

**Just What the (Juris) Doctor Ordered...
Essential Planning Documents in a Pandemic**

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The COVID-19 pandemic and how the world has responded to it has implications well beyond epidemiology. Governments struggle with how to respond, financial markets are on a rollercoaster, and we have new vocabulary phrases like “community spread” and “social distancing.”

The result is anxiety, which causes panic and indecision. In the chaos around us, don’t overlook this important question: “What are the critical documents to have in place if I succumb to a major illness?” My answer may surprise you. It is not that you need a Last Will and Testament.

If you become disabled due to an accident or illness, someone should have the authority to handle financial matters and make personal and healthcare decisions for you. Without some very simple documents in place, a court may have to appoint someone as your guardian or conservator (or both). I will call it both “guardian” for simplicity in this article.

Petitioning a court for guardianship is expensive, time consuming, and degrading. It is a public court process in which one petitions a court to have you declared incompetent. Even a “simple” uncontested guardianship can easily cost thousands of dollars, plus it requires annual reports to be filed with the court as long as the guardianship exists.

How can you avoid the time, expense, and potential loss of dignity of a guardianship? Execute basic powers of attorney or advance directives. These inexpensive documents allow you to name someone to make financial decisions and healthcare decisions for you in the event of disability. You may also give them some “advance directives” on certain decisions to be made (e.g. a “living will” to stop or avoid life-sustaining treatment).

It usually costs very little (especially compared to the cost of a guardianship proceeding) to draft and execute valid powers of attorney—and it can avoid the courthouse entirely! Technically, even a spouse lacks the authority to make decisions like this for his or her disabled spouse without a power of attorney or being appointed by a court. The last thing loved ones should have on their hands when facing an imminent health threat is trekking into a lawyer’s office and the courthouse to establish authority to make critical decisions for you.

So, what’s the “prescription” for essential planning documents in the face of a pandemic? Basic powers of attorney to spare loved ones having to trek into a lawyer’s office and courthouse just to have simple decision-making authority.

I do not recommend a “home remedy” of self-drafted documents. These documents may look simple, but they are traps for the unwary! The time the document is most needed (i.e., you are disabled) is a very bad time to discover it was not prepared or executed properly. Seek competent counsel on this important matter.

If you do not know where to start, or if you would like some basic questions answered before you seek professional assistance, we can help with that. Thompson & Associates offers a confidential, values-based estate planning service to nonprofit friends and supporters without charge. If you want to schedule a time to talk, please contact