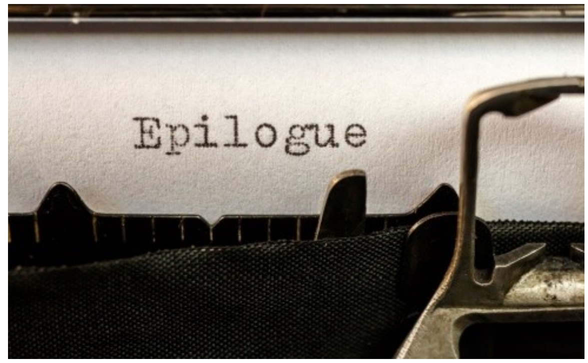
Writing Your Own Epilogue: How Estate Planning Can Shape Your Legacy



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By Lee Carpenter

William Shakespeare said, “A good play needs no epilogue.” When a story is compellingly told, in other words, there is no need for commentary after the curtain falls.

Like a play that is well written, a life that is well lived speaks for itself. But living well includes knowing that you have planned for what happens after you are gone. This foresight includes how easily your estate will be passed down to the people you care about.

Have you written a will that names someone to settle your estate? If something were to happen to you, do you know who would receive your assets? If you have children, have you appointed a guardian to look after them and a trustee to manage their inheritance?

If not, the commentary on your life could well include tales of confused intentions and mismanaged assets, of hurt feelings and squandered wealth. Fortunately, all it takes is a phone call to an estates and trusts attorney to make your epilogue your own.

With your guidance, the attorney can prepare your will, durable power of attorney, and advance medical directive. These essential documents name a cast of characters who can take charge if you should die or become incapacitated.

Your Last Will and Testament names a “personal representative,” or executor, who will administer your estate. Dying without a will, or “intestate,” would require someone to step into this role. The person they select could be an estranged sibling or disapproving parent, who will then have the legal authority to go through your home and distribute your possessions and other assets to your heirs. By preparing a will, you ensure that the *right* person is in charge of settling your affairs.

Writing a will also enables you to leave your assets to the people you select. Shakespeare himself did this when he bequeathed his “second-best bed” to his wife. In addition to your spouse or partner and any children, you might consider including a charitable organization, such as an alma mater or house of worship, among your beneficiaries.

Working with an attorney is an opportunity to coordinate assets like life insurance and retirement accounts with the provisions in your will. These “non-probate” assets are not controlled by your will and instead transfer directly to the named beneficiary upon your death. It’s essential, then, that these beneficiary designations work in tandem your will and are not at odds with it.

Even a well-lived life can include periods of struggle. If you ever become incapacitated, a durable power of attorney can name someone you trust to manage your finances. The duties of your “attorney in fact,” as the person is called, could include paying your bills, filing your taxes, or even selling your house in order to move you into assisted living.

An advance medical directive is like a power of attorney but relates to your health care. It enables you to state your wishes for managing an end-of-life illness and to name a trusted individual who will ensure that your wishes are carried out.

If you lose capacity and don't have an advance directive, the authority to make medical decisions on your behalf will fall to your next of kin. Surprisingly, this could be several people, like a group of siblings, who could have very different ideas about how to manage your care. By preparing an advance directive, you can instead name someone with your best interests at heart to take on this essential role.

Of all the benefits of having an estate plan, perhaps the greatest is the reassurance of knowing that the actors you have chosen are prepared to step into their roles when the need arises. With that in mind, when is the best time to have your estate-planning documents drawn up? As Shakespeare said in the *Merry Wives of Windsor,* "Better three hours too soon than a minute too late."

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