



The Often Forgotten Side of Estate Planning

by Richard Scrimale

The term **estate plan** frequently makes us think of multi-million dollar estates passing from generation to generation. But the **non-monetary parts** of an estate plan — such as the **guardianship** of children and the **ancillary documents**, including **power of attorney**, **health care proxy** and **living will** — may be the most important parts for nearly all of us. Here's why:

Guardian

Without a Will to appoint a legal guardian of minor children, the Surrogate Court Judge is left making the decision regarding who gets custody of minor children. A validly executed Will enables the Surrogate Court Judge to determine a decedent's wishes and honor those wishes.

The following **ancillary documents** are often overlooked, but facilitate various actions and decisions taken on behalf of an individual during one's lifetime. A designee is able to "step into the shoes" of an individual and act on his/her behalf when he/she may not otherwise be able to act for himself/herself. The effectiveness of ancillary documents ceases upon death.

Power of Attorney

The power of attorney (often referred to as a "durable power of attorney") appoints another individual to act on your behalf for various financial matters. Such matters may be as simple as making a bank deposit or mortgage payment, or as complex as closing on the sale of a house. As an individual ages or becomes temporarily incapacitated, the power of attorney enables a designated person to step in and handle financial matters.

Health Care Proxy

The health care proxy is a document enabling a designated individual to speak with an authorized health care provider and have access to health care records. Such matters include health care decisions and insurance company correspondence, payments and disputes. Most health care proxies restrict the decisions made by the designated individual to the designee's wishes, if known to the proxy. Therefore, it's a good idea to make any preferences known to your designated health care proxy so that he/she may make informed decisions on your behalf.

Living Will

A living will is a document by which you express your intent pertaining to artificial means of life-support — for example: your desire or lack of desire for artificial means of life-support, including hydration and nutrition.

As we know, a portion of estate planning does involve finances... but there's more. While it's no fun thinking about sickness or death, those who want to participate in the decision-making process regarding young children, finances and health are wise to remember the often forgotten documents of thorough estate planning.



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