

## ELEVEN CRITICAL MATTERS TO CONSIDER BEFORE MAKING A WILL

This article is designed to get you thinking about what you want for yourself and your loved ones. Start by discerning *your* values, and then take action to put them in place.

### 1. WILL

If you don't have a will, state law makes a default will for you. Most people desire a different distribution scheme, and for that, a will is imperative. Even if your estate is modest, a will is almost always recommended so that what you do have is passed on to the right persons. With a will, you get to craft a detailed plan regarding your assets, debts, and how your heirs take ownership of property; you also get to name the person or persons who carry out the instructions in your will.

### 2. POWER OF ATTORNEY

In the event you become disabled, this document authorizes someone to act on your behalf. Because that person has legal authority to handle your financial and property matters, your affairs are carried on in a seamless manner without the expense and lag time of needing to obtain the court's permission. Since none of us knows what awaits us tomorrow, having a power of attorney is an essential part of a comprehensive estate plan.

### 3. ADVANCE MEDICAL DIRECTIVE

Also known as a "health care power of attorney," this document gives someone authority to make your health care decisions if you are unable to give informed consent. You should also authorize that person to have access to your confidential medical information so that your agent can make wise decisions on your behalf. Advance

medical directives may contain end-of-life instructions so that your values regarding life support are implemented.

#### 4. TRUST

Even though most everybody has heard about trusts, there remains a great deal of confusion and mystery over whether having one is appropriate. Beware of “trust factories” that advertise that everyone must absolutely have a trust. Not true. Whether you and your family will benefit from having a trust depends on your unique set of circumstances. Sometimes a trust is the perfect vehicle for accomplishing your goals; other times having a trust is not warranted and makes your estate plan unnecessarily complex.

#### 5. BENEFICIARY DESIGNATIONS

Most people own assets that are automatically distributed to certain persons upon death. If you have a retirement account or a life insurance policy, you named a beneficiary when that account was set up. Depending on the age of the account or policy, you may have forgotten who you named as beneficiary and that person may no longer be your first choice. You may also own bank accounts, real estate, vehicles, and investment accounts that pass automatically to a survivor depending on how the asset is titled. Knowing which assets are affected by beneficiary designations and naming the appropriate beneficiaries are essential to ensure that your estate plan is up-to-date.

#### 6. LONG-TERM CARE

With life expectancies lengthening, the probability of needing long-term care affects more and more people. Long-term care insurance may be prohibitively expensive or simply unobtainable. Nonetheless, there are planning strategies that do not diminish your standard of living and possibly protect the majority of assets for your loved ones. The best time to start thinking about these matters is while we are relatively “young” and in good health. The second best time is right now.

## 6. DEBTS

Sometimes your net worth is dramatically affected by your debts. A good estate planner helps you take a sober look at your debts and helps you consider how some or all of those debts are paid so that your loved ones are not unduly burdened. For many, life insurance can provide the liquidity to alleviate your family's debt load. In an estate plan, we can prioritize payment of those debts that will make the most meaningful impact to your family.

## 8. MINORS / SPECIAL NEEDS

Without a will, money or property inherited by a minor is kept for her for until she reaches eighteen. Usually it is not ideal for an eighteen-year-old to receive a windfall. After all, how mature and wise were you at eighteen? The good news is that we can plan for that contingency. You probably will want to name a guardian who will take care of your children in the event you pass away. Also, you may have a loved one whom you want to include in your estate plan, but that person may be disabled or receiving government assistance. You can still set aside resources to benefit those persons without disqualifying them from other forms of assistance.

## 9. TAXES

Many are concerned about taxes, but given generous legislative changes to the federal and state estate tax laws over the years, most persons will not be meaningfully impacted by estate taxes. If estate taxes affect you, there are strategies for minimizing their burden. Some persons will also need to plan for income taxes. Therefore, a complete estate plan will address whether taxes are or might be an issue.

## 10. CHOICE OF AGENTS

So you have a will or a trust or a power of attorney or an advance medical: whom do you choose to be your agent to act on your behalf? The answer to this question

should not be driven by “ought” or “should.” Rather, the person you choose must be honest, have good sense, be conscientious, and have a backbone. If no one in your family meets those criteria, go outside the family, and don’t spend any time worrying about hurting people’s feelings. This is your life and your stuff we’re talking about, not theirs.

## 11. SUCCESSION PLANNING

Usually this term describes the transfer of control of the family business to the next generation. An effective estate plan will specifically spell out the terms and conditions of how this transfer will take place. Even if you don’t own a family business, all estate planning is, essentially, succession planning. Ask yourself: What happens if I don’t show up tomorrow? That’s a great question to start with because it forces you to get practical. Begin there, and you’ll be on your way!