



A Reminder from the Supreme Court: Unmarried Couples Need Estate Planning More than Most
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The United States Supreme Court heard oral arguments in *Hollingsworth v. Perry* and *United States v. Windsor* this week, sharply reminding us of the legal rights, privileges, and protections that are automatically afforded to married couples in the United States yet denied to couples whose unions are not recognized by federal or state law. For these couples, proper estate planning is the only way to ensure access to many of the benefits associated with the marital relationship. GLBT partners and other long-term, committed, unmarried couples should consider asking their estate planning attorney whether the following basic estate planning documents are right for them:

Last Will and Testament: In Texas, if a married person dies without a Will, her spouse is considered an heir of her estate as a matter of law. Unmarried couples, on the other hand, have no such protection. With properly written Wills, partners can ensure that they are the beneficiaries of each other's estates. Partners can also include provisions in their Wills that establish Trusts, appoint guardians for their minor children, and minimize potential estate tax liability.

Medical Power of Attorney: The Texas Health and Safety Code permits the following individuals, listed in order of priority, to make medical decisions for an incapacitated person without a Medical Power of Attorney: (1) the person's spouse; (2) the person's adult child; with the waiver and consent of all other qualified adult children; (3) a majority of the person's adult children; (4) the person's parents; or (5) an individual clearly identified to act on the person's behalf before she became incapacitated, the person's nearest living relative, or a member of the clergy. It does *not* confer such authority on a partner, boyfriend, girlfriend, or fiancé. If a person would prefer that her partner make sensitive and life-changing medical decisions on her behalf, she should appoint that person as her agent through a Medical Power of Attorney.

HIPAA Release: Medical care providers are bound by federal privacy laws not to disclose your private medical information without your consent. By executing a HIPAA release, you can explicitly permit your doctors and other care providers to share your medical information with the person you have appointed as your agent in your Medical Power of Attorney. Even if you choose to name someone other than your partner as your agent, you may still wish to allow your doctors to keep your partner informed about your medical status in the event of an emergency.

Durable Power of Attorney: Also known as a Financial Power of Attorney, a Durable Power of Attorney allows you do appoint someone you trust, such as your partner, to act as your agent in financial transactions.

This is by no means an exhaustive list of the estate planning tools available to unmarried couples; however, it is a good place to start.

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