

# Advanced Directives and Estate Planning

*Advanced Directives, why are they important?*

Advanced Directives ensure that your wishes are carried out when you are not able to communicate them. There are a number of Advanced Directive tools available to you.

## **Powers of Attorney:**

- *Financial Durable Power of Attorney* – allows a person you appoint called an attorney-in-fact to act on your behalf for financial purposes. It may take effect immediately or at some point in time and is not affected if you become disabled
- *Durable Power of Attorney for Health Care/ Appointment of Health Care Agent* – names someone your agent to make health care decisions for you when you are not able to

## **Medical Directives:**

- *Living Will* – instructs your health care provider whether or not to provide artificially provided nourishment and fluids if you are terminally ill or in a vegetative state
- *Advanced Care Plan* – tells your medical provider what type of medical treatment you want to receive if you are unable to make treatment decisions. The form also provides a place to appoint a person to be your health care “agent” to make decisions about your medical care if you become unable to do so.

To be valid, the Care Plan must either be notarized or witnessed by two disinterested adults.

## **Last Will & Testament**

*What is it?*

A legally binding document directing who will receive your property at your death. A person who makes a will is called a testator.

*Why do you need one?*

1. To direct where and to whom your property will go after your death
2. If you die without a will, your estate will be distributed according to state law. The law **may not** distribute your property how you want it to be distributed.

3. With a will, you can appoint a personal representative or executor to carry out the terms of your will.

### **Will Revocation**

A will may be revoked by physically destroying it, signing a new will, or revoking it in writing.

### **Requirements for a will**

1. *Legally competent* – 18 years of age and sound mind
2. *Sound mind* – acting voluntarily and free of undue influence. You must understand such things as what property you own, its value, and whom you are leaving it to
3. *Testator signature* – testator must sign the will in front of 2 witnesses
4. *Witnesses signature* – witnesses must sign the will in the presence of the testator and each other

### **Handwritten Will**

1. Will must be entirely in the testator's handwriting
2. Signed by the testator
3. Following the testator's death, the authenticity of the testator's handwriting must be proved by 2 individuals

It is recommended a will be prepared by an experienced attorney