

# Estate Administration: Should You DIY or Hire an Attorney?

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A common question we get from people handling a loved one's estate is whether they need an attorney—or if they can manage the process themselves. Our answer? It depends. Every estate is different, and the level of complexity, as well as the personal bandwidth of the estate representative, plays a major role in deciding whether to go the DIY route or seek professional help.

As attorneys, we can handle as much or as little of the estate administration process as needed. That said, there are certain responsibilities that only the estate representative (the personal representative (PR) or formerly known as executor) can fulfill. For example, only the estate representative can open an estate bank account, sign checks from that account, and withdraw or close out accounts in the decedent's name. But for most other tasks, the estate representative can choose to either take a hands-on approach or delegate to an attorney.

## **Getting Started: Who Has Access to Assets?**

If someone passes away with assets and outstanding bills, the first questions to ask are: "Who can access their accounts?" and "Who is entitled to inherit them?" The answers depend on how the assets were structured before death.

Some accounts, like those with joint owners or designated beneficiaries (such as life insurance policies or retirement

accounts), pass automatically to the named individuals upon death. These are considered *non-probate assets* and don't require an estate representative to access them. Typically, all that's needed is a death certificate.

But any asset held solely in the decedent's name—without a joint owner or beneficiary—will require the appointment of an estate representative before it can be accessed. Many people assume that a durable power of attorney remains valid after death, but it does not. Once a person dies, only a court-appointed PR has legal authority to manage the estate.

### **Probate When There's a Will**

If the decedent had a valid will under Massachusetts law, the named PR must go through probate by presenting the will and a certified copy of the death certificate to the county probate court. Before COVID, this typically meant making an in-person appointment. These days, however, many counties require the process to be handled by mail or online forms. Some estate representatives handle this themselves, while others prefer to have an attorney manage it.

### **When There's No Will: A More Complicated Process**

If there's no will, the estate administration process is more involved. MA law dictates who has priority to serve as the PR, starting with the surviving spouse. If there is no spouse, the decedent's children or grandchildren have the next right to serve.

When multiple children exist, each has an equal right to be appointed, but any can decline by signing a renunciation. If more than one child wishes to serve, they must either serve together or file a petition with the court asking a judge to decide who should be appointed.

If no spouse or children exist, the right to serve falls to more distant relatives—siblings first, then nieces and

nephews, and eventually cousins. The more distant the relatives, the less likely they are to step forward or even be aware of the decedent's passing.

### **When an Attorney is Most Useful**

For simple estates—especially those with a valid will and cooperative family members—some people manage the probate process without legal help. However, an attorney is often necessary when:

- The estate includes complex assets or significant debt.
- There is no will, and multiple family members want to serve as administrator.
- There are disputes over who should inherit.
- The court must appoint an administrator because no eligible family members step forward.

In these situations, legal guidance can help avoid costly mistakes and delays. While some people successfully navigate estate administration on their own, others find that hiring an attorney saves time, stress, and frustration. Whether you go the DIY route or seek legal assistance depends on the complexity of the estate—and how much of the process you want to handle yourself.

*The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common estate planning tools. This article does not constitute legal advice.*