

Estate and Life Planning

(Contributed by Justin Fundalinski)

Naturally, estate and end of life planning¹ discussions can be difficult, but they play a critical role to a complete retirement plan. A good plan will direct who makes decisions on your behalf when you cannot regarding medical, financial, and other general decisions, it will facilitate access to medical information to the appropriate people, it will guide extremely difficult decisions that must be made on your behalf in an end of life medical situation, and it will clearly state your wishes regarding how to handle your assets when you pass away. We often focus on the financial planning side of the retirement equation, but there are several legal documents that are necessary to complete the equation. In this month's newsletter we give you a general overview of five of the more important legal documents that everybody needs (retiree or not).

The Documents:

- **Will:** Reasons to have a will are endless. But considering that any well written will indicates how your estate will be distributed, who will take care of minor children, avoids lengthy probate processes, minimizes estate taxes, assigns your executor to administer your estate, disinherits those who may stand to inherit assets if you die without a will, and can be changed at any time, the merits of having a will a fairly self-explanatory.
 - Let's face it, life happens! Because of this we recommend you review your will every 3-5 years with your estate attorney to ensure that it is up to date with your current wishes.

- **Durable Power of Attorney:** This document ensures that someone you trust will be able to manage the many practical and necessary tasks in the event of you becoming incapacitated (or really at any time you need somebody to act on your behalf incapacitated or not). For example, bills need to be paid from your account, insurance and claims paperwork must be filled out, investments must be managed appropriately, etc...
 - Don't skip on this one. Make sure you do not just check off boxes as to what authority you want somebody you have. Specifics make a difference!
 - Be sure your attorney itemizes every piece of real estate (even if it is just one) to ensure that your agent does not have any problems acting on your behalf for each individual property.
 - List specific powers regarding the ability (or not) for the agent to make changes to beneficiary designations on accounts, as well as what gifting privileges the agent is able to make on your behalf.
 - On an annual basis, reaffirm this document with a notary so that custodians and financial organizations know that the document is current and to help ensure that they will accept the document.

- **Living Will or Healthcare Directive:** This document has absolutely nothing to do with property. The purpose of it is to let people state their wishes for end of life medical care in the case that they become unable to communicate their decisions. In essence, it simply spells out your healthcare preferences in specific regards to deathbed issues. It is important because it will avoid painful disputes between family members and/or physicians who are forced to guess a seriously ill persons wishes and treatment preferences.

¹ Jim Saulnier and Associates is not a legal firm and we do not provide any specific legal advice. If you have questions regarding specific estate planning or legal topics we recommend you consult a knowledgeable attorney in this field.

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- Again, life happens and opinions change. You should also review and update these documents with your attorney every 3-5 years.

- **Medical Power of Attorney:** This document appoints someone that you trust to be your Healthcare Proxy to make necessary healthcare decisions on your behalf. This is different from the Living Will because it is not specific to deathbed issues. That is, just because you need someone to make a medical decision on your behalf, it does not mean that it is a life or death decision.

- **HIPAA Privacy Authorization Form:** Part of the Health Insurance Portability and Accountability Act (HIPAA) was created to protect the privacy of health information. Unfortunately this Act also keeps information out of the hands of people that you want to information released to. In an emergency situation the last thing a family needs is an Act of Congress blocking critical information being passed on to the people that care about you most. This situation can easily be avoided with a HIPAA Privacy Authorization Form being filled out in advance. Notably, the person that is your agent for a Medical Power of Attorney has the right you access medical records with various limitations defined by HIPAA (for instance mental health records cannot be accessed unless specifically stated).

With all that said, hopefully you can say that you have all your t's crossed and i's dotted. However, from experience, I know that most readers cannot say their estate and end of life plan is complete AND up to date. If you are one of the many, waiting until tomorrow is not recommended and if you do not have a competent estate attorney in mind feel free to reach out to our office as we are happy to make some recommendations.