



# In A Family Way . . . The Right 'Legal' Protection!



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ESQUIRE

The law offers many ways for citizens to protect their legal rights, but many of those protections are not "automatic" in the law. That is, the law requires the individual to take specific action to obtain those protections for our families and ourselves.

The set of basic legal documents every person should have is a Living Will, a General Durable Power of Attorney, a Will, and if there are minor children, a Guardianship Agreement should be in place.

The purpose of a Living Will is to insure that one person, designated by you, is authorized to act on your behalf to address your health care needs, should you become incapacitated and unable to act on your own behalf. A good Living Will is one that is comprehensive, clear, and specific.

To put it bluntly, most peo-

ple think that the purpose of a Living Will is to say that you want the authorities to pull the plug if you are a vegetable.

There is a lot more to it. In a good Living Will, it is important to include a clause that states that you do want 'extraordinary medical means' used if the reason for your incapacity is the result of some trauma, let's say a car accident, and there is a reasonable chance that you can be medically restored to a good quality of life.

This is a particularly important consideration for senior citizens, who may have a Living Will that says "no" to any medical interventions, but where the medical intervention that is needed may be of relatively minor significance, and not an end-of-life situation.

Your Living Will should say whether you are an organ



Seniors need to protect their legal rights and wishes.

donor or not, and if there are any restrictions on that designation.

I advise against doing the Living Will piecemeal, where there is one document stating your medical wishes, one designating your agent, and maybe a third document stating your wishes in the case of long term incapacity. It is preferable to have one comprehensive document that covers all the bases, and names one person who will act for you and includes an alternative agent in case the person you named is not available.

The General Durable Power of Attorney is the document where you designate who should manage your financial affairs (that is, pay your bills, handle your money) in the event that you become incapacitated. With rare exception, it is almost never a good idea to grant anyone an "open" Power of Attorney over your money. The Power of Attorney should be restricted, and state that it is only in effect in the event of your incapacity.

It is a good idea to take your Power of Attorney to your bank, and inquire as to any additional internal procedures that may be necessary for recognizing your agent's authority to act on your behalf. Some banks require that your agent have a signature card on file in advance, or some other additional procedure.

You do not want to wait until there is an emergency to find out that your bank restricts or "caps" the release of your assets to some percentage, unless you have complied with additional formalities. Some banks have no additional requirements, which is why it is important to find out in advance.

Most folks know what a

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Will is for, and it is amazing how many of us put it off, and do not have one.

Wills are important for many reasons, most importantly, for making sure that your assets go where you want them to go after your death. A good comprehensive Will does a lot more than that. For instance, stating your funeral wishes is a good way to avoid conflicts and it provides comfort to your friends and family to know that they did what you wanted.

Everything from the care of your pets to the distribution of particular heirlooms and many other details can be included, which frees your loved ones from the burden of trying to figure these things out. It also helps to avoid any unnecessary conflicts over details that may be in question.

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children in the event of their death, and any other important considerations.

**The biggest "mistake" you can make when it comes to your legal protections is in not getting them!**

And some additional words of advice: 1) Not all documents are created equal, get good ones!; 2) Find a lawyer who really cares and listens; and 3) "Shop around" to get a fair rate for documents done right!

*Start the New Year right!*



Having your legal protections in order eliminates unnecessary chaos when medical emergencies arise.

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