

Protecting Yourself And Your Loved Ones

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One of the hardest realities we have to face as human beings is the inevitability and uncertainty of our own mortality. Planning ahead by will or trust, designating power(s)-of-attorney and discussing and executing advance directives can be a sobering experience. The bald truth, however, is that failing to address the future before it becomes necessitous can create tremendous pressures on loved ones left behind to cope with your lack of planning and forethought.

To protect yourself, your assets and your loved ones there are three documents you need to address: A power-of-attorney, a will or testamentary document and an advance directive in the form of a medical power-of-attorney and/or a written set of instructions often called a "living will".

The persons you select as your representatives for these documents need not have specialized knowledge, just the ability to follow your wishes and act as your representative in keeping with those wishes. Who you select as your representative is therefore a very important decision. You may want to appoint more than one person as a safeguard. You can appoint people to have responsibility for different things and you can also appoint them to act together. If you choose more than one, make certain they are able to get along and work together. It is also important to appoint an alternate if an original choice fails to act on your behalf or declines to serve.

A Power-of-Attorney is a legal document by which you give someone else the power to make decisions about what is done with your affairs *during your lifetime*, its power ends with your death. The document can, but need not, be specific about the conditions which must be present for the document to be effective (e.g.: illness, incapacity, unconsciousness, during surgery or incarceration). If you do not so specify, the document is effective upon signing. Powers-of-attorney can grant all-encompassing authority to the representative ("General Durable") or limit them to handling only financial matters like bill paying and investments ("Financial"). Requirements vary from state-to-state, but the most thorough completion of the document is to have it witnessed by at least two persons and then notarized.

Testamentary documents are your written plans for distribution of your life's accumulated assets and personalty after your death. Asset lists with account numbers and item locations (e.g.: safety deposit keys, bonds, jewelry) attached to the testamentary documents, and periodically updated, will assist your appointed representative (executor) to make distributions after your death. Distributions into trusts, or during your lifetime, have different taxation consequences than distributions made through an estate, and consequences vary from state to state. Wills and trusts must be executed with some formality. Consulting an attorney can be an excellent way to get good forms and advice so that your wishes are carried out to your satisfaction including plans for memorial services, burial or cremation.

Advance directives take the form of a "living will" which is a specific set of written directions to health care workers caring for you when you're unable to tell them personally; and/or a medical power-of-attorney document

appointing someone specific to make decisions for you when you're not able to do so. Some people recommend having both so that you are covered in all circumstances. Consider that states vary on their requirements for the form and content of these documents; and that health care workers vary in their acceptance and acquiescence to the directions given in the documents. Choosing a representative whose views agree with your own, who will speak up assertively on your behalf when necessary, and selecting as your primary health care practitioner someone who you know will support your health care decisions are two excellent ways to prepare for things being done as you wish.

This type of advance planning and document preparation can be intimidating. Those who get their nerve up and attack the preparation usually report feeling great relief and satisfaction at completion of the project. Your loved ones will also thank you for sparing them the inevitable disappointment, incompleteness and guesswork that can result from not having your guidance. Plan Ahead!