

What legal life documents should I have in place?

Do you know which legal life documents you should have in place in the event that you become infirm or die? Jonathan Michael, an estate and business succession planning attorney at Burke, Warren, MacKay & Serriella in Chicago, shares the following advice: "Many people are overwhelmed by the decisions needed to implement their estate planning goals. Although there is no 'one-size-fits-all' approach to estate planning, married couples with children should consider the following documents."

Power of attorney for property

This authorizes an agent to make financial decisions for the principal. These powers can range from broad, e.g., an agent makes all decisions regarding the principal's assets; to narrow, e.g., the agent attends a house closing

for the sale of the principal's residence.

Power of attorney for health care

This enables the principal to designate an agent to make health care decisions if the principal is unable to do so. It can even extend to authorizing the agent to make decisions regarding the withdrawal of life-sustaining treatments. The principal must give careful consideration to the specified decisions and discuss them with his/her family.

Will

This document is created to reflect an individual's wishes with regard to the following questions: What do I own? Who do I wish to benefit? When should the individuals or charities I wish to benefit receive their portion of



CATHY CUNNINGHAM
Help Squad

my estate? Who should be in charge of making certain my wishes are fulfilled? A will is a revocable document. Therefore, if you execute a will and later change your mind about any of its provisions, you are free to make modifications. A will identifies an executor who acts as the legal representative of the testator's estate after death.

The executor is tasked with carrying out many of the estate's administrative tasks, including collecting the deceased's assets, settling creditor claims, paying taxes owed by the estate and

distributing assets to beneficiaries. It may be preferable to utilize a third party, such as an adviser or professional fiduciary, like a bank. Married couples with minor children should additionally designate a guardian (or two guardians) of their minor children in their wills.

Living trust

This is an instrument often used for their primary estate planning needs. By establishing a living trust and transferring title of assets to it while alive, the grantor or settlor avoids a separate court proceeding to administer the assets after death. As a result of property not being probated, associated legal fees can be saved. Although a living trust does not provide estate tax benefits in and of itself, it is advantageous for avoiding probate. The settlor can revoke the living trust

at any time and is entitled to all assets and income in the trust while alive and competent. The trust should provide that if a settlor becomes incapacitated and unable to tend to his finances, the named successor trustee will use the living trust assets to provide for the health, maintenance and support of the settlor. Upon the settlor's death, the assets of the living trust will be distributed to the settlor's beneficiaries. However, the settlor can be the sole trustee while alive.

There are certain tax and non-tax benefits to using this instrument that should be discussed with an attorney.

Send your questions to HelpSquad@pioneerlocal.com.

Cathy Cunningham is a freelance columnist for Pioneer Press.

HelpSquad@pioneerlocal.com
Twitter @HelpSquadCC

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