

ESTATE PLANNING 101



WHAT IS AN ESTATE PLAN?

1. An estate plan sets forth a plan of what one wants to happen to their estate after his/her death.
2. An estate plan also includes an individual's preference about whom they desire to carry out affairs pertaining to their financial, medical and guardianship matters.
3. Most importantly, an estate plan serves as a tool to establish the foundation of your legacy.

WHY IS HAVING AN ESTATE PLAN IMPORTANT?

1. Having an estate plan is important because it is your roadmap to your legacy.
2. Your estate plan is your guide to your family as to how your assets should be distributed and is the mechanism by which to avoid unnecessary costs associated with failure to plan.
3. Additionally, an estate plan is important because it helps to reduce potential conflict between family members.

NOTE: Please stop equating an estate plan to death; estate planning is life planning. An estate plan establishes what happens in this life (i.e. what happens if you become incapacitated), and in the after life.

WHAT ARE THE TOOLS FOR ESTATE PLANNING?

1. Last Will & Testament
2. Medical Power of Attorney (MPOA)
3. HIPAA Release
4. Durable Power of Attorney (DPOA)
5. Trust
6. Directive to Physicians
7. Designation of Guardian for a Minor
8. Designation of Guardian for an Incapacitated Adult
9. Designation of Agent for Disposition of Remains

WHAT IS A LAST WILL AND TESTAMENT?

1. A last will and testament is a memorialization of your assets that you wish to distribute to your named beneficiaries. A last will and testament is only effective upon delivery to the probate court.

WHAT IS ITS FUNCTION?

2. The function of a last will and testament is to allow the testator autonomy in declaring how their assets will be distributed. It serves as one tool for transferring assets at death.

WHY IS THIS DOCUMENT IMPORTANT?

3. This document is important because it allows the testator to control who receives assets, avoid intestate succession and most importantly naming an executor of your estate.

WHAT IS A MEDICAL POWER OF ATTORNEY (MPOA)?

1. A medical power of attorney is a legal document that allows you to name an agent and give them authority to make medical decisions on your behalf should you become incapacitated.

WHAT IS ITS FUNCTION?

2. A medical power of attorney is a safeguard for you in the event that you need a medical advocate to speak for you in your absence.

WHY IS THIS DOCUMENT IMPORTANT?

3. This document is important because 1) it helps to deter the need for guardianship and 2) should you become incapacitated, it allows someone to speak for you in real time.



WHAT IS A HIPAA RELEASE?

1. A HIPAA release is a legal document that authorizes the release of medical records and other protected health information to a designated person (also known as an “agent”).

WHAT IS ITS FUNCTION?

2. It allows for healthcare providers and entities to disclose your health information to designated persons you trust for medical purposes.

WHY IS THIS DOCUMENT IMPORTANT?

3. This document is important because it allows for your designated party to have your consent in order to access relevant information that is critical to future medical needs that may arise.

WHAT IS A DURABLE POWER OF ATTORNEY (DPOA)?

1. A durable power of attorney is a legal document that allows you to name an agent and gives them authority to handle financial transactions on your behalf should you become incapacitated. The durable power of attorney can take effect immediately or can become effective only once you are incapacitated.

WHAT IS ITS FUNCTION?

2. A durable power of attorney is a safeguard for you in the event that you need a financial advocate to handle your affairs in your absence.

WHY IS THIS DOCUMENT IMPORTANT?

3. This document is important because 1) it authorizes someone to act on your behalf in a wide range of legal and business matters and 2) remains in effect even if you are incapacitated.

WHAT IS A TRUST?

1. A trust is a legal tool in which one party, the settlor, gives another party, the trustee, the right to hold title to property or assets for the benefit of a third party, the beneficiary. A trust can hold various assets, whether personal or real property, such as land, cash, vehicles, etc. Trusts can be created in real time or upon death and can be revocable or irrevocable in nature.

WHAT IS ITS FUNCTION?

2. The function of a trust is the ability to hold and transfer assets without the necessity of probate, for the benefit of another.

WHY IS THIS DOCUMENT IMPORTANT?

3. This document is important because it may help to reduce income taxes, insulate assets from estate and transfer taxes, provide asset protection and avoid probate.



WHAT IS A DIRECTIVE TO PHYSICIANS?

1. Also known as a living will, a directive to physicians is a legal document that allows you to communicate your wishes about future medical treatment in the event you become unable to make your wishes known due to major medical illness or injury.

WHAT IS ITS FUNCTION?

2. The function of a directive to physicians is to prevent unnecessary delay in administering medical treatments that require consent.

WHY IS THIS DOCUMENT IMPORTANT?

3. This document is important because it is your voice and instruction to your physicians and agent that allows you to express your wishes of how you would like major medical instances to be handled in the event of your incapacity.

4. *TIP:* This document is ineffective in your hands; it is imperative that your medical power of attorney agent and physicians have knowledge and copies of this document in their possession.

WHAT IS A DESIGNATION OF GUARDIAN FOR A MINOR?

1. A designation of guardian for a minor is a document that allows for you to appoint someone to be the guardian of your child in the event of your disability or death.

WHAT IS ITS FUNCTION?

2. This document serves as a tool to select who should care for your child(ren) in the event of your disability or death.

WHY IS THIS DOCUMENT IMPORTANT?

3. This document is important because it is your voice and instruction that allows you to express your wishes as to who will step into the important role of raising your child(ren) if you are not capable.

NOTE: This document cannot be used to circumvent the law in regards to child custody orders. However, this document may assist with providing the named proposed guardian standing to pursue guardianship or conservatorship in Court.

WHAT IS A DESIGNATION OF GUARDIAN FOR AN INCAPACITATED ADULT?

4. A designation of guardian for an incapacitated adult is a document that allows for you to appoint someone to be the guardian of your person and/or estate in the event of incapacity.

WHAT IS ITS FUNCTION?

5. This document serves as a tool to select who should care for you in the event of incapacity.

6. This tool can also be used for parents or guardians of incapacitated individuals.

WHY IS THIS DOCUMENT IMPORTANT?

7. This document is important because it is your voice and instruction that allows you to express your wishes as to who will take care of you if you are unable to do so for yourself.

NOTE: This document may assist with providing the named proposed guardian standing to pursue guardianship in Court.



WHAT IS A DESIGNATION OF AGENT FOR DISPOSITION OF REMAINS?

1. A designation of agent for disposition of remains is a legal document that allows you to select the person you feel will best carry out your wishes regarding what happens to your physical body at the time of death.
2. The person you assign can be a family member, significant other or a close friend.

WHAT IS ITS FUNCTION?

3. This document functions to help alleviate indecisiveness and fighting amongst family as to how your physical body will be disposed of once you pass.

WHY IS THIS DOCUMENT IMPORTANT?

4. This document allows you to have peace of mind that the appointed person will adhere to your wishes to the best of their ability.
5. Without this document in place, the disposition of your remains will be determined by an agent that is selected through priority of order under Texas statutory law.

NOTE: Upon designation it is important to notify your agent and family, especially if your agent is not a family member. This document must be signed by the named agent. The agent must accept the appointment.

Disclaimer: This information in this document is not to be construed as legal advice. Furthermore, this document does not purport to create an attorney-client relationship with any persons in possession of said document.



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