



FINANCIAL PLANNING RESOURCES:

Essential Estate Planning

What is estate planning?

Estate planning in some form is crucial for everyone. Many individuals believe if they are young or have limited assets they do not need to have an estate plan. Estate planning encompasses a range of actions from designating beneficiaries to preparation of sophisticated legal documents. The main purpose of estate planning is to give you control over the distribution of your assets upon your death, rather than leaving the decision up to state law. We feel it is important for everyone to have at least a basic estate plan in place.

What are the basic estate planning documents?

Last Will and Testament: A Will is important for directing who receives your belongings and handles your affairs upon your death. This document is one of the foundations of estate planning, and most every person should have a Will. A Will becomes especially important if you have children as it directs guardianship in the event you predecease your minor children. If you pass away without a Will and have children, the courts will be responsible for directing who receives guardianship of your children, which can be a lengthy and costly process.

Living Will: A Living Will is a document that conveys your life sustaining wishes if you become terminally ill or injured. Everyone should have this type of document. Within the Living Will, you can set certain stipulations on how many physicians



must agree and what measures you would want taken under these circumstances.

Durable Power of Attorney: A Durable Power of Attorney (DPOA) directs the individual(s) you name to handle your financial affairs in the event you would be incapacitated and unable to handle them yourself. This includes things like paying bills and filing tax returns. Everyone should have a DPOA.

Health Care Power of Attorney: A Health Care Power of Attorney (HPOA) gives an individual(s) you name the power to make health care decisions on your behalf. This is separate from a Living Will and does not direct life sustaining wishes. A HPOA can be helpful if someone needs to authorize medical procedures on your behalf if you are incapacitated. A HPOA can also be useful, and is often overlooked, for a

college student going to school. Children who have reached the age of majority are able to name their parents as HPOA, which allows the parent(s) to make health care decisions on behalf of their child.

HIPAA Authorization: HIPAA stands for the Health Insurance Portability and Accountability Act of 1996, which enacted strict guidelines on who receives medical information about another person. A HIPAA authorization is a sort of blanket authorization form that allows you to name someone to receive any information about your medical history or discuss diagnoses with the doctor on your behalf. This is beneficial as it is not specific to one health care provider and can be used multiple places. Often, you will want to authorize the same individual(s) that would be serving under your Health Care Power of Attorney.

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Homestead Power of Attorney: In some states, including Kansas, a Homestead Power of Attorney is a document that is needed to allow an individual to transact business on your primary residence if you are incapacitated. This could come in especially handy if you and your spouse own the home jointly, but your spouse is incapacitated, and the home needs to be sold. This would allow you to more easily act alone in initiating the sale of the home. When having this document drafted, it is important that the legal address of the residence is included on the document. You should check laws for your individual state to see if a Homestead Power of Attorney is required.

Other Estate Planning Tactics

In some instances, you can achieve basic estate planning through other means like having assets jointly held, beneficiary designations, and transfer on death deeds. If you and your spouse own your home, vehicle or other asset together and both names are on the title, the home or vehicle automatically goes to the other spouse when one of you passes away.

Beneficiary designations are very important for assets like retirement accounts and life insurance policies. If you designate a beneficiary on your accounts, the account

will pass to that person without going through probate, which is the court process by which assets are distributed. Similarly, you can designate a payable on death (POD) or transfer on death (TOD) for assets, which allows them to pass to the individual you name upon your death. This is commonly used for bank accounts. It is always important to review the laws of the state in which you reside to understand how property passes from one person to another and which documents are necessary for your situation.

How do I acquire these documents?

We always recommend visiting with a trusted attorney who will be able to assist you in drafting these types of documents. If you cannot afford attorney fees to have these drafted, in some instances it makes sense to use online services. Kansas residents who do not have a complicated estate plan can visit www.kansaslegalservices.org to access a template for basic documents such as these.

To make the documents valid, it is important to sign the documents in front of two witnesses and have them notarized. If you live outside of Kansas, check your state's legal services website to see what document templates they provide.



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