

Estate Planning in General

Estate planning covers a variety of practices and documents that allow people to maintain greater control over their lives and assets as they age, as well as distribute their property according to their wishes after they have passed on from life. Many people see estate planning as an unnecessary or depressing process, but in reality, it makes your experiences much more enjoyable and relaxing during the best years of your life. Depending on your specific goals and needs, you should consider using some or all of the following documents to incorporate into your estate plan. Contact an estate planning attorney to make sure that any documents are executed correctly and will fit your personal circumstances.

Durable Power of Attorney

The durable power of attorney is also sometimes called a “power of attorney for finances” or “financial power of attorney.” This document designates a trusted person to act as your agent and attorney, and gives that person many general powers. These powers may include, but are not limited to, the ability to move money and funds around throughout your financial accounts, the authorization to sign contracts or other legal documents on your behalf, and power to invest and manage your other hard assets. The durable power of attorney is usually used for convenience by people who are either mentally or physically incapable of handling their personal matters alone. For example, if you were going to sell your vehicle but were currently traveling outside of the country, a person designated as your agent and attorney could conduct the transaction on your behalf while you were gone. Similarly, if an elderly person lost his or her ability to understand how to manage finances and pay overdue bills, a trusted person designated under a power of attorney could assist with alleviating those burdens.

Since all estate planning documents must be signed while the person executing them is in sound mind, it is important to plan ahead for unforeseen circumstances, such as being simply unavailable or incapacitated by illness. A durable power of attorney can help prevent the necessity for the local government to appoint a guardian over a vulnerable person. Guardianships are formal proceedings in which the county circuit court designates a person or legal entity to care for and assist with a vulnerable person’s financial or health affairs. However, many people desire to handle such difficult life matters privately, without the supervision and unknown results of local government officials. A durable power of attorney allows a trusted person to do everything a formal guardian would be able to do, but in more private, comfortable, and less expensive manner. It is also possible to make durable power of attorney documents activate only upon the occurrence of triggering events, such as a personal physician determining that the vulnerable person is indeed incapacitated or otherwise disabled. Due to the large amount of power over assets and finances that is included in the power of your designated attorney, it is important to choose an individual that you trust in confidence.

Power of Attorney for Healthcare

Similarly to the durable power of attorney for finances, a healthcare power of attorney allows a trusted person to serve as your agent and attorney regarding healthcare decisions that you are unable to make due to being physically or mentally incapacitated. This becomes very

useful if a sudden health crisis occurs, such as being put under anesthesia for surgery or entering a coma. Another common scenario when a healthcare power of attorney becomes necessary is when individuals suffer from degenerative brain diseases, such as Alzheimer's or general dementia. It is important to contact an attorney to draft a power of attorney for healthcare well before you ever expect to encounter these types of dire health scenarios, since an incapacitated person can no longer execute legal documents such as a power of attorney.

Living Will

Living wills are fairly straight-forward documents that allow you to make a statement regarding whether you would like to be removed from life-support devices in the event that your future health declined to a vegetative state. Many people decide that the quality of life and personal dignity in such circumstances is not worth preserving on life support machines. However, living wills involve complex and deeply emotional decisions that should be consulted with your family members and loved ones. It is impossible to predict the future, or even new medical developments that might become available. Therefore, drafting a living will should be done only after careful thought and consideration.

Oftentimes, your estate planning attorney will draft a power of attorney for healthcare to coincide with the living will, so that both documents can cover any future healthcare decisions. You should designate a trusted person to act as your healthcare power of attorney for making any decisions that are unrelated to life-support during a vegetative state.

Will

A will is a written document signed by a person while he or she is still alive which describes how that person desires to distribute his or her property upon death. The person who signs the will is referred to as the "testator." A person who receives property under the will can be referred to as a "beneficiary."

The will should also stipulate who will serve as the "personal representative" of the estate—which is the person given legal authority to distribute the testator's assets. Outside of Wisconsin, this role is sometimes referred to as the "executor" of the estate. The personal representative/executor has legal duties to ethically and prudently manage the estate.