

Estate Planning: Parents with Young Children (Under 18) Five Important Documents

Page 1

HEALTH CARE POWER OF ATTORNEY WITH ADVANCE DIRECTIVES AND HIPAA RELEASE 1

This document:

- Names your chosen "Health Care Agent" – the person to make medical decisions for you if/when you cannot make and communicate them for yourself;
- Allows you to document any specifications or restrictions you have about those decisions;
- Indicates what level of "life-preserving measures" you want in three different end-of-life scenarios (the "advance directives"); and
- Provides instructions about what you want (/don't want) to happen to your body after death.

Information needed for drafting:

- Your primary & back-up Health Care Agents' full legal names, mailing addresses, and phone numbers.

More about this document:

- Without this document, North Carolina law dictates who makes these decisions for you;
- This document is not the same as a DNR (do not resuscitate) order;
- The HIPAA Release is effective immediately, but your Health Care Agent only has authority to act if, and only if, your treating physician determines you are unable to make or communicate about your own medical decisions; and
- Your Health Care Agent's authority ends if you regain the ability to make and communicate them for yourself.

DURABLE GENERAL POWER OF ATTORNEY 2

This document:

- Names your chosen "Agent" - the person you are giving authority to manage financial and property matters for you; and
- Remains in effect even if you become legally incompetent.

Information needed for drafting:

- Your primary and back-up Agents' full legal names and cities & states of residence.

More about this document:

- Without this document, North Carolina law requires a competency hearing to grant someone the ability to manage your property and finances (no default);
- Your Agent has the authority to act under this document as soon as it is signed; and
- Your Agent must abide by the fiduciary duty laws and only take actions in your best interest (or at your express direction).

AUTHORIZATION TO CONSENT TO HEALTH CARE FOR MINOR 3

This document:

- Names the person/people who have the authority to make medical decisions for your child(ren) if you are not available.

Information needed for drafting:

- Your authorized person's full legal name, mailing address, and phone number.



Ampersand Law is the recorded Trade Name of Hazelwood Law PLLC. This worksheet is provided for general informational purposes only. Information contained herein is neither legal advice nor substitute for obtaining legal counsel. Ampersand Law may be contacted via mail at PO Box 61182, Durham, NC 27715, via telephone at 919-973-4500, and via email at hello@ampersand-law.com.

#unstuckestateplanning

Estate Planning: Parents with Young Children (Under 18) Five Important Documents

Page 2

WILL WITH TESTAMENTARY TRUST 4

This document:

- Names your chosen Executor (aka Personal Representative) - the person legally authorized to manage your probate property (more on this below), pay debts/expenses from estate funds, and make distributions from estate assets;
- Provides special instructions on what to do with certain types of assets/property - such as pets and business ownership, if applicable;
- Creates a "Testamentary Trust" that will hold and distribute assets for your children for specific purposes/uses until they reach a specified age (such as 25 or 30);
- Names your chosen Trustee of the Testamentary Trust - the person legally authorized to manage and distribute trust assets.
- Names your preferred Guardian (in the event that you and your children's other legal parent die or become incompetent before the children are all age 18+).

Information needed for drafting:

- Your primary & back-up Executors' full legal names and cities & states of residence;
- Specific information about property distributions, including any special instructions for certain assets (such as pets, business ownership);
- Your primary & back-up Trustees' full legal names and cities & states of residence;
- When the Testamentary Trust terminates (generally when your youngest child reaches a specific age);
- Directions (requirements, limits, etc.) about interim distributions from the trust (before termination); and
- Your primary & back-up Guardian's full legal names and cities & states of residence.

Signing requirement:

- Sign your Will in front of two disinterested witnesses and a notary (other options might be available).

Important to know:

- A Will controls what happens to probate property after death.
- Non-probate property (not subject to the terms of a Will, generally) includes life insurance policies, retirement accounts with beneficiary designations, jointly owned property with the right of survivorship, and assets held in trust before death.
- Without a Will, your probate property is subject to the state's intestacy laws (default estate plan);
- The Testamentary Trust section of a Will is disregarded as irrelevant if it no longer applies (as in, your children are older than the specified age when you die); and
- A Testamentary Trust is not the same as a Revocable Living Trust (RLT). An RLT is a different type of estate planning tool. To understand the differences and which option (a Will with a Testamentary Trust or an RLT) is the better choice to meet your needs & goals - speak with an attorney.
- Guardianship nominations only apply if both legal parents have died or are incompetent before a child reaches age 18. They are subject to Court reviews and approval.

STAND-ALONE GUARDIANSHIP NOMINATION 5

- This document echos the information in your Will.



Ampersand Law is the recorded Trade Name of Hazelwood Law PLLC. This worksheet is provided for general informational purposes only. Information contained herein is neither legal advice nor substitute for obtaining legal counsel. Ampersand Law may be contacted via mail at PO Box 61182, Durham, NC 27715, via telephone at 919-973-4500, and via email at hello@ampersand-law.com.

#unstuckestateplanning