

Planning for the Unexpected

By Louis E. Conrad II

- ▶ Too often I find clients have inadequately prepared for life's misfortunes, which can ultimately also place undue emotional and financial stress on their loved ones.
- ▶ Properly prepared and maintained estate planning documents aid in your ability to not only direct how your affairs are handled, but also reduce the stress on family members.

All of us should have a plan to meet the unexpected financial and medical events that confront us in life. I recommend that clients have at least the most basic of estate planning documents and then maintain them consistent with their current wishes.

Wills and Trusts

A will is a set of written instructions outlining how probate property should be distributed after the owner's death. Probate property is essentially property that is not distributed to a joint owner, through a trust, or through a beneficiary designation.

Naming a guardian for any minor children is perhaps the most important nonfinancial reason for having a will. Without a will, a state court will determine who will become the guardian of your children if you and your spouse are deceased. If you are the parent of minor children, you should also consider a trust that will dictate how your assets will be managed on behalf of your children until they reach the age of majority or some later age.

In general, trusts are a tool to manage your estate's financial, real estate, or other tangible assets. Though there are many different types of trusts that can be established with different purposes, a personal trust is a legal arrangement that is created to hold assets for the benefit of a beneficiary. Trust assets avoid the probate process and public view, and may also reduce the amount of estate taxes that would otherwise be due upon the grantor's death.

Durable Power of Attorney

With a durable power of attorney (DPOA), you legally delegate authority to another person to manage your financial affairs in the event you are unable to do so. A DPOA can be used if you become disabled or incapacitated, on either a temporary or permanent basis. The person you appoint becomes your attorney-in-fact and can

deal with your bank and investment accounts, credit cards, and other personal financial accounts.

Health Care Proxy

A health care proxy enables a family member or trusted friend to make decisions about your medical care if you are unable to do so. Such a medical directive can reduce family conflicts and the time necessary to make medical decisions. Although sometimes appearing as separate documents, a health care proxy will often include two other important directives, a HIPAA release and a living will.

HIPAA, the acronym for the federal Health Insurance Portability and Accountability Act, provides authorization to health care providers to allow access of your medical information to those you appoint. Without a HIPAA release, your spouse or other family members will not have access to your medical condition or records.

A living will outlines your wishes in the event you require extreme medical intervention or life support decisions. While not legally enforceable in Massachusetts, a living will can provide guidance to others.

A properly crafted estate plan, implemented with the documents outlined above, allows you to express your wishes and provide clear direction in a legally enforceable manner for your financial affairs and medical care. It can also reduce family conflict and their stress when they are called upon to make decisions on your behalf.