

## Important Legal Documents Everyone Should Have

- A General Durable Power of Attorney
- A Medical Durable Power of Attorney
- An Advanced Directive/Living Will

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## IMPORTANT LEGAL DOCUMENTS EVERYONE SHOULD HAVE

### A GENERAL DURABLE POWER OF ATTORNEY (GDPOA)

A GDPOA is one of the most useful documents a person can have for lifetime planning. It is a document in which a person names someone (an "agent") to act on their behalf according to their direction. If you become incapacitated, a GDPOA allows your agent to do the following:

- Make financial decisions for you;
- Pay your bills;
- Manage your assets; and attend to your affairs

#### **Before executing a GDPOA, you should consider the following:**

- A GDPOA is generally effective upon signing. If you are concerned about losing control of your assets, ask your attorney to include a provision that your agent can't act unless two doctors state in writing that you are incapacitated. You may also want to add a provision requiring your agent to account to third parties.
- Your agent is not formally supervised. Therefore, appoint someone you trust as your agent or consider appointing a professional fiduciary.
- Execute a new power of attorney every few years so financial institutions will recognize it.
- Be sure that your GDPOA is detailed, comprehensive, and states that it is a "durable" document. Pre-printed, short forms may not be honored by financial institutions.

### A MEDICAL DURABLE POWER OF ATTORNEY (MDPOA)

A MDPOA is a document that helps guide your agent to make medical decisions for you if you become incapacitated.

*If I become incapacitated, how do I ensure that my medical treatment is carried out as I wish?*

You can execute both a **Living Will** and a **Medical Durable Power of Attorney** ("MDPOA").

- A MDPOA designates an agent and gives him or her instructions regarding your personal beliefs and health care directions and the authority to make related decisions if you are unable to make these decisions for yourself. A MDPOA does the following:
  - Sets forth your concerns about "quality of life" issues and any specific wishes you may have regarding your health care, treatment, services and procedures, etc.
  - It takes effect either upon signing or upon your incapacity to make your own medical decisions. You are not required to have a terminal condition for it to be effective. The MDPOA should contain HIPAA privacy act waiver language so your agent can get information from your doctors or a hospital.

### AN ADVANCED DIRECTIVE / LIVING WILL

A living will is a written document that states your wishes in the event you are terminally ill or injured and/or in a coma or vegetative state.

- Living wills only apply in situations where death is imminent and you can't make your own medical decisions; it provides guidance to your doctors and your agent or proxy who is making decisions on your behalf.
- *It is a good idea to carry a copy of your MDPOA and Living Will with you when you travel in case of emergencies so that your agent can make decisions for you on your behalf if necessary.*

### TRUSTS

There are many types of trusts which can either be created during your lifetime or in your will which become effective upon your death. Some are tailored to benefit people with disabilities, others are for tax planning or provide for loved-ones or pets.

### WILLS

A will provides for how your property is to be distributed upon your death and allows you to nominate guardians for your children or create a trust for the benefit of your family members, friends or pets.

## REASONS WHY EVERYONE NEEDS THESE DOCUMENTS

- To make your wishes known to family & friends and to give them the authority to make decisions for you in an emergency or if you become incapacitated and cannot make decisions for yourself.
- To avoid the cost and stress of probate litigation.

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