

## THE FOUR MOST IMPORTANT ESTATE PLANNING DOCUMENTS

Regardless of your age or financial status, you should have an estate plan to protect yourself, your family and your assets while you are still alive and after your death.

The key documents are:

- Will
- Durable Power of Attorney
- Medical Power of Attorney
- Living Will

**1. WILL.** A Will is merely a document providing for the distribution of your assets to your beneficiaries upon your death. Your attorney can draft a Will that meets all of your personal requirements. The person creating the Will is referred to as the Testator.

The document will name an **Executor** (also known in some states as a Personal Representative) to gather your assets together, pay any debts or taxes and distribute your assets. In appropriate cases, your Will may also name a **Guardian**, who will take care of your children after your death, and a **Trustee**, who will hold money or property on behalf of your child or children under circumstances which you will set forth in your Will.

In order to become legally effective, a Will must be admitted to **probate**. This usually involves visiting the Surrogate's office to file the Will after the Testator has died. After the Will has been probated, the Executor is granted the legal authority to administer your estate.

A Will does not take effect until you die and the Will is admitted to probate. It **does not** provide for management of your assets or control of your affairs if you become incapacitated. This situation is usually addressed by means of a **Durable Power of Attorney**.

**2. DURABLE POWER OF ATTORNEY.** The creator of a Power of Attorney is called the **Principal**. The Power of Attorney names an **Agent** (also known as an attorney-in-fact) to act on your behalf. You can give your agent very broad powers or you can limit them to certain circumstances or certain assets. You should choose your agent with great care, since he or she will have the same authority as you would to sell, invest or spend your assets.

A Durable Power of Attorney continues in full force and effect even if the Principal becomes incapacitated. A Power of Attorney terminates upon death.

**3. MEDICAL POWER OF ATTORNEY.** Under a Medical Power of Attorney, you appoint an agent to make medical decisions on your behalf in the event you are unable to do so. It also allows the agent to communicate with your health care providers and receive information about your medical condition. This document is often used in conjunction with your **Living Will** (see below) and can help to avoid family disputes in the event you are unable to make your own medical decisions.

**4. LIVING WILL.** A Living Will contains two parts. In the first, you create an **Advance Directive for Health Care** setting forth your wishes regarding the use of life-sustaining treatment (surgery, drugs, therapy, machines which provide life support functions, etc.) and the circumstances under which life-sustaining treatment would be withheld or withdrawn.

In the second part, (sometimes referred to as a **Health Care Proxy**), you name a person to carry out your wishes set forth in the first part.

It is important to note that a Living Will **does not** become effective unless and until you become unconscious or mentally incapacitated and unable to make health care decisions for yourself.

Once you have created and signed the above estate planning documents, you should review them periodically to ensure that they remain up to date. If any significant changes occur, (births, deaths, divorces, etc.) you should review them as soon as possible.

The firm of Graziano and Campi is ready to help you with all of your Estate Planning needs.