

Wills, Trusts & Estates: Plain And Simple

Advance Directives Are Important: COVID-19 Or Not

legally speaking

By Patricia C. Marcin, Esq. © 2020

Living Wills, Health Care Proxies, and Powers of Attorney

It is important to have advance directives in place, whether in the midst of a pandemic or not. All adults should have three types of advance directives.

A living will is a document in which you state your wishes regarding medical treatment. It can include instructions about the termination of life support and artificial nutrition and hydration. Because your wishes expressed in a living will are open to interpretation by those providing your medical care, it is important to have a health care proxy.

A health care proxy is a written instrument in which you appoint someone you trust (an “agent”) to make decisions about your medical treatment if you are unable to do so. These decisions include whether to terminate life support and artificial nutrition and hydration. Since this power is **so** broad, it is important that you choose someone that you, literally, trust with your life. Note, that you cannot name more than one agent to act at a time.

While it can be a difficult discussion to have, it is important to let your health care agent know your wishes. You should discuss how you wish to be treated if you are in a coma, or are severely mentally impaired and have a physical condition that can be treated to make you physically well or, if not treated, will result in your death. You should discuss your desire for pain killers, and whether you want pain killers if they hasten your death.

A durable power of attorney is a document in which you (the “principal”) give another person (the “agent”) the power to act in your place in managing your assets. These powers can be extremely broad, allowing the agent to make gifts, create revocable trusts, invest assets, and do anything you can do with your assets personally. The agent, however, cannot be given the power to make and revoke a Will for you. You determine the scope of the powers you wish to grant to your agent.

You may name one or more agents under a power of attorney, and you can appoint a successor agent in the event the first person(s) you’ve named cannot act. Note that a “durable” power of attorney does not become inoperative upon your incapacity. Upon your

death, however, your power of attorney becomes ineffective. That’s when your other estate planning documents take over.

If there is a trusts and estates topic that you would like to know more about, please feel free to email me at pmarcin@farrellfritz.com and I will do my best to cover it in a future column.

My previous columns are available on www.farrellfritz.com.



Patricia C. Marcin is a partner at the law firm of Farrell Fritz, P.C. concentrating in trusts, estates, and tax law. Patricia has lived in Lloyd Harbor since 2005 with her husband, John. They have two sons, Sam and Matt. Their faithful dog, Blizzard, still lives at home.



“I’m so glad we updated our wills. Farrell Fritz helped us understand all the recent changes and the best part is, we minimized our estate taxes. I feel so much more secure about our family’s future.”



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