



### **"Life and Death Planning: The Essential Legal Tools Every Person Should Have"**

We all know we are not immortal. Death is a certainty for all of us. But the topic of death and our own mortality can be one of discomfort, or even denial. We've all made or heard the usual excuses for avoiding or delaying estate planning: "I'm too young," "I don't need to worry about that yet," or "I've been meaning to get to that." The more realistic or practical adult may already have a will, from 20 years ago, and ignores that fact that it needs updating due to major life events or changes in circumstances that have occurred in the meantime. It happens, for all of us.

As an adult, regardless of your age, your current health, or your circumstances, *everybody* should have at least three (3) legal documents in place: (1) a basic Last Will and Testament; (2) a durable financial Power of Attorney; and (3) a Durable Health Care Power of Attorney. Why? Because if you don't have these 3 essential legal documents and you die, become disabled, or otherwise unable to make your own legal or health care decisions, then someone else is going to do it for you. Who that person is, or the choices they make, may not align with your actual wishes. Having the proper legal documents in place and updating them periodically allows your wishes regarding your assets and affairs to come to fruition. So what are those 3 essential documents and why do you need them?

1. Last Will and Testament. A Last Will and Testament ("Will") is the document by which you direct how and to whom your individually held assets will be distributed upon your death. Your Will also appoints a trusted person, your personal representative, to administer your estate and to distribute your assets according to your expressed wishes, including gifts to charity. If you don't have a Will, your assets will be distributed by state statutory laws of intestacy, and it may not be in a manner you would have intended, especially for those not married and/or without children.
2. Durable Financial Power of Attorney. A durable financial Power of Attorney ("POA") is the

document by which you direct who you would like to handle your personal, financial and business affairs in the event that you are disabled, incapacitated, or unable to handle your own affairs, such as paying your bills. Without a POA, someone will need to petition a court to appoint an agent to handle those matters for you, which can be a long process.

3. Durable Health Care Power of Attorney. A health care POA is the document by which you direct who you would like to make health care decisions for you in the event that you are disabled, incompetent or otherwise unable to make healthcare decisions for yourself, whether on a temporary or permanent basis. A health care POA also contains "living will" instructions which allow you to provide specific instructions for your health care and end of life decisions, such as the administration of pain medication, food and hydration. Without a health care POA, a family member or loved one will need to petition a court for the authority to make those decisions. And, similar to the appointment of an agent under a POA, could be a long process, during circumstances when time may be of the essence.

An estate planning attorney can assist you in preparing these essential documents specifically tailored for your individual needs and ensuring that they comply with Maryland law. Regardless of wishes expressed or promises made, even with the best of intentions, unless it is in proper legal written form, it is just wishful thinking and empty promises.

So while death is a certainty, it is also a certainty that without basic estate planning now, someone else will be making those decisions for you later.

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**By: Anne-Herbert Rollins, Esquire  
Miles & Stockbridge P.C.**