

ESTATE PLANNER QUICKIES™

Healthcare Documents

Health Care Powers of Attorney and Living Wills are essential pieces to every family estate plan. With these documents **you choose the person** who will make medical and health decisions on your behalf if you are unable, or provide your doctors and your loved ones with directions for the type of medical treatment you desire. The State of Arizona has default family members to fill this role if you don't prepare these documents in advance.

In Arizona, the person you choose to have Health Care Power of Attorney is called your "Agent". Your agent must be a person you trust completely. They will be responsible for making your medical decisions when you can't. An agent may be limited as to what decisions can be made by either the document you write or by Arizona law.

In contrast your Living Will does not name any people, it contains the **specific instructions** about the type of treatment you do or do not want. The Living Will can include the refusal of certain medical treatments, requests for pain relief, or statements explaining

your beliefs about end-of-life issues. Generally, the Living Will is used with the Healthcare Power of Attorney to help guide the agent as to what type of treatment you do or do not want.

A Health Care Power of Attorney and a Living Will only become effective when you become unable to make medical decisions because of either your mental or physical condition. So long as you are able to competently express your wishes, the Health Care Power of Attorney and Living Will do not become effective. Once it does become effective, however, your Agent will work with your family, physicians and your medical staff in order to make health care decisions on your behalf.

You should provide a copy of these documents to your primary physician so that he or she may place them into your medical records. You should also give copies of your Health Care Power of Attorney and Living Will to the people you appointed within these documents to make decisions on your behalf. Additionally, you should discuss with your agent the type of treatment that you do or do not want so you are

sure they understand what your actual wishes are if they need to make decisions for you.

If you become unable to make health care decisions for yourself, your agent will also have the duty to obtain information regarding your health as well as discuss with your doctor and the medical team caring for you what various treatment options are available. In order to obtain this information, you should grant your agent the authority to receive all of your medical records. Federal law (HIPAA) prevents even family members from obtaining this information without your consent. To overcome this obstacle, you can name any number of people to have access to this information in a "HIPAA Authorization". This is a document you sign giving certain people the ability to speak to your doctors and nurses about your health, or to simply find out what hospital room you were moved to since their last visit. But your agent remains the only person with the authority to make decisions on

your behalf.

Your agent will also have the ability to request additional consultations and second opinions. It will be their duty to make decisions after reviewing the facts and the treatment options. They will generally also be responsible for keeping your family informed if they have not already been involved in discussions with the doctor or medical team providing care.

If you do not have these three documents in place (Healthcare Power of Attorney, Living Will, HIPAA Authorization), you are leaving the decisions up to the bureaucrats in the State Capitol—when it really should be up to you. Lastly, these documents should be made available at all times in the case of an emergency. You should either carry them in your purse or wallet, or carry a wallet card that instructs emergency personnel how they can be obtained.

Sirvent & Hill, PLC solves challenges. This handout is provided for informational purposes only—the legal principles have been generalized. Every family is unique, and every family deserves a carefully thought out estate plan. We provide loving, caring and patient guidance to those families who are committed to implementing a truly comprehensive estate plan; from beginning...to end.