

## 6 Quick Tips to Protect Your Family, Assets and Peace of Mind

### **Go Beyond Spring Cleaning and Get Your Family's Legal and Financial Affairs In Order**

Most people know that properly managing their estate, whether modest or vast, is important for maintaining the security and stability of their family. However, like so many things on our yearly to-do lists, estate planning often becomes something that we tell ourselves “we’ll get to later.” But what if later becomes a little too late?

For adults, and especially parents, it’s vital to get your legal affairs in order should the unthinkable occur. Some examples of what could happen if you fail to protect your family both legally and financially this year include:

- A judge, unfamiliar with you or your kids, will decide who will raise them if something unexpectedly happens to you and/or your spouse.
- Your home or entire life’s savings could be lost if you or your spouse ever require long-term care due to sudden disability or old age.
- Inheritance assets could be distributed against your wishes.
- You could be told you own too much to qualify for MassHealth (Medicaid) even if you are not wealthy and desperately need help.
- Your loved ones could be unable to manage your banking or financial affairs if you were temporarily or permanently incapacitated.
- Your family could be left without the legal authority to make important medical decisions for you if you are unable to speak for yourself.

So how can you protect your family from these unfortunate outcomes? Luckily, getting your legal affairs in order is not as complicated as you might think and there are things you can do without hiring an attorney. By following these simple estate planning strategies, you’ll sleep better knowing that your family is protected against worst-case scenarios.

#### **1. Name Guardians for Your Kids (Both Short-Term and Long-Term)**

If you have minor children at home, you need to create a safety net in case you and/or your spouse are not there to care for them. Failure to specify who you want to care for your children means that a judge will make this potentially life-altering decision.

Just as important as naming a long-term guardian for your kids is naming someone who can immediately show up and comfort them in the short-term while your permanent guardians arrive. If your long-term guardians are not immediately available to help your kids, without a short-term

guardian in place the police will be forced to place your children in the care of social services until they arrive; obviously not an ideal situation.

If you're working with an estate planning attorney guardianship nominations can be drafted into your will. If not, you can create improvised guardianship nominations on your own: just be sure to have them witnessed and notarized. Copies should be given to your guardians of choice as well as other trusted people who care for your kids.

## **2. Create a Will, Trust or Both**

If you have children or own assets including a home, insurance policies, investments or other benefits, at a bare minimum you should have a will to specify how your assets will be distributed when you pass. Without a will, your property will be distributed by a judge according to the Massachusetts laws of intestacy which may greatly conflict with your personal wishes.

In some cases, a basic will is not enough to fully protect your family and your wishes. For example, if you own highly appreciable assets, have a special needs child or want to protect minor children from receiving an inheritance before they mature, creating a trust may be appropriate.

Trusts come in various forms, but they are basically a legal entity that can own your assets in the eyes of the law (thus protecting them from creditors, lawsuits, etc.) while you retain control of the assets.

By utilizing a trust you can determine at what age your children will inherit your estate and you can provide for a special needs child without jeopardizing his or her ability to qualify for government aid. Trusts are also useful tools in planning for MassHealth eligibility, minimizing estate taxes, and avoiding probate which otherwise can be a very public and expensive court process.

Because wills and trusts need to conform to very specific legal requirements in order to be valid, it is usually beneficial to consult an attorney to explore your options.

## **3. Protect Your Medical Wishes with a Health Care Proxy**

In case of a medical emergency your family needs to know how to respond and what type of care you would want to receive. A healthcare proxy, sometimes called a medical power of attorney, gives your spouse or other designated agent the legal authority to make healthcare decisions if you can not do so yourself. It can also instruct them as to how you would want to be cared for ranging from what medications to administer to life-support considerations.

Under the HIPPA health privacy laws, a person must have explicit legal permission in order to make medical decisions for another. By putting your wishes in writing, your family members

will avoid having to get a judge to allow them to act on your behalf and will be able to act confidently, according to your wishes, during an emotional time.

You don't need an attorney to draft a healthcare proxy, although many will help you do so as part of a comprehensive estate plan. Instructions and forms for creating a healthcare proxy can be found on the Massachusetts Medical Society website ([www.massmed.org](http://www.massmed.org)). Just be sure to sign your health care proxy and have it witnessed by two individuals who are not your agents, caregivers, or relatives.

#### **4. Protect Your Financial Interests with a Durable Power of Attorney**

Accidents are just that: accidents. They happen without warning when we least expect them. If you were incapacitated in an accident how could your family access your financial information and handle your affairs? Even if you have a will the only way a loved one could temporarily take over your bills, access your bank accounts and make other financial decisions for you is by having a durable power of attorney.

By filing a durable power of attorney your family can avoid the long and expensive process of having a court appoint a conservator or guardian to act for you, should you become incapacitated, and allows you the freedom to choose who you would most want acting on your behalf.

Having a durable power of attorney will allow your agent to make bank deposits or withdrawals, manage your investments, pay your bills, hire people to take care of you, negotiate and sign contracts on your behalf and many other tasks of your choosing.

Power of attorney forms are readily available online, however, an estate planning attorney will be able to properly limit the scope of your agent's powers and customize the document to your specifications.

#### **5. Create Your Family Legacy**

Your 'estate' is more than a just piece of property or bank account balance. It consists of everything you would want to leave your family with, including your values, memories and personal reflections. It is in fact these assets that are often most priceless to your loved ones. However, most people have not taken the time to build a non-monetary legacy that can be passed on to their loved ones.

Record a video message, write a letter to you children and revise it as they grow, keep a scrap book of important events in your family's life. Whatever you do your family is sure to cherish the memories you pass on for generations to come. Just remember to let your family or your attorney know this non-monetary inheritance exists so it will not be lost.

## **6. Most Importantly—Get Started!**

To be effective, estate planning needs to be factored into your overall financial plan, along with your children's college tuition and your retirement needs. The most important step in getting your legal affairs in order is to stop procrastinating and just get started. You can use the steps above to start putting the plans in place to protect your family's future. For larger or more complicated estates such as those involving blended families, same-sex couples or families with a special needs child, you should contact an estate planning attorney to help you weigh your options.

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