

ESTATE PLANNING - ADDITIONAL PLANNING

Living Will

A living will is the term used in Oklahoma and other jurisdictions providing for a person to direct his or her physician whether or not extraordinary medical treatment should be used to prolong a person's life in the event of a determined terminal illness. Oklahoma statutes provide for a separate "Directive to Physicians" rather than inclusion of the directions in that person's will. There are very specific statutory requirements which must be met in drafting and signing the directive, otherwise it is not valid.

Guardian

A guardian is a person appointed by a court to take care of the person or property of another who has been found by the court to be incompetent, incapacitated or a minor in need of a guardian. A guardianship hearing can be embarrassing for the individual and family and can be expensive and complicated due to the bonds, accountings and reports that must be posted and filed regularly with the court.

Conservator

A conservator is appointed by a court for an individual who has a physical disability which restricts or impairs the individual's ability to handle his affairs and property. The same laws apply as for a guardian.

Durable Power of Attorney

A durable power of attorney under Oklahoma law allows an individual to grant a power of attorney that is not affected by any future incompetency or disability of the individual. It enables someone to manage the estate in the event of a disability or incompetency without the need for the commencement of an expensive and cumbersome court appointed guardianship or conservatorship. The power can also recommend an appointment of a guardian by the court if one needs to be appointed for the principal.

The power terminates upon revocation of the grantor (if competent) or the duly appointed guardian if the grantor is incompetent or upon the death of the grantor. The power of attorney can be drafted as broadly or restrictively as the grantor desires but must have specific statutory language in it. The power can take effect immediately or at some future event or occurrence such as the disability or incompetency of the individual.

Seeking Professional Help - Who

Lawyer

Interview your lawyer to determine if he or she is competent to handle your affairs. The lawyer who got uncle Bill out of jail or handled a friend's divorce may not be able to handle your estate plan.

Bank Trust Officer

Many banks have trust departments that handle trusts established by their customers. Your banker can be an important source of help if his bank has a trust department. The trust department can also act as a trustee for any trust that your lawyer may recommend as a part of your estate plan.

Accountant

Often an accountant's advice regarding taxes (both income and estate) are important in establishing an estate plan. An accountant will also be involved in preparing the gift or estate tax returns.

Insurance/Financial Planner

Depending on the size and complexity of an estate, there may be a need for a financial planner who is well versed in estate planning and investment matters in addition to an insurance agent to help with any insurance requirements.

What Do I Do Now?

- Ask questions - this outline is designed to give you only a brief overview of issues common in most estate planning. If something is not clear or was not covered that you have a question about, please ask.
- Questionnaire - a questionnaire can be provided to you which should be used to record the information necessary to formulate a proper estate plan. For most people, the questionnaire should take an hour or so to fill out.
- Call a lawyer who knows about estate planning and go over your questionnaire and your family's needs, resources and problems to help him advise you on what type of planning is best for your situation. Get an estimate on what it will cost you.
- Follow your lawyer's advice! The best plan is useless if the document is never signed or the follow-up necessary to effect the plan is postponed.

For more information, please contact:

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