

# Essential Estate Planning Tools

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## Essential Tools

- Durable Power of Attorney
- Health Care Proxy
  - HIPAA Release
  - Advanced Directive/Living Will
- Insurance: Life and Long Term Care
- Will

# Durable Power of Attorney

- A legal document in which you authorize individual(s) to continue your financial affairs during your life.
- Without a DPOA, the Court could appoint a guardian or conservator who would be subject to Court supervision.
- Durable allows the authority granted to remain even if you become disabled or incapacitated: “This document shall not be revoked by my disability or incapacity.”

# Health Care Proxy

- A legal document in which you designate an individual to make decisions about your medical treatment if you are unable to do so;
- You determine the scope of your how much your proxy can decide: from minor or routine medical treatment to major decisions as to whether or not to initiate or continue certain treatment.
- You select one individual and also name an alternate. Neither need be your closest relative.

# HIPAA Release

- After passage of the Health Insurance Portability and Accountability Act of 1996 (known as HIPAA): if you do not expressly waive your right to privacy in writing, then medical personnel do not have legal authority to speak with your health care agent or to release medical information to that person.
- A HIPAA Release is a written document in which you waive your right to privacy to allow medical personnel to speak with individual(s) you designate.
- **Any Health Care Proxy executed prior to 1996 does not include a HIPAA release and should be updated.**

# Advanced Directive/Living Will

- An advanced directive, also known as a living will, is a statement of your end-of-life wishes. (e.g. if there is no hope of recovery, you do not want to be kept alive through the use of extraordinary medical treatment or placed on life support equipment). A living will gives your doctor permission to withhold or withdraw life support systems under certain circumstances.
- Massachusetts does not legally recognize living wills, but if one exists, a living will can be acknowledged as evidence of a patient's refusal of medical treatment.

## Insurance: Life and Long Term Care

- **Life Insurance:** Contract between an individual and an insurance company in which the company agrees to pay a specified amount of money upon the death of the insured.
- **Long Term Care Insurance:** Insurance that covers the cost of custodial care in either a nursing home or other facility, or the policy holder's home. An individual who is not already afflicted with illnesses that require long term care qualifies for coverage. (e.g. Parkinson's, Alzheimer's, multiple sclerosis, muscular dystrophy, ALS).

# Will

- A legal document which details who will administer your estate and how your assets will be distributed after your death.
- If you do not prepare a will, then the Court will determine how to distribute your estate by intestacy, a formula to determine your next of kin. This may or may not be consistent with your wishes.