letter of Instruction that accompanies your will. You should tell the appropriate family members of your desires NOW!

At my death, I prefer:

- To be cremated.
- To have my body given for medical or scientific purposes.
- To be buried at a specified location: _____
- To be buried at sea
- Other: _____
- I do not wish to express my desires concerning my remains in my will and leave this decision to those who survive me.

Other considerations for your funeral that you wish to leave in writing:
