

Everyone should give consideration to estate planning issues because a good plan contains provisions to protect your interests during your lifetime as well as provisions that reduce the burden on your loved ones when you pass away. However, estate planning is particularly important for couples in the LGBTQIA+ community because the default laws may not provide adequate protection. Take time to discuss the critical issues with an attorney, and make sure your legal advisor understands the special concerns you face.

Marriage Changes Everything

If you're not legally married to your partner, it does not matter how committed your relationship may be. You have no legal rights in each other's lives. That means that unless you have the right estate planning documents, your partner cannot talk to doctors if you are ill or injured. Your partner will not inherit any of your property when you pass away, and they could even lose property they consider to be their own. If you are raising a child together and that child is not biologically related to your partner, they might have no parental rights.

If you don't want to or cannot enter a legally valid marriage, you should take other steps to protect your partner. Even if you are married, the date of your marriage may not accurately reflect the start of your committed relationship, so you can protect your partner's right to marital property and other interests by creating the appropriate estate planning documents.

Power of Attorney and Health Care

Authorization

Chances are, if you were rendered unconscious in an accident, you would want your partner to be able to authorize treatment and speak with doctors about your condition. You can execute a medical power of attorney to allow your partner or someone else you trust to make health care decisions on your behalf if you are not able to make or communicate decisions on your own. You can also prepare an authorization statement that overrides privacy restrictions in the Health Insurance Portability and Accountability Act (HIPAA) and allows medical professionals, pharmacies, and insurance companies to communicate with your partner about your needs.

Durable Power of Attorney

Just as a medical power of attorney could allow your partner to make health care decisions on your behalf, a durable financial power of attorney would enable your partner to manage your business and financial issues if you need assistance. You can have a lawyer prepare a power of attorney that takes effect immediately or one that only springs into action if you become incapacitated. You can also limit the powers you grant.

Wills and Trusts

To protect your partner after you pass away, you can have your attorney prepare a will, possibly in combination with a trust. You can specify which property should belong to your partner and name your partner as the preferred guardian for any minor children.

You could also establish a living trust that would pass all property to your partner automatically when you pass without the delays and expense of probate.

Find the Best Options to Protect Your Future

At the Nordhaus Firm, we develop custom plans to protect families in the short and long term. We understand the concerns that LGBTQIA+ couples face, and we can help you develop the best plan for your future. Contact us today to get started.