

## Basic Estate Documents

“If you fail to plan, you plan to fail.” Given this common sense and the “certainty” of death and taxes, it is a wonder why so many people put off basic estate planning. If you own property, have any dependants, or have a spouse/significant other, then you should consider some basic estate planning- regardless of your age or health. This type of planning insures the best “transition” when your time on this earth expires. Furthermore, good planning covers the situation where you, while remaining alive, are incapable of making your own decisions. Typical estate planning documents include:

**WILL.** A will governs the distribution of your property. If you die without a will, you die “intestate.” The law assumes how people who die intestate would want their property divided. However, in many cases, the law will not pass your property according to your wishes. For instance, if you die without a will and leave a spouse and no children, your spouse might only get the first \$25,000 plus half of all remaining assets with your parents getting the rest. Most people would want their spouse to get all of their assets. A will can also state special gifts (to relatives, friends, charities or schools) or appoint a guardian for your children.

**DURABLE POWER OF ATTORNEY.** A power of attorney allows another person to act for you regarding personal or financial matters. A power of attorney is only valid if you could have done the act yourself (still living). A durable power of attorney allows someone to act for you even when you are “incapacitated.”

**HEALTH CARE POWER OF ATTORNEY.** As the name suggests, this is a type of power of attorney specifically dealing with medical issues. This document allows another person, your health care agent, to make decisions for you regarding your medical treatment when you cannot make the decision for yourself. North Carolina law changed in 2007 incorporating what is commonly referred to as a “LIVING WILL” into a health care power of attorney. A living will states your desires regarding the use of “extraordinary measures” to keep you alive in the event you become incapacitated. In other words, do you want to remain “hooked up to a machine” if that is the only thing keeping you alive? This document should eliminate a family dispute over your medical treatment.

Basic estate planning should give you peace of mind. You know you’ve done the right thing in preparing for your end of life. Remember: in many cases when you need these documents it’s too late to get them. As far as those “Do-it-Yourself” lawyer forms you can get, depending on what you get, they may do the job. Be aware that 1) sometimes you get what you pay for and 2) every state has different laws. Whether you need to review your existing estate documents or whether need to have them drafted, we encourage you to consult an attorney over these important matters.

This article is meant as general knowledge and not meant to substitute for legal advice on specific issues. If you have a question, please call Doug McClanahan at 861-0693.

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