

Financial Planning for the Terminally III: Protect Your Wishes and Those Who Care About You

Documents You Will Need

One of the most important things you can do for the people who mean the most to you is prepare for after you are gone, as difficult as that process may be. Having your financial affairs in order will give you and them peace of mind. Listed here are some documents you should have ready. Since the plans you make will depend on your personal situation, we suggest that you also consult with a lawyer or other appropriate expert in financial and estate planning. The rules for these documents also vary from state to state. Be sure and check the validity of each document in your own state.

- **Durable Power of Attorney for Finances**

Durable Power of Attorney for Finances is a legal document in which you appoint another person to act on your behalf. It ensures that your finances stay in the hands of a person you trust. Should you become incapacitated, this person has the authority to make financial decisions for you. The Durable Power of Attorney may be used immediately, and is effective until you revoke it, or until you die. Note: This person must act in your best interests, keep accurate records, keep your property separate from his or hers, and avoid conflicts of interest..

- **Domestic Partnership Agreement**

Domestic Partnership Agreement is a legally enforceable contract that explains and clarifies the rights and obligations of both partners in a long-term committed relationship to their jointly owned property. It clarifies what each of you owns should one or both of you die. It protects you if you separate from each other by providing a roadmap to follow in dividing your jointly owned property. In both of these situations, this clarifying document helps to avoid confusing and unpleasant situations.

- **Last Will and Testament**

Last Will and Testament is a legal document that gives directions about where and to whom your assets go after you die. Additionally, you name an “executor” to carry out the directions

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given. [Note: The requirements for a “valid” will can vary from state to state, therefore, it is recommended that you ask an attorney who specializes in estate law to review your will.] It is especially important if you are in a domestic partnership that is not a legal marriage to have a valid will that expresses your wishes. If you die without a valid will, the law will automatically take over who will inherit your property beginning with your biological family. Most states’ laws regarding estates without a will do not recognize domestic partner relationships. If you do not have a legally valid will, a partner to whom you wish to give property or other assets could end up with nothing or, lose property they paid for due to an inability to demonstrate ownership.

- **Living Trust** (*not a living will*)

is a legal document that allows you, or a trustee you appoint, to transfer ownership or title to your assets into a trust, but still manage those assets through your lifetime. A living trust allows you to hold property for a partner, dependent child, friend or family member for a specified period of time. It also names the beneficiaries who are to receive the assets from your trust when you die. Thus, a living trust can minimize costs, delays, publicity and contests about what you would have wanted after your death and a living trust allows your beneficiaries to avoid probate. Who should be the trustee for my living trust and the executor for my will?

- **Trustee**

Some people name themselves as trustee so they can manage their trusts until they become incapacitated or die. Others name a trustee (either a person or an institution) because they are too busy or do not feel competent in financial matters. Some name a successor trustee who will manage the trust’s assets if they ever become unable or unwilling to do so themselves. If you name a trustee, remember that this person will have control of your assets, so choose carefully—someone responsible and reliable. You might decide on a family member, a child, a business associate or a financial advisor. You could also appoint co-trustees.

- **Executor**

Your executor is the person (or institution) you name in your will to manage your estate and carry out your wishes as outlined in your will after your death. An executor, unlike a trustee, is “under the supervision of the court,” and must obey the state laws. Being named executor may or may not be considered a compliment and it can be considered a burden. Consider someone in whom you have complete confidence, who is well organized, someone who knows you, but does not have a conflict of interest—someone who has the personal maturity to do what has to be done. As is the case with trustees, you can appoint co-executors. [Note: If you wish, your executor and your trustee can be the same person or institution.]