

Legal Information

The attached handouts are provided as information only. These are important documents you may want to file when you retire.

Location of Important Documents

Durable Power of Attorney

General Power of Attorney

Health Care Proxy

Before executing any of the forms, you should consult with an Attorney to be sure the documents are completed and filed properly and your wishes will be carried out.

Key Documents for Death, Disease and Disaster

By KAREN DAMATO

Staff Reporter of THE WALL STREET JOURNAL

You know you're supposed to have a will. Whether you have one is another matter.

But you may not know that a will is just one of a handful of documents that most individuals should have—and too many don't have.

Like a will, the other essential papers deal with subjects we would all like to ignore: death, disease, family disaster. But all are important to provide for your family and yourself.

Give yourself a gold star if you have all five of the following: a will, updated in the past five years; a power of attorney; a health-care power of attorney; a living will; a financial inventory.

If you came up short, you've got lots of company. "About 80% of our new clients have something" on the list, says Jeff J. Saccacio, a Los Angeles financial planning partner with accountants Coopers & Lybrand.

The percentage who have got it all? "Only about 20% at best."

But there's really no excuse not to have these documents. Getting them really isn't that hard. And when you need them, they are invaluable. Here's a look at why.

Will

Although many people think of a will as a tool to parcel out assets, "my main concern is always the human element," says attorney Stuart K. Taussig of the Chicago firm Shefsky & Froelich.

If you have young children, the most important provision is the selection of a guardian who would bring up the kids if both parents died. For business owners with adult children, the challenge is to allocate the business and other assets so that the parents' deaths don't trigger a bitter fight.

But even people of modest means need wills to make sure their money goes where they want. Die without a will and there's no money for your favorite charity or someone you are involved with in a long-term but nonmarital relationship. State law might divide your money equally among a surviving spouse and children, even though many people would rather it all go to the spouse.

Writing a will calls for experienced professional legal help. Even for people who manage their own portfolios and do their own taxes, it pays to call a lawyer.

For instance, certain goals are met by having your will direct money to others in trust, rather than outright. Trusts can reduce taxes on big estates. They can also gradually parcel out an inheritance to or-

phaned children who would otherwise receive—and possibly fritter away—a large sum at age 18.

"Would you want to have a college kid with a million dollars in his or her name?" asks Mr. Taussig. "Most parents do not."

Leave the original of your will with the attorney—not in a safe-deposit box that might be temporarily sealed at your death.

Power of Attorney

Who would tend to your banking and other financial affairs if a serious illness or other crisis left you

Needham. If you have big accounts at a couple of firms, consider showing the firms your power of attorney or also executing the particular forms those firms prefer.

Health-Care Power, Living Will

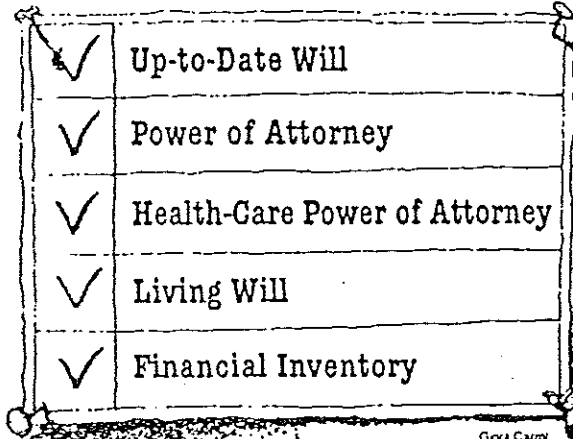
A health-care power of attorney authorizes someone to make medical decisions for you if you are temporarily or permanently unable. It's usually coupled—sometimes in a single document—with a living will in which you indicate the type of care you would want if you were terminally ill or permanently unconscious.

Contrary to what many people believe, a living will isn't just for people who want to avoid being sustained indefinitely on mechanical life support. It is to spell out your personal wishes, "which may be that you want extraordinary medical procedures as long as you are alive," says Glenn Pape, a vice president with planners Ayco Corp., an American Express Co. unit in Albany, N.Y.

These documents can minimize family squabbles and ease the terrible burden on loved ones at life's end. Says Mr. Taussig, the Chicago attorney: "My wife knows how I feel. If my kids come in and want to do something different, she can say, 'Look, that's how your father felt. It is here in black and white.'"

Many lawyers prepare a health-care power of attorney and a living will when they do a will. But if you don't need to see a lawyer now, you can get the proper forms for your state at no charge by calling Choice in Dying Inc., a national not-for-profit group (800-959-9455).

Give photocopies of your documents to your agent and doctor, and make sure your agent knows where the originals are stored. Don't put the originals in a safe-deposit box to which your agent doesn't have access.



unable? Your family could go to court to get a guardian appointed. Or, in advance, you could authorize a spouse or other trusted individual to make financial decisions for you.

The "power of attorney" that names such an agent is a simple and handy document—but also a potent one. "A power of attorney is a license to steal," cautions Washington attorney John Freeman Blake. "You have to be granting this power of attorney to someone you know won't rob you."

You can revoke a power of attorney by tearing it up. Some people tell the selected agent about the power of attorney but then leave the document with the lawyer who prepares it.

Some mutual-fund companies and other financial institutions may balk at the particular power your attorney prepares. To minimize problems, you want specific language about powers of investment, says attorney David Scott Sloan of the Boston firm Sherburne, Powers &

Inventory

The last step is a personal financial inventory that lists, in plain English, the professional advisers, insurance policies and investment accounts that your survivors might otherwise have to scramble to find in the event of your death or other crisis. Use a work sheet supplied by an accountant or other adviser, or simply do it yourself.

Among the items to record: names and phone numbers of your attorney, your accountant and other chief advisers; location of important documents such as wills, powers, property deeds; a listing, with account numbers and document location, for all insurance policies, bank accounts, investment accounts, credit-card accounts and loans; and the location of safe-deposit boxes and of the box keys.

For husband and wife, the inventory can pull together basic information on the separate financial matters that each one routinely handles.

Be sure both spouses, and possibly other loved ones or advisers, know where the inventory is stored. "If something happens to you," explains Mr. Saccacio of Coopers & Lybrand, "there doesn't have to be a tremendous scramble to find this."

LOCATION OF IMPORTANT DOCUMENTS

FOR _____

Social Security No. _____ - _____ - _____

Spouse _____

Social Security No. _____ - _____ - _____

My valuable papers and assets are stored in these locations:

(A) Residence _____
(Where)

(B) Safe-Deposit Box _____
(Bank) (Address)

(C) Lawyer's Office _____
(Address)

(D) _____

(E) _____

(F) _____

ITEM	LOCATION	ITEM	LOCATION	ITEM	LOCATION
My Will (Original)	()	Homeowners Insurance		Titles and Deeds to	
My Will (Copy)	()	Policy	()	Real Estate and Land	()
Powers of Attorney	()	Employment Contracts	()	Title Insurance	()
Health Care Proxy	()	Partnership Agreements	()	Mortgage Agreement	()
My Burial Instructions	()	List of Checking and		Rental Property Records	()
Cemetery Plot Deed	()	Savings Account	()	Notes and Other Loan	
Spouse's Will (Original)	()	Bank Statements,		Agreement	()
Spouse's Will (Copy)	()	Canceled Checks	()	List of Stored Valuable	
Spouse's Power of		List of Credit Cards	()	Possessions	()
Attorney	()	Certificates of Deposit	()	Auto Ownership Records	()
Spouse's Health Care		Checkbooks	()	Boat Ownership Records	()
Proxy	()	Savings Passbook	()	Birth Certificate	()
Spouse's Burial		Record of Investments	()	Citizenship Papers	()
Instructions	()	Securities	()	My Adoption Papers	()
Document Appointing		Brokerage Account		Military Discharge	
Children's Guardian	()	Records	()	Papers	()
Handwritten List of		Stock Certificates	()	Marriage Certificate	()
Special Bequests	()	Mutual Fund Shares	()	Children's Birth	
Safe Combination,		Bonds	()	Certificates	()
Business	()	Other Securities	()	Children's Adoption	
Safe Combination, Home	()	Corporate Retirement		Papers	()
Trust Agreements	()	Plans	()	Divorce/Separation	
Life Insurance, Group	()	Keogh or IRA Plan	()	Records	()
Life Insurance, Individual	()	Annuity Contracts	()	Names and Addresses of	
Other Death Benefits	()	Stock Option Plan	()	Relatives and Friends	()
Property and Casualty		Stock Purchase Plan	()	List of Advisors	()
Insurance	()	Profit-Sharing Plan	()	Listing of Professional	
Health Insurance Policy	()	Income and Gift Tax		Memberships	()
Car Insurance Policy	()	Returns	()		

WHAT IS A DURABLE POWER OF ATTORNEY AND WHY IS IT IMPORTANT?

A Durable Power of Attorney is a written document in which you designate someone to act on your behalf legally and financially. They become your attorney-in-fact. You may limit this power or make it all encompassing. But what makes this different is the word "durable." Not all Powers of Attorney are durable. A sentence such as, "This power of attorney shall not be affected by the subsequent disability or incapacity of the principal", in the document makes it durable. If the power is not durable, it will automatically be revoked when you become disabled. And if one becomes disabled or incapacitated that is just when they need the assurance that another can act on their behalf.

If you do not have a Durable Power of Attorney, in order for someone to act on your behalf, they must be appointed by the probate court to be your conservator or the guardian of your property. This applies to a spouse even if you own property jointly, the healthy spouse can not sell, mortgage or transfer your interest. Once a guardian is appointed he/she will be subject to the jurisdiction of the probate court. There is a cost associated with this of over \$3000. A Durable Power of Attorney costs under \$100 to be drawn up. Estate planning documents should be updated every 5 years or when there is a major change in your life. I would recommend seeing a lawyer to update your documents. You should also consider executing a Health Care Proxy, which is similar to a Durable Power of Attorney but is used only for medical decisions.

GENERAL POWER OF ATTORNEY

(With Durable Provision)

TO ALL PERSONS, be it known, that I _____,
of _____ the undersigned Principal, do hereby make and
grant a general power of attorney to, _____ of
_____, and do thereupon constitute and appoint said
individual as my attorney-in-fact.

My attorney-in-fact shall have full powers and authority to do and undertake all acts on my behalf that I could do personally, with full power of substitution and revocation, including but not limited by said authority the right to sell, deed, buy, trade, lease, mortgage, assign, rent or dispose of any of my present or future real or personal property; the right to execute, accept, undertake and perform any and all contracts in my name; the right to deposit, endorse, or withdraw funds to or from any of my bank accounts, depositories or safe deposit box; the right to borrow, lend, invest or reinvest funds on any terms; the right to initiate, defend, commence or settle legal actions on my behalf; the right to vote (in person or by proxy) any shares or beneficial interest in any entity, and the right to retain any accountant, attorney or other advisor deemed necessary to protect my interest generally retain any accountant, attorney or other advisor deemed necessary to protect my interests generally or relative to any foregoing unlimited power. Further, to execute and deliver any gifts to family members or charities; renunciations of inheritances, purchases of flower bonds, or other documents or acts necessary to protect the estate of the principal except wills, codicils, living wills or marital contracts. Further, the right to execute all tax returns and generally undertake all acts with any governmental agency. Further, to make any medical, dental, hospitalization or other health care decisions on my behalf, including the retention of physicians and other health care providers, except that this power shall be subordinate to any authority granted under any durable power of attorney for health care.

My attorney-in-fact hereby accepts this appointment subject to its terms and agrees to act and perform in said fiduciary capacity consistent with my best interests as he in his best discretion deems advisable, and I affirm and ratify all acts so undertaken.

This power of attorney shall not be affected by disability of the principal. This power of attorney may be revoked by the principal giving notice of revocation to the attorney-in-fact, provided that any party relying in good faith upon this power of attorney shall be protected unless and until said party has either a) actual or constructive notice of revocation, or b) upon recording of said revocation in the public records where the principal resides.

Other terms:

Signed under seal this day of _____, 19____.

Signed in the presence of:

_____ Principal

_____ Attorney-in-Fact

Note: Delete powers that do not apply.

State of _____

County of _____

Then personally appeared _____, the above-named, Principal who acknowledged the foregoing executed Power of Attorney as his or her free act and deed, before me.

Notary Public
My Commission Expires:

HEALTH CARE PROXY

Who shall I choose? What shall I tell them?
What shall I ask of them? Will they turn me down?

I have listed below, for your review, some questions to ask yourself and I've noted some things you might wish to discuss with your agent and family. This is not meant to be an all encompassing list. My hope is to raise questions and promote valid discussions between you and the person you choose as your agent. Remember this is a process, which means it may take some time to complete. Preparing a health care proxy will force you to deal with the possibility of not always being able to make you own health care decisions, and that may be uncomfortable for you. When there is order in our lives we have a sense of control.

- Do you consider yourself an independent person?
- Do you like to make your own decisions?
- If you could not make your own decisions, would you be willing to let others make them for you?
- Do you expect your family will support your decisions about any medical treatment you might need?
- Would you want your minister, priest or rabbi to help with the decision making process?
- How do you feel about life sustaining methods?
- Would you want to have artificial nutrition and hydration, feeding tubes or intravenous feeding on a temporary or permanent basis?
- Would you want to make decisions for members of your family or for a friend?

Before naming an agent, discuss with them your feelings regarding the following:

- Terminal illness
- Mental incapacity
- Your sense of dignity
- Self-worth
- Personal values
- Religious belief

The ideal agent would be your philosophical "soul mate" and someone who can be a strong advocate for you. An agent should be able and willing to carry out your wishes regarding health care decisions. The decisions should represent your wishes and desires and not theirs.

MASSACHUSETTS HEALTH CARE PROXY

Information, Instructions, and Form

What does the Health Care Proxy Law allow?

The Health Care Proxy is a simple legal document that allows you to name someone you know and trust to make health care decisions for you if, for any reason and at any time, you become unable to make or communicate those decisions. It is an important document, however, because it concerns not only the choices you make about your health care, but also the relationships you have with your physician, family, and others who may be involved with your care. Read this and follow the instructions to ensure that your wishes are honored.

Under the Health Care Proxy Law (Massachusetts General Laws, Chapter 201D), any competent adult 18 years of age or over may use this form to appoint a Health Care Agent. You (the "Principal") can appoint anyone EXCEPT the administrator, operator, or employee of a health care facility such as a hospital or nursing home where you are a patient or resident UNLESS that person is also related to you by blood, marriage, or adoption.

What can my Agent do?

Your Agent will make decisions about your health care only when you are, for some reason, unable to do that yourself. This means that your Agent can act for you if you are temporarily unconscious, in a coma, or have some other condition in which you cannot make or communicate health care decisions. Your Agent cannot act for you until your doctor determines, in writing, that you lack the ability to make health care decisions. Your doctor will tell you of this if there is any sign that you would understand it.

Acting with your authority, your Agent can make any health care decision that you could, if you were able. If you give your Agent full authority to act for you, he or she can consent to or refuse any medical treatment, including treatment that could keep you alive.

Your Agent will make decisions for you only after talking with your doctor or health care provider, and after fully considering all the options regarding diagnosis, prognosis, and treatment of your illness or condition. Your Agent has the legal right to get any information, including confidential medical information, necessary to make informed decisions for you.

Your Agent will make health care decisions for you according to your wishes or according to his/her assessment of your wishes, including your religious or moral beliefs. You may wish to talk first with your doctor, religious advisor, or other people before giving instructions to your Agent. It is very important that you talk with your Agent so that he or she knows what is important to you. If your Agent does not know what your wishes would be in a particular situation, your Agent will decide based on what he or she thinks would be in your best interests. After your doctor has determined that you lack the ability to make health care decisions, if you still object to any decision made by your Agent, your own decisions will be honored unless a Court determines that you lack capacity to make health care decisions.

KNOW ALL MEN BY THESE PRESENTS

that I _____, of _____ County, Massachusetts hereby constitute and appoint _____ of _____ true and lawful Attorney for me and in my name and stead to receive and receipt for any and all monies due me or to become due to me; to sign, negotiate and endorse any and all checks or drafts payable to or belonging to me; to deposit in my name any monies collected or received for me by him; to draw checks or drafts upon any and all deposits and bank accounts belonging to me; to pay any and all bills owed by me; to act for me in any matters in which I may now be interested in, and generally to act for me in all matters affecting my business or property, and execute any and all instruments relating thereto, and sign my name with the same force and effect as if I had executed said signature, with the same force and effect to all intents and purposes as though I were personally present and acting for myself. This Power of Attorney is made pursuant to M.G.L. Chapter 201B, Uniform Durable Power of Attorney Act.

I hereby revoke any previous Powers of Attorney made by me prior to this date.

This Power of Attorney shall not be affected by subsequent disability or incapacity of the principal. My full name is _____. My SSAN is _____.

Hereby granting unto my said Attorney full power and authority to act in and concerning the premises as full and effectively as I might do if personally present.

IN WITNESS WHEREOF, I hereunto set my hand and seal this day of _____ in the year one thousand nine hundred and _____.

Signed and sealed in presence of _____

And then personally appeared and acknowledged the foregoing instrument to be his free act and deed, before me.

Notary Public

My commission expires: _____

YOUR BIRTH DATE
____/____/____

MASSACHUSETTS HEALTH CARE PROXY

1 I, _____, residing at

(Principal - PRINT your name)

(Street) (City or Town) (State)

appoint as my Health Care Agent: _____
(Name of person you choose as Agent)

of _____
(Street) (City/town) (State) (Phone)

(OPTIONAL: If my Agent is unwilling or unable to serve, then I appoint as my Alternate:

_____, of
(Name of person you choose as Alternate)

_____.
(Street) (City/town) (State) (Phone)

2 My Agent shall have the authority to make all health care decisions for me, including decisions about life-sustaining treatment, subject to any limitations I state below, if I am unable to make health care decisions myself. My Agent's authority becomes effective if my attending physician determines in writing that I lack the capacity to make or to communicate health care decisions. My Agent is then to have the same authority to make health care decisions as I would if I had the capacity to make them EXCEPT (here list the limitations, if any, you wish to place on your Agent's authority):

I direct my Agent to make health care decisions based on my Agent's assessment of my personal wishes. If my personal wishes are unknown, my Agent is to make health care decisions based on my Agent's assessment of my best interests. Photocopies of this Health Care Proxy shall have the same force and effect as the original and may be given to other health care providers.

3 Signed: _____

Complete only if Principal is physically unable to sign: I have signed the Principal's name above at his/her direction in the presence of the Principal and two witnesses.

(Name) (Street)

(City/town) (State)

4 WITNESS STATEMENT: We, the undersigned, each witnessed the signing of this Health Care Proxy by the Principal or at the direction of the Principal and state that the Principal appears to be at least 18 years of age, of sound mind and under no constraint or undue influence. Neither of us is named as the Health Care Agent or Alternate in this document.

In our presence this ____ day of _____, 199__.

Witness #1 _____ (Signature) Witness #2 _____ (Signature)

Name (print) _____ Name (print) _____

Address: _____ Address: _____

Statements of Health Care Agent and Alternate (OPTIONAL)

Health Care Agent: I have been named by the Principal as the Principal's Health Care Agent by this Health Care Proxy. I have read this document carefully, and have personally discussed with the Principal his/her health care wishes at a time of possible incapacity. I know the Principal and accept this appointment freely. I am not an operator, administrator or employee of a hospital, clinic, nursing home, rest home, Soldiers Home or other health facility where the Principal is presently a patient or resident or has applied for admission. Or if I am a person so described, I am also related to the Principal by blood, marriage, or adoption. If called upon and to the best of my ability, I will try to carry out the Principal's wishes.

(Signature of Health Care Agent) _____

Alternate: I have been named by the Principal as the Principal's Alternate by this Health Care Proxy. I have read this document carefully, and have personally discussed with the Principal his/her health care wishes at a time of possible incapacity. I know the Principal and accept this appointment freely. I am not an operator, administrator or employee of a hospital, clinic, nursing home, rest home, Soldiers Home or other health facility where the Principal is presently a patient or resident or has applied for admission. Or if I am a person so described, I am also related to the Principal by blood, marriage, or adoption. If called upon and to the best of my ability, I will try to carry out the Principal's wishes.

(Signature of Alternate) _____

* * * * *

Model Health Care Proxy form developed by a Task Force of the following organizations:

- | | |
|---|---|
| Boston University Schools of Medicine and Public Health:
Law, Medicine, and Ethics Program | Massachusetts Hospital Association |
| Deaconess ElderCare Program | Massachusetts Medical Society |
| Hospice Federation of Massachusetts | Massachusetts Nurses Association |
| Massachusetts Bar Association | Medical Center of Central Massachusetts |
| Massachusetts Department of Public Health | Suffolk University Law School:
Elder Law Clinic |
| Massachusetts Executive Office of Elder Affairs | University of Massachusetts at Boston:
The Gerontology Institute |
| Massachusetts Federation of Nursing Homes | Visiting Nurse Associations of Massachusetts |
| Massachusetts Health Decisions | |

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