



Essential Estate Planning Documents

Everyone, regardless of their financial status, should possess essential estate planning documents. These may consist of a revocable trust, pour-over will, Health Insurance Portability and Accountability Act of 1996 (HIPAA) release, durable power of attorney for finances, living will, and health care directive. These documents play a crucial role in determining how your assets are distributed and appointing individuals to manage financial and health care matters in the event of disability or death.

Revocable Trust

A revocable trust serves as a roadmap for the distribution of assets transferred to the trust, whether done during one's lifetime or upon death. This type of trust offers several advantages:

1. **Probate Avoidance:** Assets placed in a revocable trust bypass probate, saving both time and costs associated with the probate process. Additionally, probate proceedings are typically public record, whereas assets in a revocable trust remain private.
2. **Retained Control:** As the trustee, you maintain complete control over all assets in the trust during your lifetime.
3. **Disability Management:** In the event of disability, a designated successor trustee can effectively manage the trust assets on your behalf.
4. **Customizable Provisions:** You have the flexibility to tailor the dispositive provisions of your revocable trust to benefit your intended beneficiaries and future generations. This can include implementing effective tax planning and incorporating lifetime trust provisions.

5. **Creditor Protection:** By employing appropriate lifetime trust provisions, you may be able to secure creditor protection for assets passing to your beneficiaries and more distant relatives. This may protect assets from potential creditor claims and certain divorce-related issues.

Pour-Over Will

A pour-over will serves as a complementary document to a revocable trust, addressing assets not transferred to the trust during your lifetime. Here's how it works:

1. **Asset Transfer:** The pour-over will stipulates that any assets not previously transferred to your revocable trust during your lifetime are automatically "poured over" into the trust upon your death. This ensures that assets without trust titling or beneficiary designations follow the terms of your revocable trust.
2. **Probate Consideration:** It's important to note that although the pour-over will facilitates the transfer of assets to the trust, these assets may still go through the probate process.

Additionally, a pour-over will may:

- **Guardianship:** Appoint a guardian and conservator for minor children, providing for their care and financial matters if necessary.
- **Estate Administration:** Appoint a personal representative to handle probate estate administration issues. This becomes relevant if any of your assets were not transferred to the trust during your lifetime.
- **Final Wishes:** State your preferences regarding burial or cremation, ensuring your wishes are known and followed.

In summary, a pour-over will acts as a safety net, ensuring that any remaining assets not held in the trust are appropriately directed according to your estate plan, while also addressing important matters like guardianship and personal representative appointments.

Durable Power of Attorney

A durable power of attorney for finances empowers you to appoint an individual to handle your assets and make legal decisions on your behalf in the event of your incapacity. This proactive measure helps you avoid the potential drawbacks of a guardianship or conservatorship proceeding, including significant costs, public exposure, and delays. By granting someone the authority through a durable power of attorney, you ensure a smoother and more efficient management of your financial affairs during times of incapacity, without the need for court intervention.

Health Care Power of Attorney and Living Will

A durable power of attorney for health care allows you to designate an agent who will make health care decisions on your behalf if you become incapacitated and are unable to make those decisions for yourself. This document ensures that your medical preferences are upheld even when you are unable to communicate them.

A living will outlines your preferences regarding medical treatments in specific situations, especially in cases of incurable or terminal conditions. It serves as an expression of your intentions regarding the medical interventions you do or do not want if you are facing end-of-life scenarios. Together, these documents provide a comprehensive framework for guiding medical decisions that align with your wishes when you are unable to voice them yourself.

HIPAA Release

HIPAA introduced stringent rules to protect the privacy of medical records. While these regulations are crucial for safeguarding personal health information, they can pose challenges for individuals designated as agents under your estate planning documents when they need access to your medical records.

To address this, a HIPAA release is a specific authorization that you can provide to your designated agents. This release grants them permission to access your health care information without encountering delays or obstacles imposed by HIPAA regulations. By having a HIPAA release in place, you ensure that your designated agents have the necessary authority to obtain and review your medical records,

facilitating informed decision-making regarding your health care when you are unable to do so yourself.

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