

End-of-Life Care Planning Decisions

Because each of us will face different scenarios related to disability, illness, and the dying process, there is no one-size-fits-all approach to end-of-life care planning. Memorializing one's wishes in an advance directive document will help to avoid misinterpretation and offer guidance to those who will be making those decisions on one's behalf when the individual is unable to do so. Two important documents related to health care are the Power of Attorney for Health Care and the Living Will. The Power of Attorney for Property and the Last Will and Testament concern financial related matters.

Power of Attorney for Health Care

The Power of Attorney for Health Care allows the individual, the "principal," to designate another person, the "agent," the authority to make medical and health related decisions on his or her behalf once the principal is no longer able. Unless limited by the document, the agent will have broad powers related to make health related decisions, such as power to consent to or withdraw medical treatment, admit to or discharge from a hospital, and obtain access to medical records. Additionally, the principal may tailor the document to address particular wishes or concerns, such as documenting consent to organ donation or instructions to refuse certain types of medical treatment. The powers granted to an agent under Power of Health Care usually terminate at the death of the principal or upon the final distribution of the principal's remains.

If an individual does not have a Power of Attorney for Health Care, most states allow family members to make decisions based on an order of priority of family relationship to the individual. However, a Power of Attorney for Health Care is important if the individual does not have family who are able or willing to make such decisions or family members who would disagree as to the care plan.

Power of Attorney for Property

The Power of Attorney for Property is a separate document from the Power of Health Care and grants the agent authority over the principal's financial and property related matters. This instrument may also be tailored to limit the agent's authority to certain types of transactions or to grant additional authority, such as the power to make gifts from the principal's assets or engage in estate planning. The agency may take effect once the document is signed or at a later date, such as when a physician determines the principal is unable to make financial decisions. Unless the document states otherwise, the agent

resigns, or the principal revokes the Power, the powers granted to an agent under Power of Attorney for Property cease at the principal's death.

Living Will

The Living Will documents end-of-life care wishes to be referenced in cases when an individual has an irreversible or incurable illness, death is imminent, or the individual is longer able to speak for themselves. The Living Will may document wishes concerning death-delaying measures, such as the administration of nutrition and hydration through a gastric tube or intravenously.

Last Will and Testament

A Last Will and Testament should not be confused with the Living Will. A Last Will and Testament only takes effect at death and deals predominantly with the administration of financial matters after death, including the distribution of assets. Therefore, while an important estate planning document, the Last Will and Testament will not offer much guidance to an individual's family and friends during his or her end-of-life.

It is important to speak to a qualified attorney to assist in preparing and signing these forms. When done correctly, these documents are an important part of one's estate plan and end-of-life care plan.

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For questions regarding planning for the future, please contact the office of Dutton & Casey, PC, to schedule a meeting with one of our attorneys.

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In addition, for information and additional resources, please visit the website of **Dutton & Casey, P.C.** at www.duttonelderlaw.com. While you are there, please sign-up for the electronic newsletter which contains helpful information on a wide variety of legal topics.