

7 Documents you should have in your Estate Plan

Estate planning is the process of establishing a framework to manage your assets upon death, disability or incapacity. It involves creating documents that outline your wishes should these circumstances arise. While estate planning is a task most of us put off, it is critical that you implement it before you need it.

Here are seven documents that should be considered to cover the aspects of a well-devised estate plan:

1. Last Will & Testament

The fundamental purpose of a Will is to outline who will receive your assets upon your death. Another important purpose of a Will is to specify guardianship for your minor children. A guardian is one who takes legal responsibility for the care of your minor or incapacitated children after you are gone. It is important to understand that a Will does not become effective until the date of death, so it does not provide any benefits to anyone during your lifetime. A Will can be changed at any time (assuming you are not mentally incapacitated). It can be amended by using a codicil or revoked by writing a new will. A Will can also create a trust upon your death (more on this below). If your estate is large enough (over \$5.49 million in 2017), you may also need to incorporate federal estate tax planning into your documents.

2. Trust

A trust is a legal instrument that provides ongoing management for your assets. It can be *inter vivos* (also known as a Living Trust, which exists during your lifetime) or Testamentary (one that is created by your Will upon your death). It is a good idea to leave assets in trust if the beneficiaries are minors, incapacitated, or if they are simply

not fiscally responsible. The trust document names a trustee who has the responsibility of managing the assets in the trust and determines when and how much of the trust assets to distribute (subject to the terms you have written in the trust). You may want to name a trustee while your child is under a certain age, say 25 or 30 as an example. Then, once your child reaches that specific age, they can either act as their own trustee, or the trust can terminate and distribute all of the assets to your child outright.

3. Power of Attorney

A Power of Attorney allows you to empower someone else to act on your behalf for legal and financial decisions. It can be a Durable Power of Attorney, which becomes effective immediately, or a Springing Power of Attorney, which becomes effective upon a stipulated event, typically when you are disabled or mentally incompetent. It is critical that you completely trust the person to whom you provide this power, as he or she can legally act on your behalf.

4. Healthcare Power of Attorney

A Healthcare Power of Attorney (also known as a Medical Power of Attorney) gives a trusted individual the authority to make decisions about your medical treatment should you be unable to do so on your own. No financial authority is granted in this document, only medical power. So you could provide one person the Durable Power of Attorney and another person the Healthcare Power of Attorney if you desire.

5. Living Will

While the Healthcare Power of Attorney authorizes another to make medical decisions on your behalf, a Living Will (also known as a Directive to Physicians) sets out your predetermined wishes regarding end-of-life care should you become terminally ill or permanently unconscious. Essentially it takes the decision to withhold life out of the

hands of your medical providers and the ones you love so that they are not burdened by it and so that you can be assured your wishes are respected.

6. HIPAA Release

One of the important provisions of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) is the obligation that medical records be kept confidential. While this is definitely an important requirement, it can have severe unintended consequences. Without the legal authority to share medical records, your family may not be able to obtain important information regarding your medical condition and treatment if you were to become incapacitated. A HIPAA release allows your medical providers to share and discuss your medical situation with whomever you specify in the document.

7. Letter of Intent

A Letter of Intent is a simple, non-binding personal letter to the ones you love expressing your desires and special requests. It may include information regarding burial or cremation, or a specific bequest of collectibles or personal items. While it does not typically have legal authority, it can help to clear up confusion regarding your personal preferences.

This outline is intended as a brief overview of estate planning. Please contact us to arrange a more detailed and specific discussion of your estate planning needs.

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