



Atlantic Law PLC

PLANNING FOR GENERATIONS. PLANNING FOR LIFE.

ESTATE PLANNING ESSENTIALS

1) **General Durable Power of Attorney**

A General Durable Power of Attorney (a "POA") allows you to decide who will make financial and property decisions for you if you cannot do so. In your POA, you appoint a primary and successor agent who will be responsible for paying your bills, managing your investments, buying and selling real property, and other tasks if you become either temporarily or permanently incapacitated.

If you do not execute a POA and you later become incapacitated, then it may be necessary for someone to petition a court to be appointed as your conservator. This process can be lengthy and expensive and may result in the appointment of someone you would not have chosen.

2) **Medical Power of Attorney**

A Medical Power of Attorney allows you to appoint a primary and successor agent to make medical decisions for you if you cannot do so. If you do not execute a Medical Power of Attorney and you later become incapacitated, then it may be necessary for someone to petition a court to be appointed as your guardian. As with the conservatorship appointment process, this process can be lengthy and expensive and may result in the appointment of someone you would not have chosen.

3) **Living Will**

A Living Will provides you with the opportunity to make known your wishes for end of life decisions in the event you have a terminal condition and your physicians determine that there is no hope for you to have a meaningful recovery. In your Living Will you can declare whether you would like to be kept alive, no matter the means necessary, or alternatively, kept comfortable and pain free, but be allowed to die naturally.

It is important to note that a Living Will is not the same as a Durable Do Not Resuscitate Order (a "DNR"). A DNR is a Virginia Department of Health form and you should speak with your physician if you would like to have one in place.

4) **HIPAA Release & Authorization**

A HIPAA Release and Authorization (Health Insurance Portability and Accountability Act of 1996) allows you to authorize medical providers to disclose your otherwise private health information with your agents and others who you

name in the document. By signing a HIPAA Release & Authorization, you can ensure that these individuals can receive information and make informed decisions.

5) Last Will & Testament

A Last Will & Testament is the estate planning document by which you transfer your assets to others at your death. The person you appoint to be responsible for carrying forth your wishes is called your Executor, and you should also appoint a Successor Executor. If you die without signing a Last Will & Testament, then the Commonwealth of Virginia's laws of intestate succession will determine who will inherit your assets and you will have no say in the person responsible for administering your estate. If you have a minor child, your Last Will & Testament is the document by which you can appoint a guardian for the child.

6) Revocable Living Trust

A Revocable Living Trust may sometimes be a better solution for passing your assets to others at your death. An estate plan that uses a Revocable Living Trust still includes a Last Will & Testament (called a "pour-over" Will), but the heart of the plan is contained in the Revocable Living Trust Agreement. You are the Grantor of the Trust, and so long as you are living and have capacity, you are also the Trustee of the Trust.

A Revocable Living Trust may be needed as part of your estate plan if:

- You own out of state property (to avoid potential multi-state probate)
- You have a desire for your assets to remain in trust for children/grandchildren.
 - To protect against creditor or marital concerns, or
 - These individuals are minors
- You want your estate plan to remain private.
- You want your estate to avoid probate.
- You own retirement accounts or life insurance policies.
- You have a blended family because of a second marriage.

7) Other Common Estate Planning Tools:

- Special Needs Trust
- Designation of Individual to Make Arrangements for Funeral & Disposition of Remains
- Marital Agreement
- Designations of Beneficiary/Transfer on Death Designations

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