

The Gift of Pre-Planning

Getting Your Ducks in a Row

Most people want to decide for themselves who will receive their hard-earned resources and personal items at their death. And almost everyone would prefer to have a say in who is given the authority to manage their affairs during life if the time comes they can no longer make those decisions on their own.

Getting your legal ducks in a row, or pre-planning, insures things are handled in the fashion you desire and is one of the greatest gifts you can give to your family and friends.

The basic, crucial planning documents include: a Will; Durable Power of Attorney; and an Advance Directive for Health Care also called a Living Will. Depending on your circumstances, you may also reap benefit from creating a Trust.

Will

When a person dies without a valid will, their property is distributed, not according to their wishes, but according to state “intestate succession” laws. These laws only allow distribution of your property to your family as strictly outlined by the law. When you plan ahead and create a Will, you get to choose who you want to receive your hard-earned resources and personal property and how – be it family, friends, charity, etc. A Will leaves you in control and can be easily changed or revoked. A Will does not have to be drafted by an attorney, but it is strongly advisable. In Oklahoma, Wills can be handwritten – holographic – and still be acceptable. It is important to note, that a holographic Will must be entirely handwritten, dated and signed by the creator, also called the testator.

Durable Power of Attorney

A Durable Power of Attorney (DPOA) gives another person the authority to make decisions (such as financial, business or health care) on your behalf, even when you are unable to act or make those decisions for yourself. Powers of attorney can be immediately effective or effective upon a certain event, very restrictive or very broad. Typically one names a trusted family member or friend as his power of attorney. It is important that the person named be trustworthy and conscientious as he could potentially use the powers to the disadvantage of

the person creating the DPOA. The DPOA can be terminated at any time, provided the creator is not incapacitated. Durable Powers of Attorney cease or terminate at the death of the creator. DPOA is an inexpensive alternative to a court-supervised guardianship or conservatorship which is necessary when a person becomes incapacitated without preplanning. It is strongly advisable to consult an attorney to draft a DPOA.

Advance Health Care Directive aka Living Will

The Advance Directive for Health Care is used to ensure that your health care wishes are followed if you later become incapacitated and incapable of making an informed decision regarding your health care. Oklahoma’s Advance Directive includes three parts: Living Will, Appointment of Health Care Proxy and Anatomical Gifts. You can complete any or all of the three sections. However it is important that you understand each section of the form and what each statement means. The Senior Law Resource Center has a document titled “Your Right to Decide” which discusses the Advance Directive in great detail and gives clear line-by-line explanations. This document is free and available for download at www.senior-law.org. Oklahoma’s Advance Health Care Directive form is available from your health care provider, LIFE Senior Services (www.LIFEseniorservices.org) and the Oklahoma Bar Association (www.okbar.org).

Trust

A Trust is a way for you to gather your property into one document and ensures that your property is distributed easily and quickly after your death. A Trust is not only for the wealthy; many use Trusts to avoid Probate, for tax planning purposes and to take care of incapacitated children. The creation of a Trust is best accomplished after consulting and utilizing an attorney well versed in estate planning.

Taking the time to do your pre-planning helps to ensure that your wishes are carried out during your lifetime and at your death; and it relieves a tremendous burden on family and friends. Remember, it’s never too early or too late to get your ducks in a row.

