

Where to Keep Your Estate Planning Document

By: Brandon C. Walecka, Esq.

Walecka Law, P.C.

774-203-9003

Brandon@WaleckaLaw.com

You have planned ahead and have decided how you want your affairs to be handled upon your passing. You have signed all of your Foundational Estate Planning documents: A Last Will and Testament, a Durable Power of Attorney, a Personal Directive (sometimes called a living will), a Massachusetts Health Care Proxy, and a HIPAA Release. You may also have protected your home and assets through a trust to avoid probate, reduce estate taxes, protect a troubled child's inheritance, or protect your special needs child from losing their benefits. Congratulations! You can sleep easily. Now what should you do with these documents? Where should you keep them to ensure they are safe, accessible, and that your wishes will be honored?

In order to Probate a Will, ideally the original signed document will be located and provided to the Probate Court. Therefore, it is important that the original Will be available, and its location known to your proposed Personal Representative. Many people keep their original Will in a desk drawer or a fireproof safe at home. However, there is always a risk that this document could be stolen or accidentally destroyed if it is kept at home. Another popular place for keeping the original Will is in a safe deposit box at a bank. Obviously, there are some difficulties that are presented with this approach if the deceased person is the only person with access to the box. If the safe deposit box is held jointly

with another person, the survivor will continue to have access to the box. However, if both owners die at the same time, or if the survivor is incapacitated and cannot access the box, the Will may not be available. Instead, an order from the Court would be necessary before anyone could access the Will in the box.

The Durable Power of Attorney is the document where you name an agent to make financial decisions if you cannot. This original should be kept in a safe place where the location is known by the named agent, but only after being authorized by you may they act as your agent. Many of our clients choose to have our Firm keep this original document to avoid potential abuse by the named agent and ensure its safe keeping.

The three medical documents: the Massachusetts Health Care Proxy, the HIPAA Release and the Personal Directive, work collectively and should be kept together. The Massachusetts Health Care Proxy names an agent to make medical decisions on your behalf if you are not able to do so; the HIPAA Release authorizes named individuals to receive information regarding your private medical information; and the Personal Directive indicates your personal wishes regarding "end of life" decisions. Given the importance of each of these documents, it is vital that your agent knows where to locate these medical documents quickly and easily. At our office, we provide you multiple copies of your Massachusetts Health Care Proxy so you can provide copies to your agents and your Primary Care Physician to ensure that your wishes are known. We also provide digital copies of these documents to facilitate distribution to the necessary individuals.

Anticipating the future and signing these important legal documents to carry out your wishes is only the beginning. When the documents have been put in place, it is important that they also be kept safe while remaining accessible. Your plan may be ideal for you, but let us ensure your loved ones can access and implement these forms when necessary.

Do you know where your estate planning documents are stored? Are they easily accessible? Have they been reviewed lately? Maybe it is time to review them to ensure they accomplish your goals, reflect your wishes, and are available when you need them.

Do you have a suggestion for a future article topic for Attorney Walecka? Reach out to him directly with a question or topic you think would be helpful to readers.

The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common estate planning tools. This article does not constitute legal advice.