

Office Hours Study Guide

Choosing Decision Makers in an Estate Plan

Why “Too Many Decision Makers” Creates Problems

Clients often want to avoid hurt feelings by naming multiple children or multiple trusted individuals as joint decision makers in their estate and incapacity documents. While the intention is understandable, shared authority almost always creates conflict, delays, and, in some cases, litigation. Advisors can help clients understand why “co-everything” is usually a bad idea.

THE RISK OF NAMING MULTIPLE DECISION MAKERS

Most parents assume naming two or more children together is the fairest option. Unfortunately, joint authority often leads to:

- **Deadlock:** If co-agents disagree, even over a minor issue, neither can act. Many documents do not include a tie-breaking mechanism.
- **Court involvement:** If co-agents disagree, even over a minor issue, neither can act, and many documents do not include a tie-breaking mechanism.
- **Administrative paralysis:** Healthcare decisions, financial transactions, or trust distributions can grind to a halt if unanimity is required.

Even siblings who “get along fine” can experience tension when making high-stakes decisions during periods of stress or grief. Advisors can help clients understand that naming a single decision maker is not about favoritism. It’s about preventing conflict.

One major exception is the HIPAA Release Form. In a typical functioning family, listing all children on the HIPAA release ensures transparency and avoids miscommunication.

A HIPAA release:

- Grants access to medical information,
- Does not grant authority to make decisions
- Allows multiple individuals to be listed without creating conflict
- Helps family members stay informed without relying on second-hand updates

But for every other fiduciary role, it is generally best practice to appoint one person at a time, with clearly named successors.

IF CLIENTS INSIST ON MULTIPLE DECISION MAKERS

Some clients feel strongly about listing co-agents. If they insist, advisors should encourage clients to make sure:

- The document explicitly states that each agent may act independently, without requiring unanimous consent
- The clients understand the risks, including delays, disputes, and the possibility of court intervention
- Successor agents are still named, even if primary agents serve jointly

Clear drafting can minimize (though not eliminate) the risks associated with shared authority.

THE BOTTOM LINE

Choosing estate planning decision makers is not merely a sentimental choice, it's a structural one. Advisors who help clients think through the realities of co-decision-making can prevent family conflict and ensure that critical decisions are made quickly and effectively.

During estate planning reviews, ask clients:

- "Who will make decisions if you can't?"
- "Should this person act alone, or should others be informed but not empowered?"
- "Do your documents clearly distinguish between access to information and authority to act?"

Guide clients toward naming one primary decision maker with successors and use HIPAA releases to keep families informed without creating unnecessary conflict.

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

The opinions referenced are as of the date of publication and are subject to change without notice. Material presented herein has been derived from sources considered to be reliable, but the accuracy and completeness cannot be guaranteed. This material is for informational use only and should not be considered investment advice. Clark Capital does not provide tax, legal, or accounting advice. Individuals should consult with their personal tax, legal, and accounting professionals regarding the legal or tax implications of a particular suggestion, strategy or investment, including any estate planning strategies.

This document may contain certain information that constitutes forward-looking statements which can be identified by the use of

forward-looking terminology such as "may," "expect," "will," "hope," "forecast," "intend," "target," "believe," and/or comparable terminology (or the negative thereof). No assurance, representation, or warranty is made by any person that any of Clark Capital's assumptions, expectations, objectives, and/or goals will be achieved. Nothing contained in this document may be relied upon as a guarantee, promise, assurance, or representation as to the future.

Clark Capital Management Group, Inc. is an investment adviser registered with the U.S. Securities and Exchange Commission. Registration does not imply a certain level of skill or training. More information about Clark Capital's advisory services can be found in its Form ADV and/or Form CRS, which are available upon request.