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# The Michigan Estate Planning Checklist

The documents every Michigan adult should have, what each one actually does, and the questions to answer before you meet with any attorney.

Berris Law Firm, PLLC · (248) 462-6556 · berrislawfirm.com

START HERE

# Estate planning doesn't have to be overwhelming

Most people put off estate planning because they think it means confronting every hard question at once. It doesn't. It means putting a handful of documents in place, in a sensible order, so the people you love aren't left guessing.

This checklist walks through the core pieces of a Michigan estate plan in the order most people should address them. Work through it on your own, mark what you already have, and bring your notes to your consultation. You'll get far more out of that meeting, and so will we.

> **A note on Michigan specifically.** Michigan does not use a generic “living will” or “medical power of attorney.” The document that names who makes your health care decisions is a **Patient Advocate Designation**, and it has its own signing requirements. Forms downloaded from national websites frequently get this wrong.

## Step 1 · Create a will

A will is the starting point of nearly every estate plan. It says what happens to property that is still in your name when you die, and it names the people who will carry out your wishes.

- Names a **personal representative** (Michigan's term for an executor) to settle your estate.
- Identifies the **beneficiaries** who receive your assets.
- Appoints a **guardian** for minor children — for most parents, this is the single most important reason to have a will.

Without a will, Michigan's intestacy statute decides who inherits and the probate court appoints someone to settle your estate. That person may not be who you would have chosen.

## Step 2 · Decide whether you need a revocable living trust

A living trust holds assets during your lifetime while you stay fully in control. At death, those assets pass directly to your beneficiaries without going through probate.

A trust is often worth it if you want to:

- Keep your estate out of probate, and keep it private — probate files are public record.
- Provide continuity if you become incapacitated, without a court-appointed conservator.
- Plan for a blended family, property in more than one state, or a beneficiary who shouldn't receive a lump sum.

- Own Michigan real estate that you'd rather not put through probate.

> **The mistake we see most.** A trust that was signed but never *funded*. A trust only controls what has actually been retitled into it. An unfunded trust is an expensive stack of paper, and the estate goes through probate anyway.

## Step 3 · Put powers of attorney in place

These matter while you're alive. They're what keeps your family out of court if you can't act for yourself, and they're the documents people most often skip.

- **Durable financial power of attorney** — authorizes someone to manage your money, property and legal matters. “Durable” means it survives your incapacity, which is the entire point.
- **Patient Advocate Designation** — Michigan's health care document. Names who makes medical decisions if you can't communicate, and records your wishes about life-sustaining treatment.
- **HIPAA authorization** — lets the people you name actually obtain your medical information. Without it, providers may refuse to talk to them.

You can name the same person for all three or split the roles. A good rule: pick the person who will stay calm and follow your instructions, not simply the oldest child.

## Step 4 · Review your beneficiary designations

This is the step that quietly undoes more estate plans than any other. Certain assets pass by beneficiary designation and **ignore your will entirely**.

Check the named beneficiary on every one of these:

- Life insurance policies
- Retirement accounts — 401(k), IRA, 403(b), pensions
- Payable-on-death (POD) and transfer-on-death (TOD) accounts
- Annuities and HSAs

An ex-spouse listed on a 401(k) from a job you left fifteen years ago will generally still inherit it, no matter what your will says. Review these after every marriage, divorce, birth or death in the family.

## Step 5 · Inventory what you own and what you owe

Your personal representative or trustee can only administer what they can find. A simple one-page snapshot saves your family months.

- **Assets:** real estate, vehicles, bank and investment accounts, retirement accounts, life insurance, business interests, valuable personal property.
- **Debts:** mortgages, home equity lines, credit cards, vehicle and personal loans.
- **Digital:** where your password manager lives and how a trusted person reaches it.

## Step 6 · Check how your real estate is titled

How a deed reads can matter more than what your will says. Michigan offers options — including a **Lady Bird deed** (an enhanced life estate deed) — that let a home pass outside probate while you keep full control and your principal-residence exemption. Whether it's the right tool depends on your mortgage, your other assets and whether Medicaid planning is in the picture.

## Step 7 · Write down your funeral and memorial wishes

Not legally required, and not part of your will — a will is often not even read until after the funeral. Keep these wishes somewhere your family will find them immediately.

- Burial or cremation
- Religious or cultural considerations
- Services, readings, music
- Whether anything is already prepaid, and with whom

## Step 8 · Store the documents where they'll be found

Keep signed originals somewhere secure *and* accessible. A safe-deposit box can be a problem if no one else has authority to open it. Tell your personal representative and patient advocate where everything is — and give your patient advocate a copy now, because that document is useless in a hospital if it's locked in a box across town.

## Step 9 · Tell the people you've named

An estate plan works best when the key people aren't surprised by it. Let your personal representative, trustee and patient advocate know they've been named, roughly what the plan does, and who to call. A short conversation now prevents years of conflict later.

QUICK REFERENCE

## Your Michigan estate planning documents

At a minimum, most complete Michigan estate plans include:

- ❑ Last will and testament
- ❑ Revocable living trust (if your situation calls for one)
- ❑ Deeds retitling real estate into the trust, or a Lady Bird deed
- ❑ Durable financial power of attorney
- ❑ Patient Advocate Designation (Michigan's health care document)
- ❑ HIPAA authorization
- ❑ Updated beneficiary designations on every account
- ❑ Asset and debt inventory
- ❑ Funeral and memorial instructions
- ❑ A letter to your family: where everything is and who to call

WHEN TO REVISIT IT

## Review your plan when life changes

Pull the plan out and read it again whenever any of these happen:

- Marriage, divorce or remarriage
- A birth or adoption
- A death in the family — especially of anyone you named for a role
- Buying or selling real estate, or moving to another state
- Starting, buying or selling a business
- A significant change in what you own

Even with nothing dramatic going on, read through it every three to five years. Laws change, and so do the people you'd pick.

**Ready to put it in place?**
Bring this checklist to a free 10-minute consult. We'll tell you plainly which documents your situation actually needs — and which you can skip.

**(248) 462-6556** · info@berrislawfirm.com · berrislawfirm.com
Offices in Bingham Farms and Brighton, serving clients across Michigan.

This guide is general information about Michigan law, not legal advice, and reading it does not create an attorney–client relationship. Every situation is different. For advice about yours, contact Berris Law Firm, PLLC at (248) 462-6556 or info@berrislawfirm.com.