

3 LEGAL PAPERS YOU SHOULDN'T LIVE WITHOUT

You may not need a trust, an elaborate estate plan or even a will. But unless you want a stranger making important decisions for you and your family, there are some things you do need.

By Liz Pulliam Weston

<http://moneycentral.msn.com/Content/contributors.asp>

COMPLIMENTS OF:

STEPHEN C. SLUSS

ATTORNEY AT LAW

1506 KANAWHA BOULEVARD EAST

CHARLESTON, WV 2311

304-389-3190

304-346-2626 (FAX)

ATTORNEY@SCSLUSS.COM

WWW.SCSLUSS.COM

Most Americans don't have wills, but that's not the crisis many in the estate-planning industry would have you believe. With a few exceptions -- which we'll talk about below -- most people's quality of life won't be much improved by a will.

That's because your state already has a basic plan for distributing your stuff when you die. You're dead, so what do you care? If who got your stereo and your comic book collection wasn't important enough for you to bother with a will while you were alive, it certainly won't matter to you after you're gone.

What your state doesn't have, though, is an efficient way to take care of you if you're still breathing but unable to make your own decisions because of incapacitating illness or injury.

So if you get in a car accident and die, your estate will be distributed more or less efficiently. Get in a car accident and end up in a coma, and you could be in a world of hurt.

Your critical decisions made by a stranger?

Who would be authorized to pay your bills or wrangle with insurance companies about your care? Who would decide whether to sue that driver who hit you -- or shut off the respirator that's keeping you going?

The state will eventually find someone to fill these roles, after a potentially costly and time-consuming court hearing. But it might not be the person you would want. So at a time when you're most vulnerable, life-and-death decisions could be made for you by a stranger -- or an estranged, distant or greedy relative.

That's why you need the following documents:

- A durable power of attorney for health care**, which lets you name who will make medical decisions for you, and
- A durable power of attorney for finances**, which designates who'll handle money decisions
- A living will**, which tells doctors exactly what kind of care you do and don't want to receive if you're terminally ill and incapacitated. (Some states, including Kentucky, Minnesota, Oklahoma, Oregon, South Carolina, Virginia and Wyoming, combine the living will and the durable power of attorney for health care in the same form.)

Fortunately, you can get these documents -- plus a basic will -- drawn up by an attorney for \$300 to \$500 in most areas.

The point is, just do it. If you need more convincing, consider the case of Robert Wendland, who was severely injured in a 1993 car crash at age 42 -- sparking a gut-wrenching court battle between his wife and his mother that ended up before the California Supreme Court.

Fight over removing the feeding tubes

Wendland was in a coma for 16 months before recovering what doctors called "minimal consciousness." He could catch a ball and play with infant toys, but couldn't speak, eat, walk, recognize his family or comprehend a Saturday morning cartoon. Doctors said his condition was not terminal but would never improve.

Wendland's wife Rose, whom a court had appointed as his conservator, decided he wouldn't have wanted to live as he was and asked doctors to remove his feeding and hydration tubes. Wendland's mother Florence went to court to keep him alive. Eventually, California's top court sided with the mother -- a few weeks after Robert died of pneumonia after surviving on life support for eight years.

A right to direct your own medical care

Although courts have allowed family members to disconnect life support from unconscious, terminally ill patients who didn't express their wishes clearly, the California judges were reluctant to set such a precedent for "minimally conscious" patients.

Had Wendland created durable powers of attorney or any other paperwork detailing how and whether he wanted life support to be used, the court battle may have been prevented, legal experts said. That's because the U.S. Supreme Court has ruled that every individual has a right to direct his or her own medical care, even if loved ones disagree with those directions.

Thinking about these issues is not fun, which is probably why most people avoid it. You have to ponder some of the grimmest circumstances imaginable. Do I want to be on a respirator if I'm conscious? If I'm unconscious? Do I want food and water withheld? How about pain medication?

Decisions about health care, money

You also have to figure out whom to name as your so-called "attorney in fact" or proxy to help implement these decisions for you. You don't have to name the same person for both powers of attorney. In fact, many people find that the people they trust to make health-care decisions are different from the ones they want handling their finances.

That said, if you're married or in a committed partnership, that person is a logical choice to fill both roles. But you'll still need back-ups in case he or she is injured or killed in an accident with you. For the health-care directive, you'll probably want people who are nearby or at least willing to travel to the hospital to be with you, perhaps for an extended time.

The person handling your finances may be able to do so remotely, although you may still prefer to name someone who lives relatively close for convenience sake. In addition to paying your bills and handling insurance claims, the person handling your finances may also need to sell your home or make other complicated moves that require more proximity.

Parents of minor children: this one's for you

You can change these documents at any time, as long as you're still competent. You probably should review them about once a year to make sure you're still comfortable with your decisions.

Now, back to the issue of wills. I was being a bit facetious above, since many people want more control over who gets their stuff than state law dictates. If you're wealthy, estate-planning documents also can help you reduce potential taxes, which can give you peace of mind while you're alive.

That said, there is one group of people who should absolutely, no question, have a will, and that's parents of minor children. Even if you can't agree on who gets the crystal, you need to agree on who would take care of your children in the event of your death. No matter how icky you feel about planning for your own demise, you owe it to your kids to spare them the potentially ugly and drawn-out custody battle that could ensue if you don't make these decisions now.

So go make that appointment with an attorney, or buy the software, right now. A small investment of your time could spare you and your loved ones a lot of grief.

Liz Pulliam Weston's column appears every Monday and Thursday, exclusively on MSN Money. She also answers reader questions in the [Your Money message board](#).