



# LAWYER FOR *Life*

## KEEPING YOUR FAMILY HEALTHY, WEALTHY & WISE

### IN THIS ISSUE

- Here's What Can Happen If You Don't Have An Estate Plan Of Your Own ..... Page 1
- The Difference Between A Living Will And A Health Care Power Of Attorney ..... Page 3
- A Personal Note From Jan Copley ..... Page 4



## HERE'S WHAT CAN HAPPEN IF YOU DON'T HAVE AN ESTATE PLAN OF YOUR OWN

We often discuss the benefits of estate planning. However, a discussion of what can happen when a person fails to plan is perhaps a more powerful way to stress the importance of proper planning. Let's look at a few potential consequences of not having a plan of your own.

If a person passes away without a will or trust, his or her estate assets are distributed according to what is known as intestate succession. It is important to note that certain assets are not subject to intestate succession laws. These can include funds in an IRA, 401(k) or other retirement account; property owned in joint tenancy or tenancy

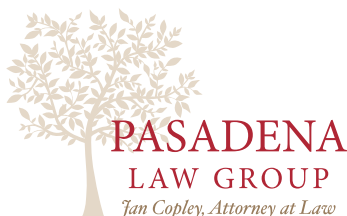
by the entirety; proceeds from life insurance policies; payable-on-death bank accounts; and securities in a transfer-on-death account.

Most other assets are transferred according to intestate succession. As a result, "who gets what" follows a strict formula, with no regard to the actual emotional relationships between you, your spouse, your children, and members of your extended family. What you would have wanted is irrelevant to the state. Your assets must be distributed, and the state has devised a formula to do so.

(CONT.)



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## HERE'S WHAT CAN HAPPEN IF YOU DON'T HAVE AN ESTATE PLAN OF YOUR OWN (CONT.)



This is particularly problematic in situations involving blended families. If you are divorced, will your current spouse or your ex-spouse inherit your assets? Without a plan, the state will decide. If you have children from both your first marriage and your second marriage, will your “first family” or your “second family” receive an inheritance? Again, the state will decide not you. And what if some of your children are not mature enough to manage a significant amount of money on their own? Unless you take steps to protect assets against the poor decisions of your children, their inheritances may well be squandered by the children themselves or lost to predators who prey upon their naivety.

Losing control over how your assets are distributed after death isn't the only negative consequence of failing to plan. You and your family may suffer physically, financially and emotionally while you are still alive. For example, a properly designed and implemented plan allows you to name people you trust to make medical and/or financial decisions on your behalf if you become incapacitated. Without a plan, someone will petition the court for the right to make these important decisions for you. The court could very well decide to choose a person or persons you would never have wanted to have such authority. The result? You may not receive the level of medical care you would have wanted. Conversely, you might be subjected to medical procedures you would not have wanted to keep you alive in an end-of-life situation. Similarly, financial decisions might be made about the management of your assets and life-savings that you would never have taken on your own.

Then there is the emotional impact on your family to consider. Your loved ones will be forced to make difficult decisions about your care. This is not only stressful for them, it often leads to infighting and hard feelings that endure for years.

Disputes over your assets may also arise, leading to costly court battles and bitterness that can last a lifetime. Many families are torn apart by disputes over “what mom or dad would have wanted.”

Finally, if something terrible happens to you and your spouse, and you have minor children, who will care for and raise them? Proper planning allows you to give this authority to a person or persons you trust. Without a plan the court will decide. The court's decision could lead to your children being raised in a place and manner you never would have wanted.

As you can see, the failure to plan can have unforeseen and dire consequences. Don't settle for the state's estate plan. Put a plan of your own in place, one created by an attorney who focuses on estate planning. Many of our clients tell us that they experience a sense of relief and peace of mind following the implementation of their plans. Chances are, you will too.



**Contact us at your earliest convenience for a personal meeting.**

# THE DIFFERENCE BETWEEN A LIVING WILL AND A HEALTH CARE POWER OF ATTORNEY



Many people are confused about the difference between a living will and a healthcare power of attorney. A living will specifies life-prolonging treatments you do or do not want in the event you either suffer from a terminal illness or are in a permanent vegetative state. It does not become effective unless you are incapacitated, and it typically requires your doctor and another physician to certify that you are indeed suffering from a terminal illness or have been rendered permanently unconscious. What does this mean in practice? Let's say you suffer a heart attack but are not terminally ill or in a permanent state of unconsciousness. In this situation, a living will does not have any effect. You would still be resuscitated, even if you had a living will indicating that you don't want life-prolonging procedures. A living will is only used when your ultimate recovery is hopeless.

For situations where you are incapacitated and unable to speak for yourself, but your condition is not dire enough for your living will to go into effect, you should have a health care power of attorney or health care proxy. A health care power of attorney is a legal document that gives someone else the authority to make health care decisions for you in the event you are incapacitated. The person you designate to make these decisions on your behalf will do so based upon what you would want, so of course you must be sure to express your wishes to him or her in great detail.

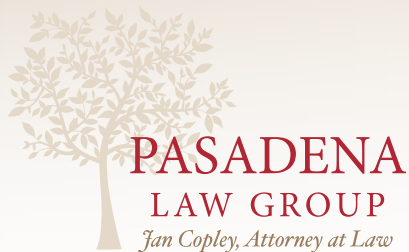
## ANOTHER WAY TO THINK ABOUT A LIVING WILL

Living wills are sometimes referred to as "love letters." Why? By making your health care wishes known and clearly describing them to your family, you not only ensure your wishes will be carried out, you also spare your loved ones the stress of having to make critical decisions about your care on their own.

Even though your ultimate recovery may be hopeless, making decisions about whether extraordinary means should be used to keep you alive can lead to ugly disputes and severely damage relationships between family members. There could also be stressful disputes between your loved ones and hospital staff, as well as expensive court battles, over your right to live or die. Emotionally charged disputes like these can saddle your loved ones with guilt and/or anger that lasts for years.

In effect, a living will is a final, thoughtful expression of love for your family and your hopes for their emotional well-being in the future. Of course, a living will won't do any good unless your physician and loved ones know about it. This may be a very difficult conversation to have (especially with your family), but letting them know what you want, and why, truly lessens their burden and helps them come to terms with your wishes in advance. We have the experience and understanding to counsel you on the best ways to begin such a conversation. Then, we can design an effective living will capable of ensuring that your wishes are carried out and your family's emotional well-being is protected. Contact us today to discuss your particular situation.





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## A PERSONAL NOTE FROM JAN COPLEY

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