Planning ahead for you and family

Do you have a power of attorney? Which kind should you have?

Personal Care:

A Power of Attorney for Personal Care is a written document in which you give someone the power to make decisions about your personal care should you become unable to make these decisions yourself. Personal care can include your health care, medical treatment, diet, housing, clothing, hygiene, and safety.

Durable power of attorney"

If a power of attorney is durable, it remains valid and in effect even if you become incapacitated and unable to make decisions for yourself. If a power of attorney document does not explicitly say that the power is durable, it ends if you become incapacitated.

What is power of attorney on a bank account?

When you aren't able to manage your bank accounts, a power of attorney can help. A power of attorney document lets you name someone else, known as your agent, to act on your behalf. You can create a power of attorney authorizing your agent to access your bank account or take other actions with your bank.

Medical:

What is the Difference Between Medical and Durable Power of Attorney? By signing a durable power of attorney, you authorize another person to engage in specified business, financial and legal transactions on your behalf. It is called "durable" because it does not terminate if you become disabled or incapacitated.

Health Care:

A Durable Power of Attorney for Health Care is a document that lets you name someone else to make decisions about your health care in case you are not able to make those decisions yourself. It gives that person (called your agent) instructions about the kinds of medical treatment you want.

What does power of attorney allow you to do?

A power of attorney (POA) is a document that allows you to appoint a person or organization to manage your affairs if you become unable to do so. However, all POAs are not created equal.{C} Each type gives your attorney-in-fact (the person who will be making decisions on your behalf) a different level of control.hat does power of attorney

What is the difference between a power of attorney and a durable power of attorney?

The biggest difference is in when the power ends. A general power of attorney ends when a person becomes mentally incapable because of sickness or injury to handle his or her own affairs.....To get a durable power of attorney, you must showin the document your intention that the powers will continue despite incapacity.

What are the responsibilities of a person with power of attorney?

A power of attorney is a legal document that allows one person to act for another person, but the authority comes with dutiesand responsibilities..... The agent has both a legal duty to the principal and the duties granted by the power of attorney document.

Is a power of attorney valid after the person passes on?

Powers of attorney do not survive death. After death, the executor of the estate handles all financial and legal matters, according to the provisions of the will. An individual can designate power of attorney to his attorney, family member or friend and also name that same person as executor of the estate.

What does a durable power of attorney cover?

In case you ever become mentally incapacitated, you'll need what are known as "durable" powers of attorney for medical care and finances. A durable power of attorney simply means that the document stays in effect if you become incapacitated and unable to handle matters on your own.

What is the difference between a living will and a health care directive?

The Difference Between An Advance Care Directive and a Living Will. Advance directives are oral and written instructions about future medical care should your parent become unable to make decisions (for example, unconscious or too ill to communicate). ... A living will is one type of advance directive.

What is the difference between a living will and a medical power of attorney?

A living will differs from a durable power of attorney for health care because a living will delineates your wishes specifically, whereas a power of attorney for health care allows someone else -- your agent -- to make your health care decisions for you.

Do you need a lawyer to get a power of attorney?

Most states offer simple forms to help you create a power of attorney for finances. Generally, the document must be signed, witnessed and notarized by an adult. If your agent will have to deal with real estate assets, some states require you to put the document on file in the local land records office

Can a power of attorney override a living will?

A power of attorney may terminate in a number of ways--upon a stated expiration date, when revoked by the principal who gave the power of attorney or upon the death of that principal. Death is the point at which the powers cease under a power of attorney and property passes into an estate, provided other estate planning provisions haven't been made. If the deceased died testate, or with a will, the terms of her will become effective once admitted to probate.Can you sell a house if you have power of attorney?

A power of attorney may be revoked, but most states require written notice of revocation to the person named to act for you..... similarly, an agent who signs documents to buy or sell real property on your behalf must present the power of attorney to the title company.

Can you change a will if you have power of attorney?

Since the testator of a will must have the mental capacity to understand changes to his will, the person with power of attorney cannot use that power to change the will, since the power of attorney only has power if the testator is incapacitated.

Can you limit a power of attorney?

A power of attorney is a legal document giving one person (the agent or attorney• in-fact) the ability to act or make decisions for another (the principal)..... Besure to draft the power of attorney when the principal still has a clear mind and can limitwhat the agent can do with respect to various assets.

How long a duration is a power of attorney?

First, the legal answer is however long you set it up to last. If you set a date for a power of attorney to lapse, then it will last until that date. If you create a general power

of attorney and set no date for which it will expire, it will last until you pass-on or become incapacitated.

Is a power of attorney responsible for debt?

The power of attorney does not in any way make you responsible for debts. The only way you could be held financially responsible for a debt is if you are named as an owner or a co-signer on the account or loan.

Can a power of attorney be challenged?

Since the person granting the power of attorney, known as the principal, has the authority to revoke it at any time, as long as he is mentally competent and able to communicate, a power of attorney is often challenged by a third party when the principal is not competent and cannot revoke it.

How much does it cost to get a power of attorney?

Another reason lawyers, or at least this lawyer, do not liketo post fees is that it makes the practice of lawa commodity. John charges $175 for a power of attorney but this other lawyer charges $50. And I can get a power of attorney in a super store for $10.

What happens to a person's bank account when they pass-on?

The money is not part of your probate estate (assets that can't be transferred without the probate court's approval), so it can be quickly and easily transferred to POD beneficiary. After your death (and not before), the beneficiary can claim the money by going to the bank with a death certificate and identification.

Can the same person be executor in a will and power of attorney?

Therefore, an agent's power does not supersede that of an executor **if a** principal made a will. If the agent named in a power of attorney is the same person named as

executor in the principal's will, a probate court will likely approve the executor's appointment unless the principal's relatives object.

How much does it cost to have a living will?

If you are willing to do it yourself·, it will cost you about $30 for a book, or $60 to complete your living trust online. If you hire a lawyer to do the job for you, get ready to pay between $1,200 and $2,000.

What is the difference between a living will and a durable power of attorney?

A living will differs from a durable power of attorney for health care because a living will delineates your wishes specifically, whereas a power of attorney for health care allows someone else -- your agent -- to make your health care decisions for you.

Can a durable power of attorney make medical decisions?

It gives that person (called your agent) instructions about the kinds of medical treatment you want. .... Even if you do not have specific wishes about your health care, a Durable Power of Attorney for Health Care will ensure that someone you trust will make your medical decisions if you cannot do so.

Can a power of attorney override a living will?

A durable power of attorney states that it is effective in the event the principal later becomes mentally incapacitated and is unable to manage her affairs ..... If the Principal is not living, you will not be allowed to sign documents with the power of attorney.

How do you get power of attorney for a parent?

If your parent is already mentally incapacitated but hasn't granted

Power of Attorney to you in a Living Will, you'll need to go before a judge toobtain conservatorship (or an adult guardianship). A conservatorship will grant you the right to make medical and financial decisions on your parent's behalf.

Can you get power of attorney for someone with dementia?

If the person who is suffering from dementia or Alzheimer's can no longer make their own decisions, they are not legally able to sign a power of attorney form. ... Conservators can act like a power of attorney agent, with the capability to make certain medical and financial decisions.

Who has more power executor or power of attorney?

An Executor is the person you name in your Will to take care of your affairs after you pass-on. A Power of Attorney names a person, often called your agent or attorney• in-fact, to handle matters for you while you are alive. Generally speaking, your Power of Attorney ceases to be effective at the moment of your death

What is the correct way to sign as power of attorney?

- Have your power of attorney document with you when you sign anything on the principal's behalf....
- Sign the principal's name first, not your own....
- Sign your own name after the principal's name, after including the word "by." (Your name}, POA.
- End the signature by indicating that you're acting under power of attorney.

What is a trust? definition and meaning –

Definition of **trust:** Legal entity created by a party (the trustor) through which a second party (the trustee) holds the right to manage the truster's assets or property ...

A Trust can be created for advancement of education, promotion of public health and comfort, relief of poverty, furtherance of religion, or any other purpose regarded as charitable in law. Benevolent and philanthropic purposes are not necessarily charitable unless they are solely and exclusively for the benefit of public or a class or section of it. Charitable trusts (unlike private or non-charitable trust) can have perpetual existence and are not subject to laws against perpetuity. They are wholly or partially exempt from almost all taxes. Where the purpose of a charitable trust becomes impossible or unpractical to carry out then, under the legal doctrine of cy pres (French for, as near as), the trustees acting by a majority or a court may choose another charitable purpose as nearly like the original purpose as possible.

What is constructive trust?

Trust imposed by operation of law, in the interest of equity and justice. Unlike other types of trusts, constructive trusts are not based on the expressed or presumed intentions of the parties involved. They are instead employed by courts as a device, to prevent injustice where a person in a fiduciary position has gained an unfair advantage or has committed fraud.

What is pure trust?

Type of irrevocable trust which involves at least three parties: (1) a creator or settler (but not grantor), (2) a trustee, and (3) a beneficiary. It is a contractual trust (as opposed to a statutory trust) and is a distinct legal entity in itself.

Is it better to have a will or a trust?

Five Ways in which a Trust is Better than a Will. Wills and Trusts are both estate planning documents used to pass assets on to beneficiaries after passing on.

Here are five ways in which a Trust is better than a Will to pass your estate to your beneficiaries.

1. **A Trust can be used to Avoid Probate - a Will cannot.** Probate is the process of changing the title on assets when someone passes away. Assets that are owned in a deceased person's individual name and for which there is no named beneficiary are no longer accessible once the owner of the asset has passed-on. In order for family members to gain access to accounts or other assets in the deceased's individual name, they must file a petition with the probate court and wait for the court to approve the Will and appoint the Personal Representative. This can be a long and costly process during which bills cannot be paid and assets cannot be managed. A Trust is an excellent probate avoidance tool because assets that are owned in the name of a Trust are immediately accessible to the trust-maker's designated successor.

2. **A Trust can provide Creditor Protection for the Inheritance you Leave to Beneficiaries - a Will cannot.** Many people worry that the inheritance they leave to their children will be lost to their children's creditors such as a divorcing spouse, unpaid credit card bills, a bankruptcy, a business loss, or a lawsuit. Sadly, this is often the case when assets are distributed to beneficiaries via a Will. A Trust allows the maker to safeguard an inheritance from the reach of the beneficiaries' creditors by keeping the assets out of the name of the beneficiary. Ownership of the assets remains in the Trust. The beneficiary will have access to the assets in accordance with the directions you leave in your Trust. You may also allow your beneficiary to serve as Trustee, allowing the beneficiary to manage her own inheritance.

By leaving assets to your beneficiaries via a Trust rather than outright via your Will, you can ensure that the assets you worked so hard for will be available to your children and future generations.

3. **A Trust can Protect Governmental Benefits for a Person with Disabilities - a Will cannot.** If you have a child, grandchild or other beneficiary with disabilities, then a Trust is a must. If you leave assets to a person who receives needs-based governmental benefits via your Will, it will place your beneficiary in the difficult position of either losing those benefits, or transferring the inheritance into a Trust of which the state must be the beneficiary at the beneficiary's death. Unless the inheritance you are leaving is so significant that the monetary and medical benefits available to the person through programs such as Social Security and Medicaid are no longer important, then making sure that those governmental benefits continue to be available is vital. Leaving assets to a person with disabilities via a Trust is the best way to ensure those governmental benefits are preserved and that the inheritance you leave will be available to pay for expenses that are not covered by these governmental benefits, which while vital to many, are limited in their scope.

4. **Trusts can Reduce Estate Taxes - a Traditional Will cannot.** Many married couples have so-called "I-love-you" Wills, which leave all assets outright to the surviving spouse upon the first death. If you have an estate of more than $1,000,000, then using "I-love-you" Wills means that money you think you are leaving to your beneficiaries will in fact be going to the Commonwealth of Massachusetts in the form of estate tax payable at the surviving spouse's death. If you would prefer that your assets pass to your family, create Trusts to reduce estate taxes. Estate tax planning via Trusts for married couples is standard planning and permissible under both state and federal tax laws.

5 . **A Trust can Administer Assets for Minor Beneficiaries without Court Intervention - a Will cannot.** Leaving money directly to a minor creates an administrative nightmare because the law provides that a minor does not have the legal capacity to receive assets. The parent of the minor also does not have the ability to act as the child's legal representative until the court says so. As such, if you pass-on with a Will that leaves money to minor beneficiaries, the court will need to appoint a Conservator to receive that inheritance for your children. The Conservator will be required to report annually to the court and the court will appoint an overseer (guardian ad litem) to make sure the Conservator is doing his or her job for your minor beneficiaries. This means huge costs and long delays in administering funds for minors. It also means that when the minor turns 18, he or she will be entitled to receive all of those assets and will be free to do with them as he or she wishes (think fast cars, spring break, and lots of shopping). Creating a Trust to receive assets passing to a minor, or even to a young adult beneficiary, is the best way to ensure that the court is not involved in the process, that the person you want to manage assets for the beneficiary is able to do so, and that the beneficiary can use the assets only for purposes you decide are important and/or at ages that you dictate.

What is a living will?

A written statement detailing a person's desires regarding their medical treatment in circumstances in which they are no longer able to express informed consent, especially an advance directive.

A living will is a document that explains whether or not you want to be kept on life support if you become terminally ill and will pass-on shortly without life support, or fall into a persistent vegetative state. It also addresses other important questions, detailing your preferences for tube feeding, artificial hydration, and pain medication in certain situations. A living will becomes effective only when you cannot communicate your desires on your own.

A living will is usually limited to the refusal of, or desire for, medical treatment in the event of:

- a terminal illness
- an injury, or
- permanent unconsciousness

In the event you are unable to communicate your desires in such situations and do not have a living will, doctors or hospitals may decide they are legally obligated to perform certain procedures that you would not desire. If your spouse, adult child or another relative is called upon to make a decision about your care, he or she will find it helpful if you have expressed your wishes in a living will. A living will tells others what you want to happen in such circumstances.

You may see a living will called by other names, such as:

- a declaration regarding life-prolonging procedures;
- an advance directive; or,
- a declaration.

Living Will Compared to a Last Will and Testament

It is important not to confuse a living will with a last will. A *last will and testament* expresses what you want to happen to your property and minor children if you pass-on. A living will expresses what you want to happen to your person regarding medical treatment while you are still alive.