



**Q LEGAL: Introduction to Estate Planning**  
by Christopher Heritage

For many of us, talking about incapacity or death is not an easy topic. However, in my experience there has been one notable (and somewhat amusing) exception. I have noticed that some people have no difficulty talking to me about my impending death or incapacity once they find out I ride a motorcycle. The conversation goes something like this: “Wow...you ride a motorcycle. That’s so cool. Beautiful bike.” I always wanted a motorcycle, but when I was growing up my mom constantly pointed at motorcyclists and said “see that guy on the motorcycle? He’s going to die. And that guy...he’s going to die too.” Another friend calls my motorcycle a “donorcycle.” Both of these comments are true stories, and are not uncommon. It’s one of several reasons I decided to put my own estate in order.

However, talking about these topics is usually uncomfortable. For many of us, we rarely see the need to think about our demise and its effects on our loved ones, comfortable in the thought that we are young, healthy and immortal, and estate planning is really only necessary for people in ill health or their later years (or people who ride motorcycles).

But unexpected events do occur. Consider the lessons of September 11, 2001. Many of those who perished that tragic day were gay, lesbian and transgender members of our community. Some were young, some were old. I am sure none of them expected to perish on that beautiful sunny September morning. Some surviving partners lost their homes; their treasured mementoes; their life-time savings. Their relationships meant nothing to our government, or the institutions that were supposed to help the victims and their families. In a time of tragedy, turmoil and grief, these survivors were forced to do battle to protect what was theirs.

For members of the LGBT community, proper planning has always been especially crucial since our chosen families are normally not recognized by our government. Without the proper documentation in place, our families have little, if any, protection, and our wishes upon incapacity and death will most likely not be honored.

What is always most tragic about these stories is that the situations could have been avoided, or the turmoil lessened with some basic estate planning. Estate planning is not just for the rich, or even the old; it is something that every one of us must do regardless of age, relationship status, or wealth. Estate planning gives us the opportunity to do the

right thing for our families and loved ones, by providing guidance and instructions on the distribution of our property upon our death. Additionally, thorough estate planning also deals with handling incapacity while we are living. With estate planning, we have to get it right the first time because there aren't any second chances.

But what is estate planning? The most basic estate planning should provide the following:

- Instructions on who will make medical decisions if you are unable
- Details on the types of treatments you want if you are terminally ill
- Appointment of a person to make financial decisions if you are unable
- Instructions on the distribution of your property upon your death
- Protections for your partner and chosen family
- Appointment of guardians and provisions for the care of your children

More comprehensive estate planning might include strategies to:

- Reduce estate taxes
- Protect your estate from creditors
- Avoid probate
- Provide for charitable giving

What if the unexpected happens and you haven't done any estate planning? The State of California has a plan already set out for you that may not recognize any of your wishes or concerns. Only comprehensive estate planning can ensure that your partner, children or others dear to you are guaranteed what you intend. In upcoming articles we will explore some of these estate planning strategies.

## BYTAG

*This article is part of an ongoing series of articles pertaining to legal issues in the LGBT community. This information is intended for general information purposes only, and is not intended to provide legal advice. Christopher Heritage is an attorney in Palm Springs, CA, who focuses on LGBT estate planning, domestic partnerships, probate and trust administration, and debtor/creditor issues. He welcomes questions and comments, and can be contacted at 760.406.4717, or by email: [chris@heritagelegal.net](mailto:chris@heritagelegal.net)*