

The Core Four: Legal Documents Everyone Should Have in Place

Provided by Joseph D'Urso, AIF®

No one likes to imagine a time when they might be sick or unable to make decisions for themselves. It ranks alongside cleaning out the garage or scheduling a long-overdue physical—important, but all too easy to postpone. Yet planning for these possibilities can make all the difference.

Without a clear plan in place, the state might step in and appoint a guardian to make financial and medical decisions on your behalf. Someone you didn't choose could end up deciding where you live, how your money is managed or what medical treatments you receive. That's not a situation any of us wants to be in.

Incapacity exists on a spectrum. It could look like cognitive decline from Alzheimer's or dementia, physical incapacity after an injury or illness, a sudden event such as a stroke or a gradual decline over time.

Because these scenarios unfold differently—and at different life stages—you'll need four key documents to address them: a durable power of attorney, health care proxy, living will and a will or trust.

You may have one or two of these documents already, but comprehensive planning requires all four. Together, these documents create a coordinated safety net. Without one, gaps can appear. It's a bit like living near a river and buying homeowner's insurance but skipping flood coverage. You're mostly protected... until you're not.

1. Durable Power of Attorney

A durable power of attorney (DPOA) is a legal document that authorizes someone—known as your agent or attorney-in-fact—to manage your financial affairs on your behalf. The word “durable” here is key: It means that the document is valid even if you become mentally incapacitated.

Your agent can be authorized to manage bills, banking, investments and business interests.

Choosing the right person to fill this role matters. Consider someone who is financially responsible, trustworthy and capable of handling potential conflict if family members disagree. Many people select a spouse or adult children. If these options don't feel appropriate, we can help you identify another trusted individual or a professional fiduciary.

It's also wise to appoint a back-up agent in case your first choice is unavailable when needed.

2. Health Care Proxy

Your health care proxy is a document that designates an agent to make medical decisions if you are unable to make them yourself. This covers situations where you are unconscious, severely ill, undergoing surgery or have lost cognitive capacity.

The health care proxy is typically activated when a physician determines that you lack decision-making capacity. At that point, your agent can step in and make decisions about treatments, surgeries, medications, care facilities and in some states, end-of-life decisions. Ideally, these decisions are guided by your known wishes or their best judgment of what you would want.

Again, a spouse or adult children are common choices. Whoever you name should be someone who understands your preferences about medical care, is comfortable making decisions under pressure and can advocate for you with medical professionals.

It's also common to name different individuals for medical and financial decisions. It creates natural checks and balances and helps prevent one person from carrying the entire weight.

3. Living Will

A living will complements your health care proxy. This document spells out—in your own words—the medical treatments you do and don't want in specific circumstances, such as a terminal condition, a persistent vegetative state or at the end-stage of an illness with little hope for recovery.

You don't need to name an agent for a living will. However, it may be helpful to bring up this document in conversation with your physician and estate attorney. Tools like the [“Five Wishes”](#) framework can serve as a jumping-off point for clarifying your preferences.

4. Will and Revocable Living Trust

Your estate plan should also include a will or a trust that addresses what happens to your assets when you die or are incapacitated.

A *will* outlines where property should be distributed when you die. You'll need to name an executor of the will who oversees executing your wishes when you die. You'll also need to name a guardian for minor children.

A *revocable living trust* goes a step further. It allows you to transfer assets into a trust during your lifetime, typically naming yourself as the initial trustee so you retain full control. A successor trustee can step in if you become incapacitated or die. There are several types of revocable trusts. We can work with you and your estate attorney to help determine which one is right for you.

Because assets in a trust can be managed without court involvement, a trust often allows for a smoother transfer of property. Transfers from a trust are private, generally faster and often less expensive than if your estate is forced to go through the probate process.

Planning That Stays Current

No single document covers every phase of incapacity or death. The goal is to have all four in place, kept current and accessible to the people who may need them.

One important area these documents don't cover is beneficiary designations on retirement accounts and life insurance policies. These designations override instructions in your will, so make sure they are up to date and aligned with your wishes.

Finally, remember that life is dynamic. Laws evolve, financial situations shift and relationships change. It is beneficial to review each of these documents regularly—especially after major life events such as marriage, divorce, the birth of a child, relocation or significant changes in wealth—and update them when needed.

Joseph D'Urso, AIF® may be reached at 410-991-0252, joed@thinkpwm.com, or www.joedurso.net.

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