

The Importance of Creating and Updating Your Estate Plan

Most people do not understand the importance of creating an estate plan. An estate plan provides a blueprint of how you would like things handled in your life when you cannot handle them yourself. A typical estate plan will cover two different types of plans: what happens if you become incapacitated and what happens when you die. Within those plans, there are two different types of categories: what happens to you or your body, and what happens to your assets. This article will discuss all of those scenarios.

Planning for Incapacity

While it is not a pleasant thing to think about, there is always a possibility that each of us could become incapacitated. Incapacity could be mental or physical. The bottom line is, you are not able to care for yourself either permanently or for some period of time. If this were to happen, who would take care of you? A good estate plan should include documents that designate individuals to take care of you, the person. A Healthcare Surrogate form appoints someone to make medical decisions if you are not able to. It also allows that person to have access to your medical records so that they can make informed decisions, and deal with your health insurance to make sure your care is being covered. A Living Will is a document that allows you to choose the procedures you would or would not like done in the event you are in an accident or become ill and at least two doctors determine you are not likely to recover. These forms can be as general or as specific as you would like. Many religions offer a version in keeping with their belief system on the internet. This form will also allow you to designate a person to ensure that your wishes are followed.

To cover your finances in the event of incapacity, a Durable Power of Attorney will allow someone you designate to handle financial issues for you, such as writing checks or transferring a car title. If you have a substantial amount of wealth, it would most likely be beneficial to establish a Revocable Trust. A Revocable Trust will allow you to serve as your own trustee while you have capacity, and if you lose capacity or decide to resign, it provides a means for you to pick an individual or a corporate trustee to step in and manage your financial affairs.

If you do not have any of these forms in place and become incapacitated, the State of Florida (or your state of residence) will most likely appoint a guardian for the person and property. The guardian of the person will make all of your healthcare decisions and the guardian of the property will handle your finances. The decisions made under these circumstances may not be the decisions you would have made yourself, or that a loved one would have made for you. It is also possible to designate a Pre-Need Guardian. A Designation of Pre-Need Guardian provides the court with the name of an individual that you would like to have preference in the event that you need a guardian appointed. This is a form that should also be considered if you have minor children.

Planning for Death

An equally unpleasant topic is death. The things to consider are how you would like your body handled after your death, who should administer your estate, who you would like to leave your estate to, and whether or not it should be left in trust. The primary reason for leaving assets in trust is to provide care for someone incapable of handling their own financial affairs. That someone could be an elderly parent, a child, a dear friend, or a pet. The industry term for it is “parenting from the grave” but it is a means of ensuring that things you would have done if you were still living will still get done. Additionally, there is sometimes a benefit to leaving assets in trust for a child in a high risk profession, such as medicine or the law, as certain types of trusts can be exempt from creditors. Failure to plan could mean that the state will determine who your heirs are, and at what age they get the monies. For example, few people realize that when a spouse dies, if there is no will, the surviving spouse does not necessarily get everything. Failure to plan could also result in your heirs arguing over the disposition of your body or your assets.

Updating on a Regular Basis

Updating your plan on a regular basis is just as important as putting the plan together in the first place. Every year there are changes in the law, changes in your wealth, and changes in your family situation. Wills, Revocable Trusts, Healthcare Surrogates, Living Wills, Durable Powers of Attorney and Designations of Pre-Need Guardian should be reviewed at least every two to three years, as well as beneficiary designation forms for IRAs, qualified plans, and life insurance,