6 Estate Planning Documents & What They Do

Many people think that all they need to do to get their affairs in order is make a will before they pass away, but that's an oversimplified and actually inaccurate view of what planning your estate should actually look like! A will only takes effect after your death, and still has to go through the complicated, time-consuming, expensive Texas court process known as probate. It is a document that everyone should have, but it's not the *only* document everyone should have.

If you want to ensure that your wishes are honored, that your hard-earned wealth will pass to your family quickly and completely, and that your family will have to endure the least amount of stress possible after your death (and in the event of your incapacitation!) you need a comprehensive estate plan that includes a variety of effective, personalized legal documents. Here are 6 different options of estate planning documents that may be available to you and what they do! Depending on your unique goals and life circumstances, all of these may need to be included in your plan.

Last Will And Testament

This is what most people think of when they think of a traditional will - it's a legal document that clearly communicates your wishes regarding your assets and dependents. As mentioned above, a last will and testament goes into effect upon your death and will likely have to be executed with the supervision of the probate court.

Revocable Living Trust

A trust is a tool that owns your assets outside of your name. It has many benefits, such as guarding your assets from entities that would otherwise make claims against your assets or use them to disqualify you from financial aid. Trusts can also privately distribute your assets to your beneficiaries upon your death without having to undergo probate.

With a revocable living trust, you can set up the trust as a grantor and set the terms of the trust, which you can change at any point in your lifetime (hence the "revocable"). This means you can update the trust's terms to include new family members or new assets. You can designate yourself as a trustee so you can continue to manage and

retain control over the assets, as long as you name a successor trustee who can administer the trust in the event of your death or incapacitation.

Durable Power Of Attorney

A durable power of attorney (durable POA) is a legal document that allows you to designate someone else who can make financial and legal decisions on your behalf if you become incapacitated or are otherwise unable to make those decisions for yourself. You, the “principal”, appoint someone you trust to be the “agent” or “attorney-in-fact”. The document goes into effect immediately upon its execution, unless formally specified in the document. You can specify in the document what types of decisions they can and cannot make for you.

Healthcare Power Of Attorney

This type of POA allows you to designate someone else to make *medical* decisions on your behalf if you become incapacitated and can’t make those decisions for yourself. It works similarly to other types of POAs, but is specifically in regards to medical care.

Advance Healthcare Directive

A healthcare power of attorney gives someone else the right to make medical decisions for you; *this* document, which is also known as a living will, tells that person, and your doctors/medical team, what you want those decisions to be (and can also be used by your medical team if you don’t have a healthcare POA). You can spell out your wishes for end-of-life care, and your wishes regarding other aspects of your health, ahead of time so there is no confusion and no conflict between family members on what you would have wanted.

Beneficiary Designations

Naming your beneficiaries on your non-probate assets (those that are jointly owned or owned in trust) is extremely important in order to make sure your money and possessions end up with the right people. Not many people are aware of this, but beneficiary designations may override distributions set forth in a will; if you update your will, but fail to update and include your beneficiary designations in your estate plan, your will may not be carried out in the way you intended. You should name beneficiaries for any individual retirement accounts (IRAs) and 401(k) plans you have, annuities, life insurance policies, and bank accounts. Work with each of the companies that hold those assets to ensure the right people are named on the accounts, and then make a list and include that document in your estate plan (after making sure it matches all of the other documents in your plan).

Not Sure Which Documents Are Right For Your Plan? Call The Law Office Of Michelle E. Murphy Today!

Everyone should plan for the future, but planning ahead can be complex, and it can be difficult to know if you need all of these documents, or just a few, and if so, how to make them!

Many people attempt to save money and time by creating their estate planning documents themselves using templates or instructions they find online. However, a "DIY" approach will likely end up costing you and your family much more in the long run than if you make the investment of working with an experienced estate planning attorney. That's because legal advice found online is not always trustworthy. Some information may be outdated, as Texas has recently updated their estate laws, and none of it is personalized to your unique situation. If you make your own documents, and make mistakes, they may be declared completely invalid and not be useful to you or your family at all; the court may treat your estate as if you didn't make any of those documents in the first place, essentially wasting your time and effort.

Don't let that be a shock to your loved ones. Our attorney can take the time to get to know you, your family dynamics, and your financial circumstances so she can explain all of your options and which estate planning documents you should have in order to achieve your goals. She can customize all of the legal documents to your life, so you can have peace of mind that everything is taken care of!

None of us are guaranteed tomorrow. Call the Law Office of Michelle E. Murphy today to schedule a free consultation and learn more about your next steps!