

Brief Description of Three Important Documents

In addition to a properly prepared Last Will and Testament, there are 3 other documents that often are extremely important to a thorough estate plan. I recommend strongly that each and every client sign a Durable Power of Attorney and a Health Care Power of Attorney, which are explained briefly below. The choice whether to have a “Living Will” is strictly personal to each client. I urge you to think carefully about all three. These 3 documents are every bit as important as a Will!

1. A “**Durable Power of Attorney**” is a document by which you designate someone to sign your name for business or property transactions, such as a car title, checks, bank transactions, deeds, tax returns, etc. It does not take away your own authority to act for yourself; it merely states who can also perform these duties for you.

Without a Durable Power of Attorney, it would be necessary to go to Court to have a Guardian appointed for (even if you are married, your spouse would still have to petition the Court for Guardianship) if you become mentally incapacitated.

The **original** Durable Power of Attorney should **never** be placed in a Safety Deposit Box **unless** it has been recorded at the Register of Deeds office first.

2. A “**Health Care Power of Attorney**” is another very helpful document. This is a very broad document that covers many more situations than a Living Will and is much more likely to be needed. The law will not let a “Durable Power of Attorney” apply to health care decisions. The “Health Care Power of Attorney” is extremely important when, for example, a person has a stroke or major heart attack, is temporarily unconscious due to a car wreck, gets Alzheimer’s Disease, or where some unexpected complication occurs after a surgery. The person you name is the person who has the authority to give instructions to and obtain information from doctors and hospital officials. You can name several persons, but you must specify the order of priority. With more focus on privacy and confidentiality, this is more important now than ever before.

3. The “**Declaration of a Desire for a Natural Death**” (often called a “**Living Will**”) is a document that applies only in a very narrow set of circumstances. Its purpose is to avoid life support machinery and/or to prevent tubes that do nothing more than prolong body functions when you are terminally comatose and not capable of recovery. A person must essentially have “brain death” before this will apply. It does not apply, for example, in an “ordinary” stroke situation or during “recoverable” unconsciousness.