Why You Need More Than a Will

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I often hear from prospective clients who say, “I’m calling because I need to create a simple Will.” My experience reveals that a simple will is not enough to adequately provide for what happens should you become incapacitated or when you pass away, but getting a Will created is a good first step; in fact, it is one of five foundational estate planning documents that everyone should have.

Last Will and Testament

A will can provide for more than the distribution of your probate assets upon your death to your chosen beneficiaries. A will also allow you to:

- Select guardians for your minor or disabled children,
- Name beneficiaries, individuals or charities,
- Decide in what form and percentage each beneficiary should receive,
- Select your Personal Representative (formerly known as an Executor/trix),
- Name who should care for your pets,
- Disinherit or omit certain relatives,
- Reduce taxes, and
- Provide for the surviving spouse while still protecting your assets.

Durable Power of Attorney & Health Care Proxy

There is a false presumption that just because someone is your spouse, child, or family member they can automatically step into your shoes and handle decisions for you.

A Durable Power of Attorney (DPOA) is a legal document in which you designate who you want to make legal and financial decisions for you if you cannot make them for yourself. You want to ensure that your DPOA is comprehensive and allows your agent to handle virtually all legal and financial matters for you. You want to ensure that your DPOA is in effect right away. This means that your agent can use it even if you are not disabled. This is necessary for the DPOA to be accepted at many financial institutions.

A Health Care Proxy (HCP) is a legal document in which you designate who you want to make your medical and personal decisions for you if you cannot make them for yourself. It is only effective when a doctor indicates in writing that you are not able to make medical decisions for yourself.

Other important health related documents

A Personal Directive (also known as a Living Will, Advanced Directive, 5 Wishes document) is a document in which you tell your family, doctors, and friends what types of decisions you would like to be made for you if you cannot speak for yourself. It is the place for you to indicate if you would like extreme measures taken to preserve your life (life support) or if you do not want your life extended through extreme measures. It also has a place for you to indicate how you would like to be buried and any special things you would like related to your memorial services.

The Health Insurance Portability and Accountability Act (HIPAA) preserves the privacy of your medical information. It prohibits access to your medical information to anyone except yourself and your medical provider. It also makes it exceedingly difficult for family members to assist each other

with medical issues such as insurance/billing, learning test results, speaking to a doctor or pharmacy about a prescription, etc. In a HIPAA Release, you authorize those listed on it to access your medical information, effective immediately. The HIPAA Agent can fax or give a copy of the HIPAA Release to the medical provider and then the medical provider will be allowed to speak with that person. It is extremely helpful and useful at all ages.

As you can see, a comprehensive estate plan contains important powers beyond just a Will, even if you only have a small estate. Consult an estate planning attorney so you have peace of mind that you have included every document you need in your estate plan.

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.