



## **Basic Estate Planning Guide:**

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# **5 LEGAL DOCUMENTS EVERY ADULT NEEDS**

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# About Legacy Law Group

David B. Wilks has practiced law in Northern Virginia and Prince William County for more than thirty years as a tax lawyer by training and education.

Legacy Law Group of Northern Virginia takes the guesswork out of planning your family's future with attorneys recognized among the Legal Elite by Virginia Business magazine. Nationally, they are recognized by their peers as being among the top levels of professional excellence by Martindale-Hubbell® Peer Review Ratings.

Legacy Law Group of Northern Virginia offers clients the benefit of extensive litigation and business knowledge and experience. If a will, trust or estate is disputed, be assured your future is in the hands of some of the most well-respected litigation attorneys in Prince William, Stafford, Fauquier and Fairfax Counties.



# WHY PLAN?



Effective estate planning is about more than “who gets what” after you pass away. Instead, an estate plan can also help ensure that:

- You retain control over your assets.
- You can maintain your independence for as long as possible and have a say in decisions pertaining to your finances and your care.
- Your wishes are carried out.
- Your family’s inheritance is transferred safely and smoothly to your heirs without unnecessary costs or delays.
- Vulnerable beneficiaries and loved ones with special needs are protected in the event of a crisis.
- All loved ones are treated fairly in a blended or “non-traditional” family situation.

The truth is that every adult needs a plan: some plans are just more complex than others!

In the following pages, we’ll walk you through the legal documents that make up a basic, foundational estate plan.

There may be additional elements of planning that you might need depending on your situation and family dynamics. We’ll teach you how to confidently and easily address those issues at the end of this guide (hint: we’ll help you!).

***Let’s get started.***



## 5 Basic Estate Planning Documents



- A Will is a legal document that details how a person's assets will be distributed after their death.
- Without a Will, the state will decide how to distribute the deceased person's assets, which may not be in line with the deceased person's wishes.
- In order to create a Will, the person must be of sound mind and able to articulate their wishes. The Will must also be witnessed by two other people who are not beneficiaries of the Will.
- Once the Will is created, it should be kept in a safe place where it can be easily accessed by the Executor of the estate.
- A Will does not take effect until the person who created it passes away. It does not provide the Executor or beneficiaries with any rights if the Testator is incapacitated or ill.

# 2

## Revocable Living Trust

- A Living Trust is a legal document that allows you to control how your assets will be managed during your lifetime and after your death.
- Unlike a Will, a Living Trust takes effect as soon as it is created, which means that you can use it to manage your finances even if you become incapacitated.
- You can name yourself as the trustee, which gives you complete control over how the Trust assets are used. Alternatively, you can name a family member or friend as the trustee, in which case they will make decisions about the Trust assets on your behalf.
- You can also specify how you want the Trust assets to be distributed after your death. For example, you can stipulate that the assets be used to support your spouse and children, or you can direct that they be donated to a favorite charity.
- Creating a Living Trust is an excellent way to ensure that your wishes are carried out exactly as you intend.
- It's often used as a way to avoid the expenses and delays of probate, and in some situations, reduce federal estate taxes.





### 3

## Financial Power of Attorney

- A financial Power of Attorney is a legal document that gives someone else the authority to manage your finances. This can include tasks like handling your bank accounts, paying your bills, and investing your money.
- You can give someone as much or as little authority as you want, and you can revoke the Power of Attorney at any time.
- It's important to choose someone you trust to act in your best interests, as they will have a lot of control over your finances.
- There are three different types of Powers of Attorney: durable, nondurable, and springing.
- A Durable Power of Attorney is the most commonly used document as it allows the Agent to continue to act when the Principal is incapacitated.

# 4

## Living Will/ Healthcare Directive

- A Living Will expresses a person's wishes concerning his or her healthcare, including artificial life support systems, surgery, or other medical treatments related to end-of-life or permanent unconsciousness.
- A Living Will is only effective when it is determined that the individual is unable to understand or appreciate the nature and consequences of healthcare decisions, unable to reach and communicate an informed decision regarding treatment, or a doctor certifies that the individual has a terminal condition or is in a permanent coma.
- Equally important is the appointment of a Healthcare Representative who is legally able to make healthcare decisions at any time the individual is unable to give their informed consent.







### 5

## HIPAA Medical Release

- A HIPAA Medical Release gives authorization to release healthcare information under the Health Insurance Portability and Accountability Act.
- It allows an individual to authorize a representative or multiple representatives to have access to any health information regarding the individual's care and treatment.
- In the absence of a signed HIPAA release, access to medical and insurance records may be restricted from family and other loved ones in an emergency.





# A Solid Plan is More Than Documents!

We don't want to give you the impression that estate planning is **only** about the documents; it's not! Instead, think of the documents as "tools."

For example, if you were building a house, your Will, Trust, Healthcare Directive, etc. would be the lumber, drywall, nails, and screws.

What's missing is the *architectural blueprint*. There needs to be a master plan of how everything is supposed to come together to accomplish your goals and build your dream "legal and financial house."

Having this blueprint is the difference between building a structure that's able to withstand the storms of life and paying thousands of dollars for what's essentially a fancy *house of cards*.

That's why it's so important to find a firm that will take **your** goals, wishes, desires, and family dynamics into consideration and create a plan that's tailored to meet your needs now, and as your life and the law changes through the years.





## Unfortunately, That's Not the Standard at Most Firms



With the traditional experience, you'll meet with an attorney who will gather some basic information, prepare a stack of **one-size-fits-all** documents using hard-to-understand language, and present them to you with little explanation. Because you want to do the right thing for your family, you sign these documents and leave the lawyer's office feeling relieved that you've taken care of everything.

You take the documents home in a fancy binder and set it on a shelf or in a drawer for the next decade or more, and you never hear from the attorney again. The problem is that life changes. Families change, friends change, your assets and health change, and the law changes, but that binder on the shelf stays the same.

Unfortunately, it's not until you become incapacitated or die and your family finds your long-forgotten binder that they'll realize your plan is so outdated that it has nothing to do with your life, your assets, or the law. **The result is that the plan simply won't work as you intended it to.**



# How We Are Different

At Legacy Law Group, we recognize that your family and your wishes are unique and that planning for your future requires an individualized approach. We are one of the few firms in the area that provides this level of comprehensive planning to ensure that your plan actually works when your family needs it.

We'll help you keep your Will, Trust, and other planning documents up to date so that you'll have complete confidence and peace of mind that your documents will stand up to the test of time and reflect your wishes.

We also understand the unique set of challenges families face after the death of a loved one. We assist our clients with the process of estate administration to ensure that all loved ones and decision-makers have the information, guidance, and support they need when you are no longer here to provide for them.

Finally, our firm adheres to the following client-focused set of guidelines:

- Our services are provided on a flat fee basis. You will never encounter a surprise because our fees are almost always agreed to in advance.
- 
- As your trusted advisors, we have a well-trained team in place to answer your quick questions and serve you.
- 
- Your phone calls will be responded to promptly, and we have an emergency after-hours phone number available for membership program clients.
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- We will proactively communicate with you at least monthly by email and quarterly by mail.



## Being A Trusted Advisor Is More Than a Title... It's A Mission to Serve You!

The attorneys and staff at Legacy Law Group are dedicated to giving you and your family the absolute highest level of care and service possible.

If you have questions about estate planning or you need help getting started with creating a plan that protects everything you own and everyone you love, please call our office at (703) 492-9955 to schedule a complimentary appointment with the mention of this guide.

