

“What is Cyber Intestacy?”

By Evelyn Preston



Like me, so many seniors planned and paid for living trusts, relieved that our personal and financial lives are all set and secure for heirs.

However, few of us included our often extensive online existence. Yet besides “friending” grandchildren or following the stock market, consider online banking and buying, medical messaging, automatic payments, even frequent flyer miles.

It’s no longer enough merely to stash passwords and delete suspicious emails from Nigeria; we all need to prepare for a new and serious problem—**cyber intestacy**, omitting our online lives from our planned estates.

Great value is at stake if we don’t legally insure the smooth transition of ALL our assets; it’s time to beef up financial planning in an increasingly paperless world. Nick Vonnegut in the WSJ writes, “Wealth management is a business of tomorrows...that can get complicated when people don’t leave clear records about their digital footprints.” Seniors are out there, even after dementia or death!

Q: I have access to all my aging parents’ computer passwords and IDs as this column recommended. Can’t I just take over for them when necessary?

A: Not easily! Even if you’re already linked to another person’s online credit cards, bank transactions or mutual funds as their “account manager” or “interested party,” privacy issues can frustrate legitimate access to online accounts. Most of us blindly

click to “accept” the “Terms of Service Agreement” for various websites. Who can read all that stuff! Better check again. Yahoo, for example, terminates accounts at death and allows no entry to others with or without documentation.

Q: I have a trust and a will on file with my estate planning attorney. Can’t she just open and handle all my online sites if something happens to me?

A: Especially as fiduciaries (authorized-to-act professionals), find rules strengthened and tightened, ask if your trust attorney is familiar with web access issues and/or has a technology expert on staff. Legal paperwork, or a form you can sign for “Authorization for Release of Electronically Stored Information,” should be in place to insure complete access to personal accounts after death. Otherwise, auto-pays continue, medical records remain under wraps and even a trusted broker, attorney or physician—even with permission granted—cannot always take over, make changes or retrieve important information.

Q: What’s the best procedure for securing my online life if I die or something happens to me?

A: Plan ahead to avoid online loss or identity theft--thieves read obits. Attorneys writing in a 2013 Estate Planning article suggest giving your fiduciary a complete online inventory: computer/iPhone/email accounts and passwords; online transactions (Amazon, PayPal, regular in and out payments, etc.); bank/brokerage info/trades; blogs/domain names/web pages/photos and shared sites. Write down your personal wishes for these sites like a digital will. Store complex passwords in the cloud, add to an estate plan or keep in a safety deposit box.



As I deal with my 88 year old brother’s accounts via phone and online armed with a power of attorney plus being co-trustee of his estate, infuriating obstacles arise with each separate company from his lost credit card to his incorrect Comcast bill. I had to change my online browser to redo my ID and password even on our joint bank account. These issues are real; our health and longevity issues are real. Along with including digital-asset clauses in our estates, regularly check online changes and transactions and continually update other financial and legal information.

Q: Why is there so much confusing information about privacy policy and Internet access; are the rules set by Congress, individual states or each separate tech company?

A: According to Vonnegut, “Computer users have 4th amendment rights to privacy—not so for computer network companies. He writes that Congress filled the gap by penalizing unauthorized access but neglected to account for fiduciaries acting on behalf of clients. Therefore, businesses can forbid access to executors and others. Even sharing passwords can be illegal. Not all states agreed on a standardized access law so be sure you discuss this potential problem with your financial advisor or estate planner.

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