

Estate Planning for Unmarried Couples

Why Planning Is Essential When the Law Treats Partners as Strangers

Advisors frequently work with couples who share a home, a family, and a life but not a marriage certificate. While these relationships can be long-term and deeply committed, the law does not recognize unmarried partners as having automatic rights. For these clients, estate planning is essential. Without proper documentation, surviving partners may face financial hardship, eviction, or conflict with extended family members.

NO AUTOMATIC RIGHTS: Why Unmarried Couples Must Plan

Regardless of how long they've been together, the law views unmarried partners as legal strangers.

That means:

- No automatic right to make medical or financial decisions
- No automatic inheritance rights
- No protections if the relationship ends
- No legal standing in disputes with the deceased partner's family

Even co-owning a house or holding joint bank accounts does not create full protection.

Advisors must clearly explain that nothing happens automatically without proper planning.

ESSENTIAL DOCUMENTS EVERY UNMARRIED COUPLE NEEDS

Because they have no default legal rights, unmarried couples must create their own framework through their estate plan.

Key documents include:

- **Health Care Power of Attorney:** Ensures the partner can make medical decisions during incapacity.
- **Durable Financial Power of Attorney:** Allows the partner to manage finances if the client is unable to do so.
- **HIPAA Release:** Grants access to medical information; without it, hospitals cannot share updates, even if both partners assume they will.
- **Will or Trust:** Establishes inheritance rights, names beneficiaries, and provides clarity for family members.
- **Cohabitation Agreement:** Defines financial responsibilities, property ownership, and expectations in the event of a breakup, a critical but often overlooked tool.

These documents together create the rights that married couples automatically receive under state law.

REAL-WORLD RISKS AND COMMON PITFALLS

Unmarried couples are especially vulnerable to painful outcomes if no plan is in place.

Examples include:

- Surviving partners being evicted from the home because title passed to the deceased partner's parents or siblings
- Family members asserting control over funeral arrangements, medical care, or personal property
- “The right thing” being interpreted differently by grieving relatives, leading to conflict
- Survivors taking on tax burdens if family members attempt to gift assets back to them

Advisors should emphasize that relying on goodwill is risky, even from kind, well-intentioned family members. Grief, stress, and misunderstandings often change family dynamics overnight.

THE ADVISOR'S ROLE: Surfacing Hidden Issues

Advisors can add tremendous value by:

- Asking direct questions about relationship status, shared property, and long-term intentions
- Encouraging full disclosure of prior agreements (e.g., cohabitation agreements, prior divorce decrees)
- Coordinating with estate planning attorneys to ensure documents are consistent and comprehensive
- Stressing the urgency because unmarried partners have zero default protections without written documents

Helping clients articulate and document their wishes prevents the painful and costly outcomes that frequently occur when unmarried couples do not plan.

THE BOTTOM LINE

Estate planning for unmarried couples is indispensable. Because the law offers no built-in protections, clients should proactively create their own. Advisors who guide these couples through appropriate documentation could help safeguard relationships, financial security, and long-term intentions.

During estate planning reviews, ask clients:

- Are you and your partner legally married?
- If not, have you both completed powers of attorney, HIPAA releases, and a will or trust?
- Do you have a cohabitation agreement that addresses property ownership and financial responsibilities?

To learn more about this topic, please watch our [Office Hours video](#) or reach out to your investment consultant.

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