

## **WHAT IS A WILL?**

A Will is a legally binding document setting forth your wishes and instructions on how you wish your property distributed after you die. A Will is the only way to guarantee that your assets will be distributed as you wish. If you die without a Will, the State of Michigan, by statute, decides who gets your property and what portions each receives. This may or may not be the way you would have chosen to pass on your estate. In addition, in your Will you can name the person you want to administer your estate and designate the people you want to take care of your minor children. Without a Will, the State, through your county probate court, decides these questions for you – without your input! A Will is simple to prepare and is inexpensive protection for your family. A Will can be quickly and easily changed at any time should your wishes or family circumstances change.

## **WHAT IS A DURABLE POWER OF ATTORNEY?**

A Power of Attorney is a legally binding document by which you authorize another person to act on your behalf. A Power of Attorney may be as limited or as broad as you choose. A Durable Power of Attorney is a Power of Attorney which continues to be effective in the event of your disability – the very time that a Power of Attorney is needed most! In the event of your physical or mental disability, a Durable Power of Attorney will allow another person you choose, such as your spouse or adult child, to manage your affairs on your behalf. Without it, should you become disabled by accident or illness, your loved ones will be required to go to probate court and request that a guardian or conservator be appointed for you. Such proceedings are a matter of public record. It is possible that the person appointed by the probate court to manage your affairs

will not be the person you would have chosen of your own free will. A Durable Power of Attorney is the means to insure that should you become disabled your affairs will continue to be managed by a person in whom you have complete trust.

## **WHAT IS A TRUST?**

A Trust is a legal arrangement where one party gives property to another to be held for the benefit of themselves or others. A Trust is a legal relationship between three parties: the person who places assets in the Trust (the settlor or grantor), the person who manages and administers the assets (the trustee), and the persons who benefit from the Trust (the beneficiaries).

Trusts are established for many reasons and by persons of all income levels. You may establish a Trust of all your property with you as the trustee and you and your spouse as the beneficiaries. This will allow you to manage your assets as you want, provide for your continued care in the event of a disability, and pass your estate to the parties of your choice and avoid probate.

A Trust may also be established now or at the time of your death to provide for the care and support of any minor children. Under the laws of the State of Michigan, a child is an adult at age 18 and may inherit at that time. Most parents do not feel that their children will be either financially or emotionally mature enough to deal sensibly with investing or managing an inheritance at age 18. A Trust, administered by a trustee of your choosing, can manage and invest the assets for the benefit of your children, distributing funds for such purposes as education, support, and extraordinary expenses. You can then select when and how much the children receive as their inheritance. The Trust can be distributed as a lump sum at a predetermined age or in a series of payments at different ages. These decisions are left to you to make. Without a Trust, the inheritance is placed in the hands of a probate court appointed conservator who, along with the

probate court, decides how the funds should be applied to meet the children's needs. The children then receive the balance at age 18 and are free to spend the money as they choose.

Obviously, a Trust is a more complicated document, but the cost is not significantly greater, especially given the protection and peace of mind it provides. A Trust can usually be changed at any time should there be a change in circumstances. A Trust is extremely flexible and can be drafted to accomplish almost any distribution plan.

## **WHAT IS A PATIENT ADVOCATE DESIGNATION?**

Most people have heard of a living will – a document that expresses your wishes concerning life sustaining or "heroic" measures. In Michigan, living wills are not legally binding. There is, however, a somewhat similar document known as a Patient Advocate Designation. It works very similar to the Durable Power of Attorney. You appoint a person of your choice (called a Patient Advocate) to make medical decisions for you, including termination of life support if you so wish, in the event you are unable to make the decisions yourself. In the Document you give guidelines as to your choices for your medical care, but it is ultimately up to the Patient Advocate to interpret your wishes and make the final decision. The Patient Advocate can act only if you are unable to make any decisions yourself and the power of the Patient Advocate ends if you regain decision-making capacity. Without a Patient Advocate Designation, your loved ones will be forced at the time of a medical crisis to petition the probate court for the appointment of a guardian (possibly not a person of your choosing) to make these decisions for you. With today's advanced medical technology, you are faced with a real possibility of this situation. A few simple steps now can avoid much grief later.

## WHAT IS AN ESTATE PLAN?

An Estate Plan is nothing more than a coordinated plan combining all of these elements, incorporating your current investments, future benefits (such as pensions, etc.), and your insurance program. Unless your professional advisors such as your lawyer, your accountant, your investment advisor, and your insurance agent work together the results could be a disaster. For example, you may wisely establish a trust to care for your minor children after your death. But if you have a life insurance policy which names your children as the beneficiaries, the insurance proceeds are paid directly to the children, bypassing the trust. Since the children are minors, the law requires a probate court appointed conservator to manage the money for them until age 18 when they receive the money outright. All the benefits and advantages of the trust are lost! Your legal advisor can best coordinate an estate plan for you, but a team effort is required to maximize the benefits and payoff to you and your loved ones.

## WHAT IF I HAVE A WILL?

If you already have a Will or estate plan, you should review your Will or estate plan documents at least once a year or every time there is a significant change in your family or financial situation. Any of the following events should cause you to review your documents: the death of a family member or someone named in your Will or estate plan; any marriage, divorce or remarriage; the birth or adoption of a child or grandchild; your retirement; any significant change in your assets, especially if the total value of your assets (including all joint assets) becomes greater than \$675,000; or any time you change your mind regarding how you wish your assets to pass upon your death. This is your plan and it should always reflect your wishes and desires. Do not hesitate to change your plan to reflect your wishes.

**This brochure provides only a general description of the matters discussed. It is recommended that you consult with your legal advisor regarding further details and the specifics of your particular situation.**

*For a confidential consultation, contact:*

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# WHY DO I NEED A WILL?

You are important to your family. Today, while you are alive and well, you can provide for and care for your loved ones. But who will manage your finances for you if you become disabled? If you pass away, how will you provide for the continued support and care of your family, for family expenses upon your death, for the continuation of a family business, for college educations, etc.? Who should receive your estate and how much should they get? Should they be given the assets outright or will they require someone to manage the assets for them? Who will administer your estate to carry out your wishes and maximize the inheritance to your loved ones?

To adequately protect you and your family in the event of disability or death, it is important to have a well thought out and comprehensive plan for the management of your financial affairs in the event of your disability, or for the distribution of your estate in the event of your death.