

Essential Legal Documents

An estate plan is a collection of essential legal documents that serve you during your lifetime, during incapacity, and after your death. As you build or modify your estate plan, it is important to understand what each document is and the role it plays in your future. These documents are necessary to ensure that your wishes are fulfilled.

Elder Law of East Tennessee offers customized estate plans that are the foundation of both the **Elder Care Protection Plan** and the **Life Care Plan**. Young or old, it is likely that you will need one or all of these documents. By planning ahead, you can ensure that everything is managed according to *your* wishes.

☐ Last Will and Testament

A Will appoints and instructs a personal representative to settle your debts and expenses, and distribute your property after you pass away.

What if I don't have one? **Get one.** Your Will only goes into effect after your death. Without a Will in place, state laws govern who is in charge and how your assets are handled after your death. For financial and medical decisions made during your lifetime, you will also need Powers of Attorney and Advance Directives.

How does it help my family? It informs your family of your wishes, gives instructions, appoints the person of your choice to carry out your wishes, and prevents the state from getting involved in distributing your assets and handling your debts after death.

☐ Durable Powers of Attorney (POAs)

Durable POAs empower a trusted person (or people) of your choice to manage financial and health care matters for you during your lifetime in the event that you become unable to handle them for yourself.

What if I don't have them? An accident or illness may affect your ability to make decisions for yourself. If you are unable to think clearly about your assets, manage your money effectively, or make sound medical decisions for yourself, you may be subject to a court-controlled conservatorship, lose your rights, and incur great expense. By implementing POAs, you can maintain control over your affairs by choosing for yourself who should serve as your decision maker in the event that you cannot do so yourself.

How does it help my family? Creating POAs for future use promotes family harmony by clearly communicating your instructions and preferences so that there is less chance of contention among family members. You empower your chosen agent(s) to access the information and accounts they need with minimal difficulty and expense.

☐ **Advance Directive/Living Will**

*Advance Directives, often called an "Advance Care Plan" or "Living Will," are two legal documents that communicate your preferences regarding end of life medical care to your family and medical providers. It does **not** cover every possible circumstance, but provides those around you with valuable guidance.*

How does it help my family? In case you become unable to clearly communicate your wishes, your Advance Directive tells your loved ones how you wish to (or not to) be treated. It provides them guidance on what decisions you would be most likely to make for yourself, reducing the emotional burden of making decisions on your behalf and may prevent conflict amongst family members.

☐ **Irrevocable Trusts**

Irrevocable trusts are typically used to assist an individual in qualifying for public benefits, such as Medicaid, TennCare, SSI, or VA Pension with Aid and Attendance. These trusts include special needs trusts, qualified income or "Miller" trusts, and asset protection trusts.

How does it help my family? An irrevocable trust allows you to preserve funds for your own care or to pass a legacy on to loved ones.

☐ **Revocable Trusts**

The revocable and amendable living trust is a flexible tool for estate planning, particularly if you own real estate in other states. Assets properly titled to the trust pass through this trust rather than your probate estate when you die.

How does it help my family? Living trusts provide for incapacity planning, centralized management and control of assets. Separate tax returns are not required as long as the trust remains revocable, and there is generally no tax consequence to using the Revocable Living Trust. The trust allows your estate to avoid probate-related expenses, for less burden on loved ones. Often in living trusts, the trustee and the beneficiary are the same person (or husband and wife).