

HOWARD&CARR, PLLC

Attorneys At Law

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What is a Last Will & Testament?

- ❖ A written document which leaves the estate of the person who signed the will (Testator) to named persons or entities, including portions or percentages of the estate, specific gifts, creation of trusts for management and future distribution of all or a portion of the estate.
- ❖ A will usually names an executor (and possibly successor executors) to manage the estate, states the authority and obligations of the executor in the management and distribution of the estate, sometimes gives funeral and/or burial instructions, nominates guardians of minor children and spells out other terms.
- ❖ To be valid, the will must be signed by the Testator, be dated, and witnessed by two people.

What's the difference between that and a Living Will?

- ❖ A living will is the same thing as an "advance directive." This document sets out the particular types of medical treatment you would, or would not, like to receive if you are diagnosed with terminal or incurable illness or are in a persistent vegetative state.

What is a Healthcare Power of Attorney?

- ❖ A written document signed by a person giving another person the power to make health care decisions and decisions on maintaining extraordinary life support if the person becomes too ill, is incompetent, is in a coma, or is certain to die.
- ❖ Your health care agent can be someone different from the person you name as the executor of your will or your "attorney in fact" named in your general durable power of attorney.
- ❖ Be sure to choose someone you trust to carry out your wishes. That person should be dependable and able to cope under pressure.

So, what's the difference between a Healthcare Power of Attorney and Living Will/Advance Directive?

- ❖ A living will or advance directive is only useful if you are diagnosed with a terminal or incurable illness or are in a persistent vegetative state.
- ❖ A healthcare power of attorney can become effective as soon as your physician determines you are no longer able to communicate decisions yourself, due to dementia, incompetency, or temporary incapacity.
- ❖ Note: At Howard & Carr, PLLC, we typically *include* the Living Will/Advance Directive language within your Healthcare Power of Attorney. This allows your named health care agent to make all decisions relating to your health.

What is a General Durable Power of Attorney?

- ❖ A written document signed by a person giving another person the power to act in conducting the signer's business, including signing legal documents, checks, title documents, contracts, handling bank accounts and other activities in the name of the person granting the power. The person receiving the power of attorney (the agent) is the "attorney in fact" for the person giving the power.
- ❖ This is probably one of the most important planning tools for your future!

What makes it "durable?"

- ❖ With an ordinary power of attorney, the agent's powers to act for the principal (the person who made the power of attorney) ceases if the principal becomes incapacitated or incompetent.
- ❖ With a "durable" power of attorney, the agent's (attorney in fact's) powers to act for the principal survive even if the principal becomes incapacitated for any reason.

Don't wait till it's too late!

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