

Six Important Estate Planning Documents

Understanding the following documents will assist you in determining which, if not all, of them will benefit you and your loved ones in dealing with your estate and act as an outline in helping you should you become incapacitated in the future.

A Will

Your will is your instruction to your Personal Representative, also known as your Executor, as to how to distribute your assets to your beneficiaries at the time of your death. He or she will arrange to pay your final expenses and taxes as well. Probate is the process whereby a court will authorize that person to execute the will's instructions. If you also have a Trust, your will will often "pour over" assets into the Trust entity, after making specific bequests, as a way to consolidate assets for distribution to beneficiaries.

A Durable Power of Attorney

This is a legal document in which you give a person the legal power to act on your behalf, either in specific functions or more broadly. This power ceases upon your death. This person is called your agent or attorney-in-fact, and can act on your behalf during your incapacity to provide financial management of your affairs.

Health Care Power of Attorney

This authorizes the named person to make medical decisions on your behalf should you be unable to do so. This person's decisions making on your behalf can be greatly aided by your wishes expressed in a Living Will. Granting this power to someone can minimize the chances of court intervention and family conflicts.

Living Will

This document expresses your preferences regarding the use of life-sustaining methods in the event of your terminal illness. While not granting power over your treatment options it can assist family members and the holder of your Health Care Power of Attorney.

Revocable Living Trust

There are numerous types of trust which deal with a variety of needs and purposes. The most common type of trust for estate planning purposes is the Revocable Living Trust. This type of trust provides for oversight of your assets and financial affairs while you are alive and after your death. You are usually the trustee while you are healthy but a Successor Trustee, named by you, can assume the trustee duties should you become incapacitated or die. It is important to place assets into the trust entity as these assets need not go through the probate process and these assets can continue to serve their stated purpose under the oversight of a trustee, if you wish, after your death.

Transfer on Death Agreement (TOD)

This agreement initiated by you is tied to specific accounts titled in individual or joint names such as a securities account or a bank account (called a Pay on Death Account) and designates who is to receive ownership of the assets in the account upon your death. It is used for specific asset transfers to beneficiaries named in the agreement. The process is timely as a probate process is not required.