

*This is the third part of our series called "BACK TO BASICS." The following takes a look at the importance of estate planning.*

## Important Estate Planning Documents

Oxford Hariman & Company Back to Basics #3 - Dennis P. Barba, Jr., Ph.D. & James E. Makee

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**Many people, young and old, don't have a will, let alone a comprehensive estate plan. Yet an estate plan is important for nearly every family regardless of your level of wealth.**

An estate plan serves four major purposes:

1. It directs who will receive your property when you die.
2. It minimizes potential probate costs, legal costs and estate taxes. It's the estate tax people tend to think about most when considering an estate plan, and because most people don't think they have an estate large enough to be subject to estate taxes, they don't bother with estate planning.
3. It provides for care of minors (otherwise the state will determine who becomes their guardian).
4. It provides for your care if you are unable to provide for yourself. A proper plan ensures that you determine who makes your medical and financial decisions in the event you are unable to do so yourself. This is critical for people of all ages.

A common comment we hear when asking about estate planning is, "I have a will so I'm all set." While having a will is a very important component of an estate plan, it does not make your plan complete. A will doesn't specify how you want to be treated should your health fail. It doesn't dictate who will carry out your wishes or handle your financial affairs should you become incapacitated. It doesn't help your heirs limit their tax burden and/or legal expenses.

In short, simply having a will does not cover the main objectives of an estate plan as listed above.

To ensure that both you and your loved ones will be cared for, we've created a list of four key documents that should be in every estate plan:

### Will

As mentioned above, creating your will is an important component of estate planning, so let's cover this first. A will states how you want your assets & belongings divided up amongst your loved ones after you pass away. Otherwise, the government will determine how to distribute your

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***All of these documents allow you to legally express your preference for continued health care should you become terminally ill or incapacitated to the point where you can't make your own decisions about your care.***

property, which may even end up belonging to the state if you don't have an appropriate will stating otherwise.

### **Durable Power of Attorney**

Another component of a sound estate plan is your durable power of attorney, which allows you to appoint someone to act on your behalf to make legal decisions about your property and finances. That person, usually referred to as an "agent", could be a trusted friend, a family member, or an experienced, reputable professional.

Power of attorney is crucial should you ever become ill or disabled to the point where you can no longer make important decisions yourself. Keep in mind, however, that granting someone power of attorney is a serious decision and should not be taken lightly. Give careful thought before making your choice. Whomever you select should be trustworthy, reliable, and mature enough to handle the responsibility should they be put in a position to have to act on your behalf. Another key consideration is, does this person have the time to handle your affairs, and are they going to need to travel to handle your affairs?

### **Advance Medical Directive**

A third component of an estate plan is an Advanced Medical Directive. This catch-all term refers to health care directives, living wills, health care (medical) powers of attorney, and other personalized directives. All of these documents allow you to legally express your preference for continued health care should you become terminally ill or incapacitated to the point where you can't make your own decisions about your care. As you finalize your Advance Medical Directive, make sure you have completed your HIPPA Release Forms as well. By having these forms completed, you enable the individuals named in your Advance Health Care Directive to have access to your healthcare information. This way, they can deal with insurance matters on your behalf at a time when you may not be able to do so.

### **Letter of Instruction**

Finally, create a letter of instruction. This document gives your survivors information about important financial and personal matters to attend to after your passing. You don't need an attorney to prepare it. Although this document does not carry the legal weight of a will, and is not a substitute for a will, your Letter of Instruction will clarify any special requests you want carried out after death. It may include your funeral preferences,

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people to notify, account passwords, directions regarding certain possessions, or anything else you'd like your survivors to know.

The four estate planning documents listed above are important, and every adult should have them in their estate plan. Having each of these important documents prepared ahead of time can relieve your family of needless worry, speculation, and expense. Keep in mind, however, that while this paper is a good overview of some important estate planning documents, it certainly doesn't cover everything. When it comes to planning for your financial future and those of your loved ones, remember that there are many factors to consider. If you haven't yet completed the documents described above, or if your circumstances have changed and you haven't updated your estate plan accordingly, it's high time to do so. Because when it comes to planning, there's no such thing as starting too early.

But there is such a thing as too late. During our more than 150 years combined experience of working in the financial services industry we have witnessed many examples of estate planning done well and others that have been nightmares for the loved ones left behind. Don't let your estate and your family be trapped between a rock and hard place.

Leaving your legacy is an amazing gift that takes a lifetime to deliver. We are happy to work with you to make sure you spend the time to ensure it is done properly.

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