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Estate Planning Tools

By Elizabeth Morrison Dean

Available Documents for Estate Planning included in Our Estate Planning Packages

A good estate planning attorney will be able to simplify the passing a loved one and sometimes allow them to avoid the hassle and cost of probate. Here are some of the tools available in our Estate Planning Package:

Will: The will is the standard document in most estate plans. The will names an executor, or personal representative, to administer the distribution of your assets as you intend. Your will can also appoint guardians of minor children who will oversee their custody and care until they become adults.

Personal Property Memorandum: Although not a valid will, this document directs your executor on how to distribute your tangible personal property items such as furniture, jewelry, artwork and other things not specifically addressed in the will. This can be changed over time.

Durable Power of Attorney: This document appoints a trusted family member, friend, or advisor as an agent to act on your behalf for financial and legal matters while you are alive but become incapacitated by some event such as a car accident, illness, stroke, or heart attack. It is important to have this in place before such event, because once you become incapacitated, you cannot execute this agreement. Therefore, we recommend that you make it effective immediately to make it easier to use, if needed.

Medical Power of Attorney and HIPPA Release: This document appoints someone you trust (agent) to make medical decisions for you when you no longer can. Also, the HIPPA release gives the agent authority to discuss your medical care with the doctors and access your medical records.

Directive to Physicians (also called a “Living Will”): This is an in-hospital directive that directs the physician on your “end-of-life” care wishes, rather than leaving them up to the agent named in your Medical Power of Attorney or the doctor. This document covers the situation when you have a terminal or irreversible condition and are unable to communicate your

wishes, allowing you to choose to die comfortably or use life-sustaining treatment, such as a ventilator, feeding tube, or resuscitation.

Out-of-Hospital Do-Not-Resuscitate Order (OOH-DNR): This is an out-of-hospital directive that directs paramedics or other healthcare professionals on whether to withhold or withdraw life-sustaining treatments in the event of a respiratory or cardiac arrest. Examples of out-of-hospital settings include long-term care facility, in-patient hospice facility, private home, hospital outpatient, emergency department, physician's office, and vehicles during transport. The prohibited life-sustaining treatments include: CPR, transcutaneous cardiac pacing (electrical impulse from pads applied to chest), defibrillation (electrical shock to chest), airway management (tube inserted down the throat for the worker to breathe for the patient), artificial ventilation (mask and bag used to force air into the patient's lungs).

Survivorship Agreement for Community Property: By default, community property does not include survivorship rights. On the death of one spouse, his or her interest in the property passes to his or her estate instead of directly to the surviving spouse. Married couples can change this result by filing this document in the deed records.

Transfer on Death Deed: This document is used by married individuals owning separate property or unmarried individuals that own real property. This deed transfers real estate to someone else after you die without it going through the probate process. Property transferred with the new deed is treated like real property passing through probate, but outside the probate process. There should be no federal or state estate tax by transferring the property at the "stepped up basis." Your ownership rights are not affected while you are alive.

Appointment for Disposition of Remains: This document details your intentions for how you would like your bodily remains to be handled upon your death, as well as any funeral arrangements. This document is legally binding and names your agent who will carry out your wishes regarding any cemetery organization, cremation plans, desired funeral director or embalmer, and the funeral establishment. Without this document, Texas law has a list of who has the right to control disposition and are liable for the cost of interment.

Motor Vehicle Transfer Forms: If you own any motor vehicles, regardless of whose name is on the title, I can provide forms that will automatically transfer any motor vehicles to your spouse or other beneficiary outside of probate.

***Living or Revocable Trust:** A revocable trust holds and provides management of your assets for your benefit while you are alive and names the people who will receive the property when you die. These trusts can also help with planning for incapacity, to keep out-of-state property from going through probate, or for tax planning purposes when the estate is worth over \$11m. Otherwise, trusts are not needed in Texas like they are in other states.

*Not included in the Estate Planning Package. Can be added for a small additional fee.