

Western Mass Estate Planning

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ESTATE PLANNING DOCUMENT SUMMARIES

- **Will**

Your Will is the document that outlines how your property should be distributed at death. Wills nominate a Personal Representative who is in charge of administering and settling your estate. This process is generally referred to as “probate.” Any and all assets that are held in your individual name at your death will be offered for probate with the appropriate court.
- **Durable Power of Attorney**

Powers of Attorney allow you to name another person or people to sign your name and do acts on your behalf. This person is called your “attorney-in-fact.” The document is effective upon signing and is valid until death or revocation. If you have appointed more than one attorney-in-fact, each may act independently of the other; i.e., they do not need to act together. You should keep in mind that third parties are not required to honor this document simply because it is legal; however, most will accept a validly executed, well-drafted and current Power of Attorney.
- **Health Care Proxy**

Health Care Proxies allow you to appoint someone, called your health care agent, to make health care decisions on your behalf, in the event you are unable to make the decisions yourself. This document does not specify what your wishes are, but rather names the person who will exercise those wishes. The Proxy becomes extremely important should decisions be necessary concerning termination of life support.
- **Living Will**

This is a companion to the Health Care Proxy. Whereas the Proxy names the individual you wish to make the decisions, the Living Will expresses in writing your wishes with respect to end-of-life decisions. Although not legally enforceable in Massachusetts, this is a helpful document because it provides evidence of your wishes for your family and any other interested third party (e.g., a hospital, a court).
- **HIPAA Authorization for Release**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) contains privacy regulations which require virtually every physician, dentist, nurse, pharmacist, laboratory, and health care provider in the nation to limit access to confidential medical records and information. In order for your family members, friends, and/or designated health care agents to obtain individually-identifiable health information about you, you must specifically authorize disclosure and release of the information to them in writing.
- **Declaration of Homestead**

A Declaration of Homestead protects a principal residence from most creditor claims during the homeowner’s lifetime. As of March, 2011, Massachusetts homeowners have \$125,000 automatic protection and can increase coverage to \$500,000 by a declaration recorded at the appropriate Registry of Deeds.