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## Digital Estate Planning Guide

### Services help you plan for disposition of online accounts after death

By *Alegra Howard*

While thinking about death or disability isn't pleasant, planning your estate is necessary. In this era, your estate will likely include online accounts and other elements of cyberlife, such as social media, streaming services, etc.

Financial professionals recommend creating a digital estate, or digital legacy, plan, to have your final instructions and personal

documents in one place for your loved ones to access when the time comes. Leaving your "digital assets" out of your estate plan may prove burdensome to your survivors and make an already stressful time even more difficult.

Digital assets include your online accounts and mobile apps for banking, email, social media, video and photo sharing, gaming, personal websites, blogs and more. With so many of us conducting our personal business

on the Web, it's no surprise that a new industry has sprouted up to help us manage our online life after we die.

There are a growing number of companies that will help you plan your own digital legacy and sites to help you document your digital estate. Consumer Action surveyed 20 digital estate planning companies that help consumers plan how others may access their online accounts after their death. Some of these services deliver a personalized message to your contacts after your death, and a couple of them help survivors locate your accounts if you haven't left the information for them.

The 20 digital estate planning companies we surveyed between Feb. 16 and May 4 of this year offer one or more of the following services:

**Digital estate planning:** These companies provide the guidance

needed to compile and organize your digital assets, including any financial or personal accounts that you have online (such as bank accounts), stored media files (photos, videos, mp3s and e-books), rewards programs and social media profiles. Users receive step-by-step instructions on how to complete hard copy templates or web forms in order

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to leave detailed instructions for survivors. These plans allow you to specify what online account information should be shared or deleted and who, if anyone, will be granted access. The companies safely store essential account login information so survivors can access the accounts after death.

Sixteen companies we surveyed offer digital estate planning: Afternote, AfterSteps, BestBequest, Cirrus Legacy, Estate Assist,

See "Services" on page 2

#### Web Bonus *More stories and resources online!*

• **Online or off, financial accounts follow clear rules**

Learn your rights when accessing another person's financial accounts online.

• **Digital Estate Planning Guide**

Consumer Action surveyed 20 companies that help consumers organize their own digital assets and advise survivors on how to access and manage a deceased loved one's digital estate.

Go to: [http://bit.ly/CA\\_News\\_Spring\\_2015](http://bit.ly/CA_News_Spring_2015)

### A fitting end for the cyber business of the deceased

By *Ruth Susswein*

Before our loved ones die, many of us don't give much thought to how to wrap up the deceased's personal business. Nowadays, our increasing involvement online complicates matters even further. So what do you do if your mother passes away without a plan to deal with her digital estate?

For starters, without clear written authorization as the estate executor, or representative, it's unlikely you will be able to access online accounts after someone dies, even if that person is a minor. To protect the account owner's privacy, the fine print of website user agreements often prohibits you from accessing another person's online accounts.

The suicide of a 21-year-old Wisconsin man pitted his parents

against Facebook (and Google) for access to their son's online accounts. Through his online activity, they hoped to find answers to why he took his own life. The social media companies fought to maintain their commitment to protect users' privacy. The Wisconsin court ruled that, as their son's heirs, the parents were entitled to access his assets—including his digital ones.

Only a handful of states have laws that address digital assets (Connecticut, Delaware, Idaho, Indiana, Nevada, Oklahoma, Rhode Island and Virginia). State laws vary as to what types of online accounts (email, social media, cloud storage, etc.) are covered. Delaware is the only state that provides heirs with full access to digital assets. Virginia's

See "Fitting end" on page 4

### Privacy vs. access for the online life of the dead

By *Linda Sherry*

While questions about digital life after death have been bubbling up since people's love affair with the Internet began two decades ago, the discussion has taken on new life as state legislators adopt laws, private companies create services and tools to help people manage their digital estates, and journalists write about the difficulty in accessing the online accounts of departed loved ones.

According to Alethea Lange of the Center for Democracy and Technology (CDT), who has studied digital legacy issues, "Federal law is silent on the question of access after death, outside of a few general restrictions set forth in the Electronic Communications Privacy Act (ECPA) that may apply. In the absence

of clear regulations, companies are playing it safe by defaulting to denying access or establishing rules in their Terms of Service. Although some, like Facebook and Google, have created tools to allow users to express their wishes." (See page 2 for social media directives.)

Led by Delaware, which passed the first law giving executors a blanket right to access digital accounts, a slew of states are considering similar proposals. Privacy advocates feel some laws give too much away and don't fully consider the privacy rights of the dead. Currently, there are two legislative models with "the most traction," says Lange.

One proposal, written and promoted by the Uniform Law Commission (ULC), broadly

See "Privacy" on page 4

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Consumer Action has been a champion of underrepresented consumers nationwide since 1971. A non-profit 501(c)(3) organization, Consumer Action focuses on financial education that empowers low- and moderate-income and limited-English-speaking consumers to financially prosper.

We provide financial education materials in multiple languages, a free national hotline and ongoing financial services research to help consumers assert their rights in the marketplace and make financially savvy choices.

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*Consumer Action News is printed by the Dakota Printing Company. We use Bitly.com to shorten lengthy Internet URLs.*

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# What do you want to do with your digital assets?

By Ruth Susswein

With the dizzying number of digital accounts we amass these days—from Facebook and Google to PayPal and Twitter, not to mention online banking, automated bill payments, photo collections and rewards programs—it's important to think about what will happen to those accounts when you're no longer living. These digital assets deserve your attention now.

You'll want to have a plan so that you choose whether to entrust your digital details to someone (your digital account manager) or delete them.

### Keep a record

Start your digital estate plan by making a list of all of your digital accounts and their logins (usernames and passwords).

Include email accounts, websites/blogs you own, social media sites, online stores, LinkedIn, frequent flier programs, your PayPal account, etc. (For more information on requirements for financial accounts, see online edition at [http://bit.ly/CA\\_News\\_Spring\\_2015](http://bit.ly/CA_News_Spring_2015).)

Also include the account name, account number (if any) and any other personalized information needed to access the account (such as security questions). Given the sensitive information, encrypt or password-protect the file.

Some recommend creating a separate document just for the passwords. If so, provide clear instructions on where your survivors can find it.

### Leave instructions

Create a detailed instruction sheet. This is where you explain which accounts you want closed and deleted and which accounts you'd like to share with others.

Decide what specific information should always remain private and which details you want to share. For example, you may want to transfer your photos or a music collection to someone who would appreciate them, but not your emails. Clearly explain whether the information should be shared with all those interested, or limited to only those you name or the one person you designate as your digital account manager.

Some companies will allow you to tell them who else may access your data, while others won't provide options. Apple iCloud accounts, for example, are not transferrable after you die. The account's contents will be deleted upon notice of your death unless you and a loved one jointly use one iCloud account (and Apple ID). Twitter prohibits anyone from accessing your account but will delete it upon request with proof of death. (<http://bit.ly/1C2UeOO>)

Some companies allow for digital directives. For example, Google enables users to plan their "digital afterlife" by using their Inactive Account Manager. The company allows users to select a trusted contact to access their Google accounts (Gmail, YouTube, Google+ Profiles, etc.) or have all data deleted after three to 18 months of inactivity. (<http://bit.ly/1L2DEUq>)

Sometimes these services are available in instances other than death; you can appoint someone to handle your online accounts if you're incapacitated. For example, Knotify.me (<https://knotify.me>) allows you to arrange in advance to transfer your (encrypted) digital accounts to loved ones for free.

To review some of the many services now available to prepare your accounts for the digital afterlife, see Consumer Action's

Digital Estate Planning Guide ([http://bit.ly/digital\\_estate\\_guide](http://bit.ly/digital_estate_guide)).

### Ensure your plan's safety

Store your instruction sheet safely in your home in a locked fire- and flood-proof cabinet or safe, or with a trusted friend or relative. If you list such instructions in your will, do not include passwords or other highly private information, as the will becomes a public document after your death.

If you choose to store your passwords online, here are some sites that electronically encrypt and store passwords for free: LastPass, KeePass, 1Password, Dashlane and RoboForm. For contact information, see *Consumer Action's Digital Estate Planning Guide* ([bit.ly/digital\\_estate\\_guide](http://bit.ly/digital_estate_guide)).

### Who has access?

Designate a digital executor or online account manager. Choose someone who is responsible, trustworthy, organized and technically adept. (You won't want to assign these duties to someone who's uncomfortable online.)

You may want to select the same person who will handle your physical estate (your financial accounts, jewelry, real estate, etc.). You could choose an heir, a close friend or an attorney with no financial ties to you.

You can authorize your digital executor to delete accounts, disburse memorable items to family and friends, transfer data and notify people of your passing. The digital estate planning service Everplans says that, as a fairly new concept, digital executor designations are not legally binding in many states but can still provide a clear guide as to your wishes. Everplans offers sample language to use when naming a digital executor to manage and dispose of your digital assets (<http://bit.ly/1C2UnSB>).

The more planning for your digital estate you do now, the more likely it is that your online accounts and assets will be handled as you would choose. ■

## Services

*Continued from page 1*

Eterniam, Everplans, GEN-ARC, Knotify.me, OrganizeMyAffairs.com, PassingBye, Perpetu, Principled Heart, SecureSafe, The Digital Undertakers and The DocSafe.

**Digital locker:** Thirteen companies provide "cloud" storage where users can upload personal or financial documents, images and video files for safekeeping in their account: AfterSteps, BestBequest, Cirrus Legacy, DocuBank, Estate Assist, Eterniam, Everplans, GEN-ARC, Knotify.me, PassingBye, Principled Heart, SecureSafe and The DocSafe. Data storage ranges from 50MB for free to 100 GB for paid accounts. (See *Consumer Action's Digital Estate Planning Guide* ([http://bit.ly/digital\\_estate\\_guide](http://bit.ly/digital_estate_guide)) for storage details and costs.)

**Postmortem messaging:** Users can create a personal, final message and have it sent to whom-ever they designate after death. With some services, the user can pre-schedule a send date for the final message. Others require confirmation of a user's death to trigger delivery of the message. Seven companies offer this service: Afternote, BestBequest, Deathswitch, Knotify.me, PassingBye, Perpetu and Vuture.

Sites Knotify.me and Vuture require account users to choose a date and time when their account messages and details will be sent via email to designated recipients. However, any user who can't predict with reasonable certainty his or her date of death—and how many people can?—runs the risk of having the messages delivered either before they die (unless they continually change the send date) or long after their death.

**Digital assets locator:** These services advise family members or executors who need help locating a deceased family member's online accounts (for social media sites, banking and finance accounts, email, mobile applications and streaming subscriptions, for example) and offline accounts (for banking, insurance, utilities, memberships, etc.). While these companies cannot access information in a deceased user's accounts, they can point you in the right direction to find them. Using the decedent's personal information (name, mailing address, phone numbers and email addresses), accounts may turn up for some of the most popular social media sites, financial companies, apps and streaming services.

Once accounts have been located, next-of-kin will need

*"Services" continues on page 3*



# Digital afterlife policies of popular websites

By Alegra Howard

Consumer Action reviewed policies at nine popular websites and mobile apps to find out what type of access they would provide your survivors after you die. All nine sites have a process that allows family members to close your account after confirmation of your death.

Two companies (Facebook and Instagram) allow survivors to turn your account into a memorial (granting limited or no access to your account's contents). Microsoft and Google allow you to designate someone to access your account (including emails and contact lists). Here's a glimpse of what we found.

**Facebook.** You can arrange in advance to have your account memorialized. The word "Remembering" would appear next to your name and others could share memories on your timeline after you die. You can designate a "legacy contact" to handle your account once it's memorialized or to delete it permanently. Survivors of users who did not leave instructions before their death can request to have the account deleted. Facebook also recognizes the right of digital executors named in a will to manage a user's Facebook profile once the account holder's death is confirmed. (Your private messages remain off limits).

**Google.** The site's Inactive Account Manager feature allows you to leave instructions for the different Google services you use (including Gmail, Google+, Picasa and YouTube) should your account go inactive for three to 18 months. You can assign a trusted contact to download data from one or more of your accounts. If you don't designate a trusted contact before death, your heirs may request that your account be closed. However, "Google does not guarantee that it will assist with the deletion of a deceased user's account, nor does it guarantee that family members will be provided with the deceased user's account content."

**Microsoft email.** Once your death is confirmed, Microsoft's Next of Kin process authorizes the release of Hotmail.com, Outlook.com, Live.com, WindowsLive.com and MSN.com contents, including all of your emails and their attachments, your address book and Messenger contact list. Family members also may request that your account be closed.

**Instagram.** Accounts can be memorialized or permanently closed. Anyone can request that an Instagram account be memorialized, however only family members can request that an account be deleted. As with Facebook, memorialized accounts can only be seen by confirmed friends.

For more details on how your survivors can access your digital accounts for some popular websites, see Consumer Action's Digital Estate Planning Guide ([http://bit.ly/digital\\_estate\\_guide](http://bit.ly/digital_estate_guide)). ■

## Services

*Continued from page 2*

to follow the policies of each provider to access the account. Most companies require proof of an account holder's death. Even with proof, not all companies will hand over access to the online account's content. Some may close the account to protect the account holder's privacy (LinkedIn, Match.com, PayPal, Twitter and Yahoo), while others will offer to replace the account with an online memorial (Facebook and Instagram). (See above for more information.)

Two companies offer account location services: The Digital Undertakers and WebCease.

### Access and security

Most digital legacy planning companies require users to create an account to begin their digital estate planning, which includes instructions regarding digital assets, contact information and beneficiaries. BestBequest and SecureSafe's security verification systems require users to enter two different passwords to access their data.

All but three companies (17) noted that they encrypt account holder data stored on their sites. WebCease, The Digital Undertakers and OrganizeMyAffairs.com do not offer encryption because they do not store information online. Instead, they provide digital or hard copy publications to aid in creating a digital legacy plan.

Nine sites tout bank-level encryption: AfterSteps, BestBequest, Estate Assist, Eterniam, Everplans, GEN-ARC, PassingBye, Principled Heart and SecureSafe. Estate Assist offers a \$1 million guarantee that users' data won't suffer a security breach due to "malicious activity."

### Confirming death

Digital legacy service providers usually require confirmation of death, and may insist that beneficiaries provide verification codes (SecureSafe, PassingBye and Perpetu) before granting access to your digital estate plan. Beneficiaries are also called account "trustees," "verifiers," "guardians," "executors," "deputies," "next-of-kin," "contacts" and "heirs."

One service, Principled Heart, requires that three previously



chosen "validators" confirm your death prior to access. Afternote, AfterSteps and BestBequest require that the majority of your assigned beneficiaries confirm your death before they will provide access.

One company that offers a final personal message to be delivered upon your death relies on you to confirm your status. Deathswitch sends repeated prompts asking that you notify the site that you are still alive. Users decide how frequently they want Deathswitch to check on them and how long they want the site to wait for a response. Once the service's prompts go unanswered for the specified time, your pre-designated message(s) are delivered to your chosen recipients.

### Time limits on access

The amount of time your beneficiaries will have access to your digital account content after you die (without paying a subscription fee) varies from three months (Afternote) to two years (BestBequest). Exceptions: Estate Assist intends to store your information indefinitely so that family members with login access can log in free forever. GEN-ARC will store users' data for up to 20 years after death when a lifetime membership is purchased.

What about the information you want to keep track of but don't want shared? Perhaps you'd like to keep a few skeletons in your closet. Four surveyed websites explicitly note that account holders can permanently delete certain assets that they don't want shared upon their death by marking them "Secret" or "Private." These are Eterniam, PassingBye, Cirrus Legacy and Estate Assist.

### Costs

Eight surveyed companies offer their services (or part of their services) free of charge, including Afternote, Cirrus Legacy, Deathswitch, Everplans, Knotify.me, Perpetu, SecureSafe and Vuture.

Four companies offer one- or two-month free trials for those looking to test the service, including Estate Assist, Eterniam, PassingBye and Principled Heart. Other companies allow users to pay for subscriptions on a month-to-month, annual or lifetime basis. Monthly subscription fees ranged from \$1.70 (SecureSafe) to \$14.99 (BestBequest). Annual subscription

fees ranged from \$10 (Perpetu) to \$99.99 (GEN-ARC). One-time or lifetime subscription fees ranged from \$99 (Perpetu) to a whopping \$499.95 (GEN-ARC). Higher subscription fees were charged to cover additional online storage space and customer service assistance in uploading documents, providing preservation advice and archiving photos and videos.

### Final thoughts

We found many of these companies helpful, if only in increasing awareness of the importance of gathering your digital assets and instructing loved ones on how to handle your online accounts after you die, or in finding a system that will erase them for you, like Eterniam, PassingBye, Cirrus Legacy and Estate Assist.

Note: It is unclear if any of these companies will be in business by the time you die. Three companies on our initial review list were no longer operating or had merged over the course of our research from Feb. 16 through May 4, 2015.

BestBequest states that the company prepaays some of its third-party contracts that help run the site to ensure its service's longevity, and Estate Assist explains that while they hope to be able to make users' accounts available to loved ones indefinitely, the company will provide at least 90 days notice should they ever be forced to close. The founders of Everplans have promised that users will be able to access their estate plans for at least the next 50 years, regardless if the company is sold.

It's crucial to keep contact information updated since many of these services rely on up-to-date contact information for users and their beneficiaries. Principled Heart's service sends annual notifications to its customers confirming that contact information is still accurate.

If you purchase a digital estate planning service that helps you create a hard-copy planning document, make sure you store it in a secure place where your survivors will be able to find it.

Don't risk fraud and identity theft by leaving password lists on shared computers or out in the open where others could access the information. ■



## Tales from the crypt: Postmortem messaging

Whether you want to let your family know you'll always love them or you want to take the opportunity to finally tell off your boss, postmortem messaging companies specialize in helping you "speak from the grave."

Procedures vary by site, but generally you sign up, compose your messages and designate the people you want to receive them.

Just so any reports of your death will not be exaggerated, be aware that some of the companies will send your messages if you don't reply after several attempts to contact you. For example, Dead Man's Switch says it "will email you 30, 45, and 52 days after you last showed signs of life. If you don't respond to any of those emails, all your messages will be sent 60 days after your last check-in. Of course, you can have your switch postpone its activation..."

Postmortem messaging fees range from free to \$20 a year. How's that for having the last word?

### Afterwords

<https://afterwords.cc/>

Send three messages for free or pay \$10 per year (or a one-time \$50 payment) to send unlimited messages.

### Dead Man's Switch

<http://www.deadmansswitch.net>

Send two messages for free or pay a one-time fee of \$20 to send 100 messages.

### Email from Death

<http://emailfromdeath.com/index.php>

Send two messages for free or pay \$13 per year to send up to 30 messages. — A.H.

companies, including Facebook and Google, has put forward an alternative proposal. The Privacy Expectation Afterlife and Choices Act (PEAC) model legislation provides that access to the deceased's electronic communications is authorized only upon written request by the estate and by order of the probate court. The estate would hold companies harmless from liability for complying with a court's order, and require compliance with copy-right law and the deceased user's privacy choices.

NetChoice conducted a poll in which 70 percent of those surveyed said that private online communications and photos should remain private after they die—unless there is prior consent for access by others, such as close family members or other relatives.

ECPA, a 1986 statute governing the privacy of electronic communications, doesn't mention digital assets but does protect "stored communications" such as email from access by persons who don't have the account owner's consent. The law governs what types of information cloud service providers like Google and Yahoo can disclose to third parties. ECPA prohibits "unauthorized" use, disclosure or interception of electronic communications—so providers can voluntarily disclose the contents of an electronic communication with the consent of the owner or owner's agent (who could be an executor).

Despite the fact that ECPA does not define "agent," the ULC model bill allows an executor or personal representative of the deceased, without court approval, full access to a decedent's estate.

To avoid misunderstandings, consider if you want anyone to access your digital remains. (For more advice, see article on page 2.)

For more information on the law and digital assets, see:

- Alethea Lange's blog post at CDT: Everybody Dies: What Is Your Digital Legacy? (<http://bit.ly/1ILs2YC>)
- CDT's Everybody Dies: How to Preserve Your Digital Legacy (<http://bit.ly/1C1AKKt>)
- The Uniform Law Commission's Fiduciary Access to Digital Assets (<http://bit.ly/1QPWyiU>)
- NetChoice Model Fiduciary Access to Digital Assets Act (<http://bit.ly/1S8S35E>) ■

the entities who control access to those assets are required to provide the legal executor with control over the deceased's digital assets. The legislation also applies in cases where a person becomes incapacitated and his or her assets come under the control of a fiduciary.

Consumer Action joined the Center for Democracy and Technology and others in a letter to lawmakers opposing the ULC model law because of its overly broad access to others' online accounts. (The ACLU and the Electronic Freedom Forum (EFF) also signed the letter.) The signers agree that one's digital assets should never be disclosed by "default." For one thing, it's not just the deceased person's privacy that's at stake, but also the privacy of others—third parties—who have corresponded with or been part of the deceased person's life. Instead, the group letter calls for the creation of "a system that allows and encourages individuals to control what happens to their records."

### Another approach

NetChoice, a trade association that represents many technology

## Fitting end

*Continued from page 1*

law focuses on access to minors' accounts. (See "Privacy vs. access" on page 1.)

Some online companies allow users to designate someone to manage their accounts when they die. Facebook allows you to designate a "legacy contact," to either create a memorialized profile page or have your account deleted (<http://on.fb.me/1QS775k>).

Google allows users to select another person as their "inactive account manager."

Other social media sites give family members the ability to delete an account, but will not provide access to the account.

LinkedIn, Twitter and Yahoo will let you deactivate a loved one's account, with proof of death, but will not open up the account to you.

There are companies that will help you create a plan for your digital estate. For details on these services, see *Consumer Action's Digital Estate Planning Guide* ([http://bit.ly/digital\\_estate\\_guide](http://bit.ly/digital_estate_guide)).

If you are likely to be the person responsible for a parent or other's affairs after they pass away, the time to prepare is now. Gather login and password information and store it safely. At a minimum, know where account names, numbers (if any), usernames and passwords are stored for when the time comes.

Discuss your parents' preferences and try to gather as much detail as possible to be able to judge which digital assets they would like to let you access and which they'd prefer to have deleted.

Survivors should start by making a list of digital accounts you know of, which could include email, social media and photo sharing sites, frequent flier programs, electronic health records, online bill pay and banking, etc. "Google" the deceased's name to see if any accounts pop up.

If the deceased gave you access to his or her email account, don't close it too quickly, as it may lead you to other accounts.

Some companies will send regular emails that could provide valuable information regarding automated payments or other account activity.

To access or close accounts, you may be asked to provide a death certificate, ID and proof of your authority (a will or a power of attorney).

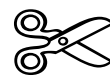
While company policies vary, asking to close an account generally requires less effort than asking for access to its contents. Consider which accounts might be closed without reviewing each item and which may have sentimental or monetary value. Microsoft deletes accounts after about one year of inactivity, so don't wait too long if you are seeking access. ■

## Privacy

*Continued from page 1*

supports allowing access to digital accounts by fiduciaries such as estate executors. (The ULC is comprised of lawyers who have been appointed by state governments to create non-partisan model laws for consideration and adoption by states.) The ULC model—the Uniform Fiduciary Access to Digital Assets Act—treats digital assets like physical assets, and relies on the principles of "fiduciary duty" to ensure that the deceased's legal representative can lawfully access the accounts. (A fiduciary duty is a legal duty to act solely in the best interests of the deceased.) However, critics say that this model could violate a deceased person's privacy preferences because an executor gains access to one's online accounts—whether or not the deceased would have wanted that.

Under Delaware law, digital assets such as email, cloud storage, social media accounts, health records, content licenses, databases and more are deemed a part of a person's estate upon death, and



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