



A STRATEGY SPOTLIGHT

What Estate Planning Documents Do I Really Need?

Who inherits and controls your property and makes health decisions for you depends on the wishes you express in a way that is authorized by state law. And, state law generally provides default designations if you have not yet conveyed your requests in validly executed documents. Your marital status may play an important role in determining who will inherit your assets and make these important decisions if you haven't validly executed the necessary documents.

It is important for all adults to have at least a basic estate plan. This includes at least a will, a Health Care Proxy, and a Durable Power of Attorney (POA). Let's look at these documents and understand their importance and how they can help you.

1 | Will

Why do I need this? In general, anyone should have a will if they are over 18. A will is used to direct how your assets will be distributed after your death. Without one, the state (often the state you lived in at the time of your death) determines who gets your property, regardless of your wishes to the contrary. State laws usually distribute a decedent's property to a surviving spouse or biological (blood) relatives (like parents, siblings, and children). These laws vary from state to state, and they may not distribute the assets as the decedent would have intended. For example, a non-spouse surviving partner of the decedent may get bypassed. This would result in assets passing to the deceased's parents or siblings. Also, many states have state-specific "estate and inheritance taxes," which tax according to the degree of kinship. The more distant the beneficiary, the higher the taxes may be.

2 | Health Care Proxy

Is it really important? It's critical. A Health Care Proxy, known in some states as a Health Care Power of Attorney (POA), identifies the person you designate to make your health care decisions if you cannot speak for yourself. In some states, hospitals, doctors, and courts may look to the next of kin (spouse or closest biological blood relative) to make your medical decisions if there isn't a valid Health Care Proxy in place. If you are single, you should not assume that in all states a partner or friend can make medical decisions for an incapacitated person without a valid Health Care Proxy. Regardless of your marital status, you should have one and keep it up to date and, when traveling, keep a copy with you.

3 | Durable POA

How does this help? A Durable Power of Attorney (POA) is used to designate a person who can make financial decisions for you in the event you cannot make them for yourself. This individual would have power to access and control your assets and act on your behalf with your financial institutions. You can allow the person you designate to pay your bills, run your business, sell your house, etc. Even if you are married, if your spouse is not shown as an owner of an asset, your spouse cannot access or control the asset. However, if there is no POA, you lose control in deciding who this person will be and a court may appoint an unwanted family member to control your finances. Therefore, just like with a Health Care Proxy, having a valid POA that names the person of your choice is important.

These are three basic documents that are important to have up to date at all times. Keep in mind that there are likely additional documents that may help you financially protect yourself and the ones you love. Because laws impacting estate planning may vary from state to state, you should work with knowledgeable financial services, legal, and tax professionals who are up to date on these estate planning issues.

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