

NEW YORK BREAST CANCER LEGAL RESOURCE GUIDE



Payable on Death Bank Accounts



LEGAL WELLNESS INSTITUTE
at THE FAMILY CENTER



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Payable on Death (POD) Accounts

Like all adults, Breast Cancer patients and survivors should consider doing **End-of-Life Planning**, which is the process of preparing for your future medical and financial needs and deciding how you want your belongings and finances handled after you die. Preparing in advance eases the stress and burden these issues can have on you and on your loved ones.

If you have money or assets to leave to your family/friends, it is important to think of whom exactly you want to leave these things to and plan so that your dependents will have legal access to them.

Some people choose to execute a **Last Will and Testament (known as a Will)**, which is a legal document that states how you want your personal affairs and assets handled after your death. A Will must meet specific requirements in order to be legally valid and enforceable, and we strongly advise that you get help from an attorney to draft and execute your Will. A Will often requires that your dependents go to court after your death in order to gain access to your assets. For many people, a Will is not actually necessary.

As an alternative to a Will - or in addition to it - you may consider designating a **"Payable on Death" (POD) Beneficiary or Beneficiaries** on your bank accounts. Designating a POD Beneficiary is a useful and underutilized End-of-Life planning tool

* Please note that this information is based on New York State law and may not be accurate for those living in other states.*

Why Designate a POD Beneficiary?

- If you designate a POD Beneficiary on your bank accounts, the person you name as beneficiary will **not have to go to court** to gain access to those accounts. The court process can take many months or even years.
- Quick access to your bank accounts is particularly important if your family/friends might need the money immediately following your death, such as **to pay for your burial or funeral or meet immediate needs**.
- Designating a POD Beneficiary for a bank account does not change your access to your money while you are alive; your chosen **Beneficiary has no power to control or use the money during your lifetime**.
- **You can change your POD Beneficiary** at any time.

Other Things to Note

- **If you have designated a POD Beneficiary, your Will does not control who inherits money in that bank account.** For example, if your Will says you want your sister to inherit your bank account, but your brother is listed as the POD Beneficiary on that same bank account, your brother will get the money.
- If you have designated a POD Beneficiary, but you pass away with unpaid debts and taxes, your POD account may be subject to claims by creditors.
- If you are married at the time of your death, your spouse may have a claim to some or all of the money in your account, even if you have named someone else as the POD beneficiary of that account.
- A Payable on Death arrangement is also known as a "Totten Trust."
- You should think about the financial situation of the person you want to name as a POD Beneficiary. If that person receives certain public benefits (like Cash Assistance, Medicaid, Supplemental Security Income, SNAP, etc.), naming them as your POD Beneficiary could cause them to lose these benefits if you pass away. You should consult with an attorney about this, or consider naming a different POD Beneficiary.

How does the process of designating a POD Beneficiary work?

- To designate a POD Beneficiary on a bank account, most banks require you to **go in person to your bank branch**, and to provide the full name and date of birth of the person(s) you are designating as POD Beneficiary.
- Upon your death, the POD Beneficiary will have access to the funds as if the bank account had always belonged to them, by **providing valid identification and proof of your death** (i.e. death certificate).
- Note: If you want to change your POD Beneficiary, you will need to go to the bank to do this. **You cannot change your POD Beneficiary in your Will.**

Questions?
NYC Residents
impacted by breast
cancer can call us at
The Family Center's
Legal Wellness
Institute.
Our intake line is
718-789-3841 x150.

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