

# *Lindstrom Estate & Trust*

## **UNDERSTANDING YOUR ESTATE PLANNING**

### POWERS OF ATTORNEY AND HEALTH CARE DIRECTIVES FOR INDIVIDUALS AND COUPLES

A little advanced planning can go a long way toward protecting yourself, your family and your loved ones. A few basic documents can generally eliminate potential, but significant, economic and administrative burdens. The main underlying reason to establish a Power Of Attorney and Health Care Directive is to avoid the economic and administrative burden that would result if you are unable to handle to your own affairs. Without a Power Of Attorney and Health Care Directive, your family members would need to commence a court proceeding to have a Conservator or Guardian appointed to act on your behalf. Such proceedings can be expensive and time consuming and may come at a time when decisions need to be made quickly or where matters are urgent. Such court proceedings do not lend themselves to urgent matters. Furthermore, it would be the Court, and not you, naming the person to act on your behalf.

#### **POWER OF ATTORNEY**

A Power of Attorney is a document that allows you ("The Principal") to give another ("The Attorney-In-Fact") the power/authority to take actions on your behalf. The authority can be limited to specific authorized actions or can authorize the Attorney-In-Fact to handle all non-health care matters on your behalf. The Power of Attorney is usually structured in such a way so that it continues in effect if you become incapacitated or incompetent and unable to handle your own affairs. You can also name Successor Attorney(s)-In-Fact in the event that the first named Attorney-In-Fact would be unavailable. It is important that you name a trusted individual in that you are allowing another to have authority to handle your affairs.

#### **HEALTH CARE DIRECTIVE**

A Health Care Directive allows you to give another individual ("The Agent") the authority to make health-care decisions on your behalf in the event that you are unable to make your own health-care decisions. You can also name Successor Agents in the event that the first named agent would be unavailable. The Health Care Directive allows you to also include provisions regarding your wishes with respect to organ donation, disposition of remains, and desire for certain types of health care such as your wishes in the event you have a terminal condition.

#### ***SPECIAL NOTE ON LIVING WILLS AND HEALTH CARE POWERS OF ATTORNEY***

You may have heard of a "Living Will" or "Health Care Power of Attorney." Prior to the legislation creating the Health Care Directive, there were two separate forms. (1) A Health Care Power Of Attorney that allowed for naming an "Agent" to make health-care decisions on your behalf and (2) a Living Will which set forth your desire for specified types of care in certain events - such as having a terminal condition. Now, both of these objectives can be accomplished with a single Health Care Directive form. The new single form also eliminates the use of the term "Living Will" which created some confusion. A "Living Will" is not related to a "Will", or "Last Will & Testament", which is an entirely separate document that deals with distribution of your assets upon death.