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## Estate Planning

The majority of Americans die without any estate planning. The reasons for this are as varied as the individual. For some, it is a result of a natural reluctance to contemplate and plan for their own deaths. For others, it is a belief that they do not have sufficient assets to warrant the time and expense of planning. Nonetheless, underlying most individuals' failure to plan their estate is the misguided belief that the law will take care of things in a satisfactory plan of distribution for their property. In relying on the law to take care of their estate planning needs, people usually underestimate the range of issues addressed by estate planning. Therefore, the first task of an estate planner is to educate the client about some of the components of a comprehensive estate plan. These include:

1. A plan for the disposition of assets in a tax advantaged manner;
2. A durable power of attorney to manage a client's finances without the expense and publicity of a guardianship hearing;
3. Naming guardians to raise minor children;
4. Naming fiduciaries to handle minors' assets;
5. Directions regarding health care or the naming of an agent to make health care decisions in the event that the client cannot make those decisions themselves;
6. A plan for the succession or sale of a family business;
7. A plan for charitable giving; and
8. Planning for life insurance to support a family or provide liquidity for the estate.

**Health Care Power of Attorney.** This document is your appointment of your lawful attorney-in-fact to make health care decisions for you if you are unable to make them for yourself. It also instructs your attorney-in-fact to follow your wishes as contained in your Living Wills.

**Living Will.** This is your declaration under Ohio law that you do not want artificial means used or heroic measures taken to sustain your life at the time of a terminal illness.

**HIPAA Disclosure Form.** These documents authorize your healthcare provider to release all medical records to your nominated attorney-in-fact.

**General Durable Power of Attorney.** This document is your appointment of your lawful attorney-in-fact for financial matters. You grant your attorney-in-fact, the legal right to sell or pledge your assets on an unrestricted basis during your life whether you are competent or incompetent. The intent is to give your attorney-in-fact the same control over your assets as you presently enjoy. This grant of authority does not expire if you become unable to attend to your financial affairs; therefore, it is most useful to avoid the necessity of a probate court guardianship or to allow deathbed transfers to avoid probate.

**Will.** In general your will should provide for the distribution of your probate property, establish the appointment of your "Executor/Executrix" to administer your estate and if appropriate establish a guardian for any minor children.

**Trust Agreement (Revocable/Irrevocable)** A trust is an extremely flexible estate planning tool which can be used to accomplish a wide variety of estate planning objectives. A trust can be created during the life of the creator or at death in a will. A trust created during life can be either revocable or irrevocable and can be funded during the life of the creator or at the creator's death. Reasons for creating a trust include:

1. Avoiding Probate/private estate administration;
2. Avoiding Federal and State estate taxes; and
3. Providing for Charity

Please be advised that the information contained in this piece does not constitute legal advice or opinion and cannot be relied upon as such. If you have questions regarding feel free to contact Bryan S. Mollohan, Esq., at 440.336.0497.