

Proxies and powers

Key pieces of an effective estate plan

BY JESSICA GALLIGAN GOLDSMITH

Every estate plan should include a power of attorney, a health-care proxy, a living will and a HIPAA (Health Insurance Portability and Accountability Act) release. Each of these documents can be critical during periods of serious illness, hospitalization or long-term disability. Family members who do not have these documents in their possession may have difficulty accessing a loved one's financial resources and health-care records, and may also be prevented from participating in crucial medical decisions. An explanation of each of these documents is outlined below:

A power of attorney operates to give one or more designated person(s) the right to manage and/or use your assets for your benefit while you are alive but incapacitated. It is important to give one or more persons that you trust information about, and access to, your finances. This access should be provided with a durable power of attorney that will remain valid even if you become incompetent. In New York, the statutory power of attorney form was updated significantly in September of 2010. While forms executed before then are still valid, they may be more difficult for your agent(s) to use.

You may choose in your power of attorney to name two or more persons as your agents, acting jointly. A joint power that requires at least two signatures to move assets or pay bills is somewhat more difficult to use from day to day. However, making at least two people jointly responsible can greatly reduce the chances that there will be any accusations of misuse of the power of attorney by other family members.

A health-care proxy operates to give a designated person the right to consent to health-care treatment for you if you become incapable of making such decisions. When a health-care proxy is combined with a living will, the two documents allow a designated person to make personal medical decisions for another. As certain high profile cases have shown, issues regarding whether or not to withhold of life-sustaining medical procedures can be particularly difficult for families, especially if there is disagreement. Executing these crucial documents will help guide your

family and your doctors in understanding and carrying out your wishes. In addition to a health-care proxy and living will, it is also now crucial to give someone an authorization under HIPAA (the Health Insurance and Portability Act of 1996) to access your medical records. This is accomplished with a separate HIPAA release.

In New York, you can only name one person at a time to serve as your health-care agent. Be sure to choose someone who is willing to carry out your wishes, particularly with regard to the tough decisions, as well as at least one successor. Your living will should include specific instructions with

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regard to end-of-life treatment. Note that once a child attains age 18, he or she should immediately sign documents naming someone to act for him or her in the event of a health-care emergency. These documents are also critical if you wish to name someone who is not technically a family member to make your health-care decisions. Finally, if you live outside New York, but are likely to seek treatment in a New York hospital, it is useful to have a New York health-care proxy and living will, as well as documents from your home state.

While no one likes to think about being incompetent, these situations do arise and health-care emergencies can occur. It is best to make sure that your loved ones have the legal means to protect you, care for you and carry out your wishes when you are not able to do so for yourself.



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Senior law program slated for Rye

Leading professionals will discuss elder law, estate taxes and how seniors can avoid scams in a free "Senior Law Program," to be held from 7 to 8:30 p.m. June 15 at the Osborn, at 101 Theall Road in Rye.

Steven A. Schurkman, Esq., a partner in Keane & Beane PC in White Plains, will present an overview of elder-law issues, which will be followed by two workshops.

Anthony Enea, Esq. from Enea, Scanlon and Sirignano LLP in White Plains, will lead the workshop on "Hot Topics in Estate, Tax and Elder Law Planning" from 7:15 p.m. to 7:45 p.m.

The second workshop on "Crimebusters: It is Better to be Safe than Sorry" will be led by Jorge I. Montalvo, director of strategic initiatives with the Division of Consumer Protection of the NY State Department of State, and Mary Korman, Esq., chief of the Bureau of Strategic Planning and Crime Control with the Westchester County District Attorney's

Office. A question-and-answer period will follow.

The event is free; however, pre-registration is required. Refreshments will be served.

To sign up, or for more information including directions, call (800) 815-8534.

The Senior Law Program in Rye is sponsored by the Westchester County Department of Senior Programs and Services, the Westchester Public/Private Partnership for Aging Services and The Osborn.

Upcoming free senior law programs will be held June 28, from 5:30 to 7:30 p.m., at the Fordham University campus at 400 Westchester Ave., White Plains. Topics will include long-term care planning.

The annual Senior Law Day in Westchester with many attorneys and financial planners leading a wide range of workshop subjects is set for Oct. 27 at the County Center in White Plains from 9 a.m. to 1 p.m.

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