

BEAUTIFUL BUT BORING

5 ESTATE PLANNING DOCUMENTS MOST EVERYONE NEEDS

Mary Anne Vance
Attorney at Law

Do you want to save money and give your family a gift at the same time? Preparing five estate planning documents will save you and your estate big bucks. Boring work it might be, but beautiful in the good it accomplishes. Today's estate planning is significantly improved from a decade ago. Smart planners now prepare for disability as well as death. Medical science does a great job keeping us alive longer – but perhaps unable to manage our affairs effectively.

The good news is that signing basic estate planning documents ensures that the people you choose will be able to manage your life if you are disabled and manage your affairs after your death. The essential documents are: Financial Power of Attorney; Medical Power of Attorney; Last Will and Testament; Health Care Directive (Living Will); and Disposition of Remains Instructions. These documents do not automatically expire and you should review them annually to be sure they still say what you want them to say. Staying up-to-date is your best means of controlling future legal costs.

Powers of Attorney

Powers of Attorney are the most popular device for managing the affairs of an incapacitated person. Using a Power of Attorney avoids the costs and complexity of a guardianship court proceeding. Washington Statute, RCW 11.94, governs Powers of Attorney. (See <http://apps.leg.wa.gov/RCW/default.aspx?cite=11.94>) The two basic types of Powers of Attorney are Financial Powers of Attorney and Medical Powers of Attorney. Often the Powers of Attorney are referred to as “Durable” meaning the documents remain effective even if we become disabled. Powers of Attorney become invalid at death.

A Financial Power of Attorney allows you to name a person or an institution such as a trust company to make financial decisions. The Financial Power of Attorney can be effective either immediately or only when our doctor says you have become disabled or incompetent. If you think someone is abusing a Power of Attorney, the law allows any interested person to ask the Court to hear the complaint. RCW 11.94.100. (See <http://apps.leg.wa.gov/RCW/default.aspx?Cite=11.94.100>)

Washington law automatically gives a limited Medical Power of Attorney to certain family members without the need for a written document. The smarter move for this tough job is to sign a document picking someone who shares your views on health care questions. The Washington State Medical Association web site offers a sample Medical Power of Attorney form and information at <http://www.wsma.org/files/Downloads/PatientResources/HCD-forms.pdf> and http://www.wsma.org/patient_resources/advance-directives-qa.cfm.

Last Will and Testament

A Will is a written statement signed by you and two adult witnesses who can not inherit under the Will. Computer drafted “do-it-yourself Wills” are valid only if printed out and signed by you and two witnesses. The Will names people or organizations who will inherit your assets after your death. You are free to leave your assets to anyone you choose, and you are not required to leave your estate to your spouse or your children. If you disinherit your spouse or children be sure your Will specifically names them and says you wish to leave them nothing. You can also create a future Trust in the Will naming the person who will manage your children’s money and naming a guardian to care for your minor children. The Will can also create a future Trust that becomes effective at the death of the first spouse to die which will ultimately reduce estate taxes on the death of the second spouse to die.

Health Care Directives (Living Wills)

Health Care Directives (HCD), popularly referred to as Living Wills, describe the end-of-life medical treatment you want. The HCD is created by the Washington Natural Death Act (RCW 70.122). You can use the sample form available at <http://www.wsma.org/files/Downloads/PatientResources/HCD-forms.pdf>

Washington State Living Will Registry

A simple way to keep track of your written directives is to register the Living Will and Medical Power of Attorney with the State Department of Health. Only you and your authorized healthcare providers have access. Register for this free service at <http://www.doh.wa.gov/livingwill> or call (800) 525-0127.

Disposition of Remains / Burial Instructions

Avoid family fights about funeral and burial arrangements by signing, along with a witness, Disposition of Remains Instructions which state whether you want a burial or a cremation, and also who you want to manage your funeral and burial arrangements. See <http://apps.leg.wa.gov/RCW/default.aspx?cite=68.50.160>

Taking a few moments to do the boring work of reviewing and organizing your estate planning documents will give you peace of mind and ultimately save money for the people you love. Now don’t you feel beautiful?