

MASER | AMUNDSON | BOGGIO P.A.

Legal Documents: A Guide for the Perplexed

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Learning Objectives

- Understand *who* needs to plan and *why*
- Determine *what* essential legal documents you and your parents need in your toolkit
- Acquire strategies for long-term care planning and *how* to best utilize resources
- Identify life changes that may impact planning and *when* a plan requires updates



Who Needs to Plan?

1. Are you over the age of 18?
2. Do you have a taxable estate?
3. Do you have a loved one with special needs?
4. Do you have real property in more than one state?
5. Did you recently get married or divorced?



Who Needs to Plan?

6. Do you want to give money to charities?
7. Do you have children from a prior marriage?
8. Will your family members agree on your end of life care?
9. Do your beneficiary designations match your estate planning goals?
10. Do you have a diagnosis that may require long-term care?



“Two sure
things in life...”

- Planning is not:
 - About where your money goes when you die
- Planning is:
 - About how you want to live while you are alive
- Planning includes:
 - Establishing the right legal documents *and*
 - Discussing them with your loved ones



Priorities When Planning

- Make Decisions Early
- Create Your Team
- *Plan for the worst, so you can live your best!*



Health Care Directive

- Health Care Directive | *“The Artist Formerly Known As...”*
 - Advanced Directive
 - Living Will
 - Power of Attorney for Health Care



Health Care Directive

- Why is a Health Care Directive Important?
 - Protects autonomy
 - Appoints legal decision-maker
 - Serves as guide for care providers



Health Care Directive Forms



UNIVERSITY OF MINNESOTA
EXTENSION

**FIVE
WISHES[®]**



Honoring Choices[®]
MINNESOTA
An initiative of the Twin Cities Medical Society.



Health Care Directive

- If no Health Care Directive?
 - No clear path
 - Default treatment
 - Guardianship



POLST

- Providers Orders for Life Sustaining Treatment | POLST
 - End of Life Decision Making
 - Doctor's Order
 - Emergency Responders
 - Relationship between POLST & HCD




POLST

POLST: Provider Orders for Life Sustaining Treatment POLST

HIPAA PERMITS DISCLOSURE OF POLST TO OTHER HEALTH CARE PROVIDERS AS NECESSARY

PROVIDER ORDERS FOR LIFE-SUSTAINING TREATMENT (POLST)	
<p>FIRST follow these orders, THEN contact the patient's provider. This is a provider order sheet based on the patient's medical condition and wishes. POLST translates an advance directive into provider orders. Any section not completed implies the most aggressive treatment for that section. Patients should always be treated with dignity and respect.</p>	<p>Last Name _____</p> <p>First/Middle Initial _____</p> <p>Date of Birth _____</p> <p>Primary Care Provider/Phone _____</p>
	<p>A CARDIOPULMONARY RESUSCITATION (CPR): Patient has no pulse and is not breathing.</p> <p>Check One <input type="checkbox"/> CPR/ATTEMPT RESUSCITATION <input type="checkbox"/> DNR/DO NOT ATTEMPT RESUSCITATION (Allow Natural Death)</p> <p>When not in cardiopulmonary arrest, follow orders in Band C. <small>An automatic external defibrillator (AED) should not be used for a patient who has chosen "Do Not Attempt Resuscitation."</small></p>
	<p>B GOALS OF TREATMENT: Patient has pulse and/or is breathing. See Section A regarding CPR if pulse is lost. Additional Orders (e.g. dialysis, etc.)</p> <p>Check One <input type="checkbox"/> COMFORT CARE — Do not intubate but use medication, oxygen, oral suction, and manual clearing of airways, etc. as needed for immediate comfort. <small>Check all that apply:</small></p> <p><input type="checkbox"/> Avoid calling 911, call _____ instead _____</p> <p><input type="checkbox"/> If possible, do not transport to ER (when patient can be made comfortable at residence) _____</p> <p><input type="checkbox"/> If possible, do not admit to the hospital from the ER (e.g. when patient can be made comfortable at residence) _____</p> <p><input type="checkbox"/> LIMIT INTERVENTIONS AND TREAT REVERSIBLE CONDITIONS — Provide interventions aimed at treatment of new or reversible illness / injury or non-life threatening chronic conditions. Duration of invasive or uncomfortable interventions should generally be limited. (Transport to ER presumed) <small>Check one:</small></p> <p><input type="checkbox"/> Do not intubate</p> <p><input type="checkbox"/> Trial of intubation (e.g. _____ days) or other instructions: _____</p> <p><input type="checkbox"/> Intubate long-term if necessary</p> <p><input type="checkbox"/> PROVIDE LIFE SUSTAINING TREATMENT Intubate, cardiovert, and provide medically necessary care to sustain life. (Transport to ER presumed)</p>
	<p>C INTERVENTIONS AND TREATMENT</p> <p>Check All That Apply ANTIBIOTICS (check one):</p> <p><input type="checkbox"/> No Antibiotics (Use other methods to relieve symptoms whenever possible.)</p> <p><input type="checkbox"/> Oral Antibiotics Only (No IV/IM)</p> <p><input type="checkbox"/> Use IV/IM Antibiotic Treatment</p> <p>NUTRITION/HYDRATION (check all that apply): Additional Orders:</p> <p><input checked="" type="checkbox"/> Offer food and liquids by mouth (Oral fluids and nutrition must always be offered if medically feasible)</p> <p><input type="checkbox"/> Tube feeding through mouth or nose _____</p> <p><input type="checkbox"/> Tube feeding directly into GI tract _____</p> <p><input type="checkbox"/> IV fluid administration _____</p> <p><input type="checkbox"/> Other: _____</p>
	<p>Provider Name (MD/DO/NP/PA when delegated, are acceptable) _____ Date _____</p> <p>FAXED COPIES AND PHOTOCOPIES OF THIS FORM ARE VALID. POLST</p> <p>TO VOID THIS FORM, DRAW A LINE ACROSS SECTIONS A - D AND WRITE "VOID" IN LARGE LETTERS.</p> <p>Downloaded from http://www.tidyforms.com</p>

FILE OF LIFE

	Name: _____
	Address: _____
Doctor: _____	Phone#: _____
EMERGENCY CONTACTS	
Name: _____	Phone#: _____
Address: _____	
Name: _____	Phone#: _____
Address: _____	



The “Talk”



the conversation project

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Powers of Attorney

- Powers of Attorney (POA)
 - Statutory Short Form Power of Attorney (SSFPOA)
 - Common Law or General Durable POA
- Grants powers to handle financial transactions
- Appoints an Attorney-in-Fact
- Valid ONLY until death



Powers of Attorney

STATUTORY SHORT FORM POWER OF ATTORNEY MINNESOTA STATUTES, SECTION 523.23

Before completing and signing this form, the principal must read and initial the IMPORTANT NOTICE TO PRINCIPAL that appears after the signature lines in this form. Before acting on behalf of the principal, the attorney(s)-in-fact must sign this form acknowledging having read and understood the IMPORTANT NOTICE TO ATTORNEY(S)-IN-FACT that appears after the notice to the principal.

PRINCIPAL (Name and Address of Person Granting the Power)

ATTORNEY(S)-IN-FACT (Name and Address)

SUCCESSOR ATTORNEY(S)-IN-FACT

(Optional) To act if any named attorney-in-fact dies, resigns, or is otherwise unable to serve.

(Name and Address)

First Successor

Second Successor

NOTICE: If more than one attorney-in-fact is designated to act at the same time, make a check or "x" on the line in front of one of the following statements:

- Each attorney-in-fact may independently exercise the powers granted.
- All attorneys-in-fact must jointly exercise the powers granted.

EXPIRATION DATE (Optional)

Use Specific Month Day Year Only



Powers of Attorney

- Statutory Short Form Powers of Attorney:
 - Names Attorney(s)-in-Fact
 - Effective when signed
 - Some limitations
 - Revocable
 - Gifting powers limited
 - Easy to recognize



Powers of Attorney

- Common Law | General Durable Power of Attorney:
 - Customized by attorney for client's specific situation
 - May provided for expanded powers
 - May remove limitations on gifting
 - May be more difficult to utilize



Powers of Attorney

- If no Power of Attorney?
 - No insurance financial transactions can be completed on your behalf
 - Conservatorship may be required
 - Greater risk of fraud and exploitation



Estate Planning

- Purpose?
 - To designate where assets pass upon death
 - Appoint someone authority to administer your estate



Estate Planning

- How do assets pass upon death?
 - Joint Ownership
 - Beneficiary Designations
 - Statutes of Intestacy (without a Will or Living Trust)
 - Will in existence
 - Trusts in existence



Estate Planning

- What is probate?!
 - Probate Assets (Decedent's Name Alone)
 - Triggers may include real estate or \$75,000+
 - Non-Probate Assets
 - Joint Owner
 - Beneficiary, Transfer on Death, Payable on Death
 - Trust



Transfer on Death Deed

Used for Real Property
(Homestead | cabin)

Owners name beneficiaries

Must be recorded prior to death

Effective upon death of Owners



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Wills

PROS	CONS
Ease of Establishment	Requires a Probate Administration
Simplicity During Life	Loss of Privacy
Certainty for Beneficiaries and Others	May be More Expensive for Heirs

Trusts

Special Needs Trust

Testamentary Trust

Revocable Trust

Irrevocable Trust

Intervivos Living Trust



Revocable Trusts

PROS	CONS
Maintains Privacy	Cost to Establish and Administer
Could Avoid Probate	May or May Not Save Taxes
Includes Incapacity Planning	Requires Vigilance

How to Prepare?

- Identify your Team or Key Players
- Consider your Values and Legacy
- Meet with an Attorney
- Execute Documents
- Have “the Talk”
- Review Annually



Get Organized

- Create a One-Stop Shop
 - Health Care Directive
 - HIPAA Release Form
 - Doctor Contact Information
 - Current Medication List
 - Clinic Notes
 - Appointment Schedules



Get Organized

- Create a One-Stop Shop Continued
 - Health insurance information
 - Other insurance information (home, auto, life, long)
 - Asset detail list
 - Identify sources of income (gross vs. net)
 - Financial statements
 - Online account access information
 - Tax filings



Update
Regularly

- Life Changes (“The Five D’s”)
 - Diagnosis
 - Decline
 - Death
 - Divorce
 - Decade...



Update
Regularly

- Values/Other Changes
 - Retirement
 - Moves
 - Receipt of Inheritance
 - Desire to Gift
 - Children/Grandchildren/Great Grandchildren



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Thank You!

This has been prepared for informational purposes only. This information is not legal advice. Legal advice is dependent upon the specific circumstances of each situation. The information contained in this presentation should not replace the advice of competent legal counsel licensed in your state.

