

# A Legal Guide for Domestic Partners in Texas

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Domestic partners, whether same sex or opposite sex, often inquire about what documents they need in place to ensure that their children are taken care of, their partner is protected, and/or that their wishes are carried out. I recommend the following:

**Last Will and Testament** - if you have children, property and vehicles, then it's critical that you have a valid will that appoints your partner as the executor, beneficiary and/or guardian of your children. Guardianship is especially important if you are raising children together and your partner has not had the opportunity to adopt them yet or if there is no other natural parent with parental rights (donor).

**General Durable Power of Attorney** - This document is crucial should you become incapacitated and can no longer make decisions or manage your finances. Once you designate your partner as your agent, your partner will have the ability to make financial decisions on your behalf. However, it is important to note that you can choose whether your partner will have said power immediately upon signing or upon a doctor finding that you are unable to make decisions.

**Healthcare Power of Attorney** - Like the above power of attorney, most couples designate their partner as their agent or the one who will make healthcare decisions on their behalf. It can be effective immediately or upon a physician's declaration that you are unfit. I cannot emphasize the importance of this document for couples who are not married according to Texas law. Hospitals often bar visitors who are not related to an incapacitated patient by blood or marriage even though President Obama mandated that nearly all hospitals extend visitation rights to the partners of gay men and lesbians and respect patients' choices about who may make critical health-care decisions for them. All unmarried couples still bear the risk of being turned away if their partner who is in the hospital has not nominated his life partner as his agent. Proper planning and a valid Healthcare Power of Attorney can avoid this impediment.

**Advanced Directive to Physician (Living Will)** - Should one become unable to make his or her wishes known, this document gives clear directions for medical treatment in the event that you have a terminal irreversible condition. It is important to make the Healthcare Power of Attorney and the Living Will documents available to physicians for placement in medical records and if necessary, with the nurse's station, so that the visit with your loved one will not be fraught with further stress or distraction.

**Appointment of Agent for the Disposition of Remains** - It is also crucial for you to designate your partner as your Agent to ensure that your wishes regarding your body are carried out. If you do not have this document in place, Texas law provides that it is your next of kin who shall decide. This means your closest blood relative – children, parents, siblings which can be problematic if you have different beliefs on cremation vs. burial, etc.