



# Financial Planning



## 5 Estate Planning Tips for LGBTQ+ Clients

By [Victoria Zhuang](#) June 29, 2023 7:35 PM

---





More research. Continuing ed  
Award-winning magazine acce



LIGHTFIELD STUDIOS/stock.adobe.com

Patricia De Fonte remembers watching the news unfold on Instagram of a drag queen who had been estranged from biological family, but passed away with no [estate plan](#).

"Everything is chaos," De Fonte recalled. "Because the family members want all the assets but don't want to pay for a funeral, don't want to participate in any way."

In the end, friends of the drag queen had to raise funerary funds for the departed through GoFundMe, said De Fonte, an estate planning attorney who is the founder of [De Fonte Law PC](#) in San Francisco. De Fonte, who has queer family members, is an ally of the community and works with many clients who identify as LGBTQ+.

This sad and rather public drama could have been easily side-stepped with an estate plan that anticipated such problems, De Fonte said.

Case in point: a drag queen client of hers who did have an estate plan was "very clear as to who gets what and which family members were in and which were out, and which friends would receive, and which nonprofits."

The result? "Two very different outcomes for two people who died within a short amount of time from each other, both rocking the same community," De Fonte said.

Many clients, even the very wealthy, [struggle with estate planning](#), but the risks for those identifying with the LGBTQ+ community are much higher – making it paramount that financial advisors prioritize this process in their relationships with those clients. Otherwise, a variety of unique problems await them if they or their partners die or become incapacitated.

**Read more: [LGBTQ employees are heading for a 'retirement crisis'](#)**

*Financial Planning spoke with several financial advisors and estate planning experts on how to better serve the LGBTQ+ community in this area, both during Pride Month and beyond. Below are five challenges they shared, and tips to handle them.*



# Plan around healthcare and caregiving

While [healthcare and end-of-life care are costly](#) for Americans at large, the situation is even worse for LGBTQ+ individuals – compounded by a lower availability of family members to provide caregiving and [lower earnings and retirement savings](#) to help them afford healthcare.

"Older LGBTQ+ persons are twice as likely to live alone in their senior years, depriving them of primary caregivers and making them extremely vulnerable to social isolation," Joseph Hahn, an executive director on the Wealth Planning & Advice team at J.P. Morgan Wealth Management, wrote in a recent [white paper on estate planning for LGBTQ+ clients](#).

In addition, "they are very supporting of other members of their community, which can impact their own financial success," said Catherine Valega, a certified financial planner who is the [founder of Green Bee Advisory](#) in Winchester, Massachusetts and an investment adviser representative of LPL RIA. Valega, who describes herself as an ally of the community as someone with a gay daughter, said "added family start-up costs" and lower earnings due to workplace discrimination also make it hard for those clients to build and maintain wealth for their own end-of-life needs.

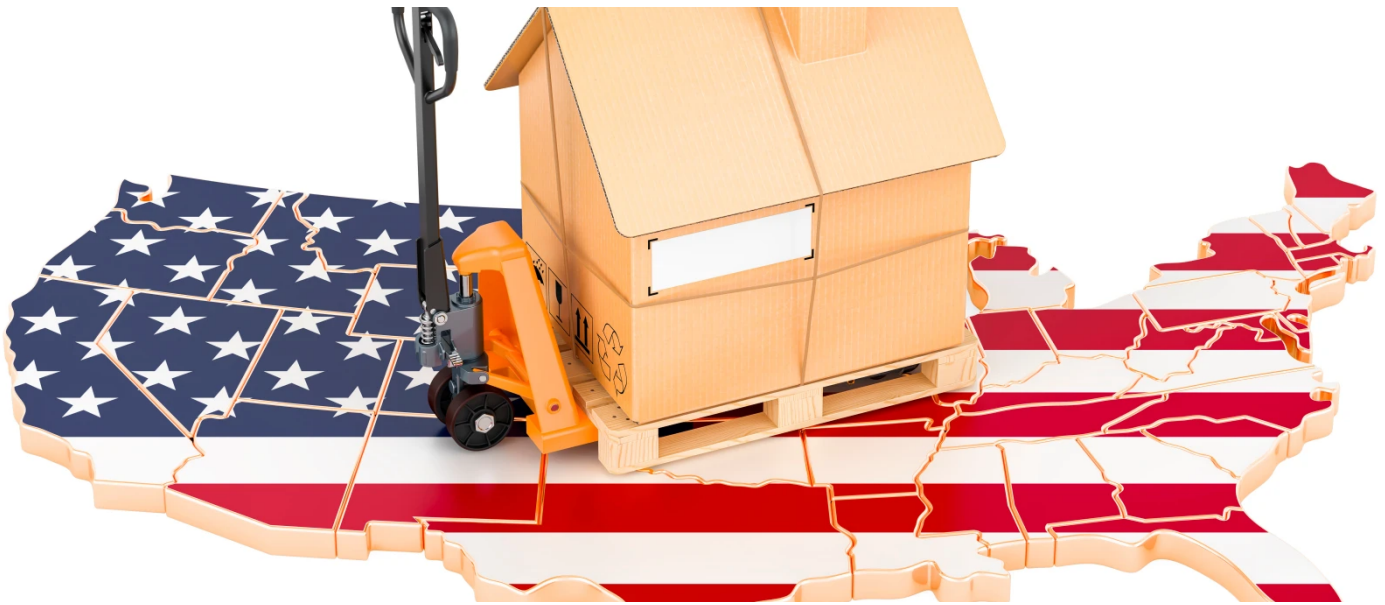
Advisors must help their LGBTQ+ clients plan aggressively for higher healthcare savings in anticipation, Hahn wrote. Clients who are living with HIV should also "make sure existing life insurance and long-term care coverage does not lapse, because it likely cannot be replaced."

Advisors should also discuss planning in advance to be treated by providers and facilities that are gender-affirming and respectful.

"56% of LGBTQ+ patients and 70% of transgender patients report experiencing discrimination in healthcare settings," Hahn said in the report.

"For many of us, there are real concerns about what would happen if we need a care facility," said Frank Summers, a Charlotte, North Carolina-based [certified financial planner with Cetera Investors](#) who identifies as a gay man. "Harassment by neighbors is a very real concern ... Would we need to go back into the closet?"





*alexlmx/stock.adobe.com*

## Different states, different rules

Another problem is the rapidly changing web of laws protecting LGBTQ+ rights, both federally and across different states.

Despite the federal [legalization of same-sex marriage in 2015](#), and a [2020 ruling by the Supreme Court](#) to protect LGBTQ+ employees from workplace discrimination, many states have passed religious exemption laws that effectively permit individuals and a variety of organizations to refuse service to LGBTQ+ persons on religious grounds.

"It is pushing people perhaps back into the closet. It's forcing them to move from state to state," De Fonte said.

When clients move to take shelter in states with more protective laws, "You need to ensure that they're getting their documents updated because every state has its own nuances," she added. The advisor must ensure that the estate plan drafted in a prior state of residence will still hold water in the new state.



*Kannapat/stock.adobe.com*

---

# Married vs. unmarried, children vs. no children

Steve Branton, a San Francisco-based senior vice president and [advisor at registered investment advisory firm Wealthspire](#), said estate planning is especially complicated for LGBTQ+ clients because they frequently come into those meetings with a nontraditional family structure.

"I am LGBT myself," Branton said. "For my own planning with my spouse, I also had to navigate the tricky legal statuses of unmarried partners, domestic partners and now married. Each one had its own special planning issues."

Branton cited 2019 data [published in 2021 by the U.S. Census Bureau](#) showing that "only 58% of U.S. same sex households are married. The remaining 42% were unmarried partners. For opposite sex couples, the percentages were 13% unmarried and 87% married couples." Many states have laws that automatically designate the surviving spouse in a marriage as an inheritor of an estate but may not extend that protection to an unmarried partner.

In addition, "same-sex married couple households were about half as likely as opposite-sex married couples to have children," the Census Bureau said in its report.

"Estate planning when there are no natural heirs is often very different," Branton said. "Much more consideration needs to be done about who will take on significant roles in the estate plan over time (successor trustees, powers of attorney, etc.) as well as how estates are distributed."

For this reason, Branton said he recommends advisors find an estate attorney that specializes in unmarried or domestic partner couples and has experience with unusual family structures.



*Lisa Weatherbee/stock.adobe.com*

## Pay attention to guardianship and publicity rights

De Fonte said LGBTQ+ clients need to prepare for the possibility that, if they have children, they might pass away and need the right person to step in as a legal guardian for those children. This needs to be carefully considered, she said, and not just thrown in as "a couple of names" for guardianship.

"You left your family and you move to California, and you have this beautiful life and you have children. And you die, and then your grandparents back in the red state want the children ... and the courts might see it as, well those are the grandparents." Clients would have to explicitly exclude hostile family members in a guardianship nomination to prevent their children from being raised in a home that disparages the clients.

In addition, De Fonte said, for states that recognize what is known as postmortem rights of publicity – the legal right to control the commercial use of one's name, image and likeness after one's death – LGBTQ+ clients who are famous from their work in the creative industries need to take care to ensure publicity rights go to the right people upon their passing. By explicitly leaving those rights to a nonprofit of their choice, for instance, they could put their legacy to use for a cause that matters to them.

"If they don't have an estate plan, it's the family who will inherit that right of publicity in some jurisdictions. And what's really scary is all of a sudden, this wonderful person is being used, I don't know, on a billboard for conversion therapy."







Elena/stock.adobe.com

## Vet allies to carry out estate plans

"A financial planning practice and their LGBTQIA+ clients need to explicitly examine and define estate planning roles such as executors, guardians, beneficiaries, attorneys in fact, and recipients of the transfer of titled property," said [Jason Lampert, a certified financial planner at Woodson Wealth Management](#) who is based in New York City, identifies as an LGBTQ+ individual and is close to many trans and queer people.

Lampert added that advisors should ask clients to think carefully about who they want to appoint as the person making medical and financial decisions for them, if they're unable to.

Additionally, sometimes for added privacy a more complicated structure, like a trust, might be necessary "to make sure the client's wishes will not run afoul of defaults in the law," Lampert said.

The estate planning attorney is also an important person to get right. De Fonte said advisors could screen for someone who will have their clients' needs in mind by asking questions such as: "Do you have provisions in your documents that require the person in charge to find LGBT+ friendly healthcare providers? Are you addressing gender presentation in your advanced healthcare directive? How do you address clients whose children have identified as trans? Are your documents written with gender-neutral language?"

## MORE FROM FINANCIAL PLANNING

### Another deadline, another amendment for FINRA's remote work rule

The latest proposed changes tweak criteria that would disqualify firms from having 'residential supervisory locations.'

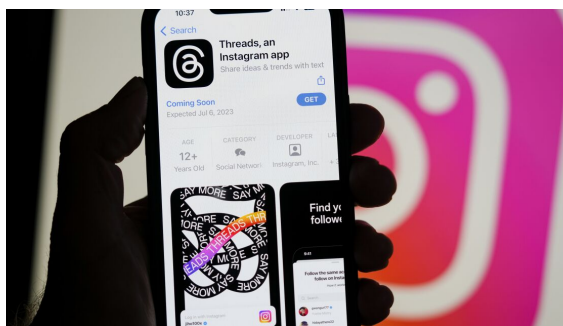
Jul 6, 2023



### What advisors need to know about Threads, Mark Zuckerberg's so called 'Twitter Killer'

As Twitter continues to undergo unexpected and at times unpopular changes, a new challenger from a social media OG is gunning for the bird app's throne.

Jul 6, 2023



### Ask an advisor: What should I do with all these I bonds I bought last year?

Series I bonds were such a good deal last year that one New York lawyer bought \$20,000 worth of them. One year later, what, if anything, should he do?

Jun 2, 2023



## Commonwealth, Stifel and Raymond James get top advisor satisfaction grades, dethroning Edward Jones

J.D. Power's latest study used a different scaling method that brought down scores across the industry among 15 major firms examined in the firm's annual poll.

Jul 5, 2023

---



## What advisors really use fintech for, and why ease of use matters most: Wealthtech Weekly

Plus, two wealthtech startups celebrate successful funding rounds.

Jul 7, 2023

---



## 5 takeaways from Arizent research on using tech to win next-gen clients

A new study by Financial Planning parent company Arizent shows that firms are missing a big opportunity to get ahead on winning in the wealth transfer race.

Jul 6, 2023

---



# Wealth management's \$1T conflict of interest

Cash sweeps are lucrative to the industry, but not to clients. Here's how financial advisors can get greater yields.

FOLLOW US IN REAL TIME



[About Us](#)

[Contact Us](#)

[Financial Planning Magazine](#)

[CE Quiz](#)

[Content Licensing/Reprints](#)

[Advertising/Marketing Services](#)

[RSS Feed](#)

[Privacy Policy](#)

[Subscription Agreement](#)