



Estate Planning Document Descriptions

Georgia Advance Directive for Health Care (a.k.a. Living Will)*

This document is used when you are admitted into a hospital and you may be incapacitated or not competent enough to make your own health care decisions. It outlines who you have chosen to be your designated health care agent(s), what type(s) of medical treatment you would or would not want performed during your hospital stay, how you would like your body to be disposed of upon death, and other important medical decisions.

HIPAA Authorization*

Health Insurance Portability and Accountability Act is enforced by hospitals so only those people authorized can access your health information. You must specify who can request and who can receive any medical information about you from the hospital or your personal physician in the event of your incapacitation or incompetency.

Power of Attorney*

Financial – The power of attorney (“POA”) allows someone you trust to become your *attorney in fact* and make financial decisions for you in the event you are incompetent, incapacitated, or otherwise not able to exercise your own financial powers (i.e. out of the country) such as signing checks on your bank account(s), trading stocks, etc. This person must be someone you trust completely to competently handle your financial affairs. *Please note: As of July 1, 2017, the Georgia Legislature created a Statutory Power of Attorney that must now be used. Any POA previously executed before that date is still valid. However, if you have a POA that is more than two years old, it is recommended that you execute a new POA.*

Health care – The power of attorney for health care is a document that supplements the HIPAA Authorization and Georgia Advance Directive for Healthcare. It specifically details the authority your health care agent has in regard to your medical decisions.

Acceptance of Appointment (optional)*

This document is executed by the person who is designated to be a financial attorney-in-fact. It is not required by Georgia law and is mainly used when a non-family member is going to be the attorney in fact.

Will*

Wills are instruments that tell your beneficiaries things like how to disburse your estate (non-probate assets) upon your passing or who is to care for your minor children. A will must be presented to the probate court and is a public document. An executor will be appointed by the probate court to carry out the instructions in your will.

**The documents listed above are included in an estate planning package.*

Additional Estate Planning Documents (optional)

Trusts

A trust is an instrument that allows the transfer of your property without going through the probate process. It does not have to be presented to a probate court and thus is kept private. There are many different kinds of trust that can be created, depending on your needs. The most common types of trusts are testamentary trusts for minors (created from within a will), revocable living trusts (RLTs), special needs trusts, education trusts, or charitable giving trusts (only to name a few). Trusts can be a very valuable tool when estate taxes are involved.

Certificate/Memorandum of Trust

This document verifies the creation of the trust and can be offered for proof of the existence of a trust when property is transferred into the trust or bank accounts need to be created in the name of the trust.

Additional Information

POLST Georgia

(This .pdf document can be printed from the Internet. It does not need to be drafted.)

The Physician Orders for Life-Sustaining Treatment is a separate document executed between your doctor and you. It specifies that your doctor and you have discussed your medical wishes in the event you become incapacitated or incompetent and cannot make medical decisions for yourself. This document must be signed by your doctor and you to be valid and is kept in your medical file with your physician's office.

Beneficiary Designations

This document is used to specify the beneficiary(ies) for various pension plans, IRAs, and any other disbursement type fund that people typically fail to keep updated. A court may use this document for guidance when determining how to disburse funds, but the beneficiary you designate will override this document. You should review these with your financial advisor every 3 to 5 years or when there has been a life change like marriage or divorce.