



Area Agency on Aging, PSA 2

Caregiving Series

LEGAL ISSUES

*My parents brought up the idea of getting their affairs in order.
It seems a dear friend had just gone through a mess trying to settle her
brother's estate and her experience opened their eyes.*

You and your loved ones may have put off getting your legal affairs in order, but now agree the time is right to take action. Open discussion is the first step. Talk together about what you want if you are no longer able to make decisions for yourself. With the appropriate documents in place, you will be able to keep control and be assured your wishes will be respected. Become familiar with the various types of documents, including wills, powers of attorney, and living wills. An attorney who is knowledgeable about elder law and estate planning can help you sort out which documents are essential.

WILLS -- A will is the written instrument by which a person makes disposition of his estate to go into effect after his death. If you don't have a will, the state will decide how your estate is distributed. If you already have a will, be sure it is up-to-date and stored in a secure and accessible place. A will stored in a safe-deposit box in a deceased person's name is not available at their death.

REGULAR AND DURABLE POWERS OF ATTORNEY -- A Regular Power of Attorney is the document by which one person authorizes another person to act on his behalf. The power of attorney can be broad enough to handle all legal and financial matters or can be limited to one specific activity, such as signing checks for mortgage and utility payments from a specific checking account.

A Regular Power of Attorney does not take away the person's ability to conduct his or her own affairs and is useful if your loved one wants help to handle some of his or her legal and financial affairs, however a Regular Power of Attorney is revoked if the person becomes incapacitated.

A Durable Power of Attorney continues even if the person becomes incapacitated, and it enables the caregiver or other individual with power of attorney to continue to take care of affairs on behalf of the person.

DURABLE POWER OF ATTORNEY FOR HEALTH CARE -- A Durable Power of Attorney for Health Care is the document that allows you to name a person to make health care decisions for you if you become unable to make them for yourself. A Durable Power of Attorney for Health Care is different from a regular Durable Power of Attorney that you use to give someone authority over your financial matters. Unlike a Living Will, it is not limited to situations in which you are terminally ill or permanently unconscious. Always bring the Durable Power of Attorney for Health Care when admitted to the hospital.

LIVING WILL-- A Living Will is a document that allows you to establish, in advance, the type of medical care you would want to receive if you were to become permanently ill or injured or permanently unconscious; or if you were to become terminally ill and unable to tell your doctor or family what kind of life-sustaining treatments you want to receive. Always bring the Living Will with you when admitted to the hospital.

Regardless of your condition, if you are able to speak and tell your doctor what you want to do about life-prolonging treatments, then the Living Will won't be used. Your doctor will talk directly to you about your wishes.

OHIO'S DO-NOT-RESUSCITATE LAW -- Ohio law gives individuals the opportunity to exercise their right to limit care received in an emergency situation in special circumstances. This includes care received from emergency personnel when 911 is dialed. Unlike Living Wills and Durable Powers of Attorney for Health Care, Do-Not-Resuscitate orders must be written and signed by a physician or an advanced-practice nurse after consultation with the patient.

FOR MORE INFORMATION

Ohio Hospice & Palliative Care Organization (OHPCO) -- www.ohpco.org
You can download Ohio's Advance Directives Forms, order a complete packet (with instructions), and obtain information in English and Spanish from the OHPCO website.

AARP -- www.aarp.org/money/legal
The AARP website includes information about wills, probate, and trusts.

American Bar Association (ABA) -- www.abanet.org
The Public section of the ABA website offers extensive information about estate planning, probate, and disability planning.

National Academy of Elder Law Attorneys (NAELA) -- www.naela.org
NAELA lists the names of elder law attorneys by zip code on their web site.

Portions of this material have been adapted from "Choices: Living Well at the End of Life," developed by The Ohio Hospice & Palliative Care Organization.

The material presented here is for information only and is not legal advice. Carefully analyze any information you find on the internet or from any other information source. Always get legal advice before signing any legal document.



*For more information or a list of titles in this series,
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