



## Five basic estate planning documents

*The following information and opinions are provided courtesy of Wells Fargo Bank, N.A.*

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*A comprehensive estate plan involves more than just a will. Here are the five basic documents that everyone should consider.*

### 1. Will

The document everyone typically thinks of first when they think of estate planning, a will is a legal document that becomes effective at your death to transfer your assets to whomever you like. A will has to be admitted to probate, a court-supervised procedure that in many states can be lengthy and expensive. Even if you have a revocable living trust (discussed below), a will is still necessary as a “backstop” and may provide guidance regarding guardianship of your minor children.

### 2. Revocable living trust

A revocable living trust is another document that sets forth where your assets pass at your death, but it is designed to provide two benefits that a will does not: probate avoidance and incapacity planning.

A trust is simply a legal arrangement between three parties: the person creating the trust (known as the grantor, trustor, or settlor), the trustee (who takes legal

title to the property), and the beneficiary or beneficiaries for whom the trust is administered. In the case of revocable living trusts (“revocable,” meaning it can be revoked, and “living,” meaning it is created during the grantor’s lifetime), you are typically the grantor, the trustee, and the beneficiary. Even though you continue to control the property as trustee, you no longer own it outright. This means that the successor trustee named in the trust agreement takes over automatically if you become incapacitated or when you pass away.

It is important to note that a trust agreement operates only over those assets held in the name of the trust. If a grantor creates a trust but fails to transfer assets to it (known as “funding the trust”), it may not work as it was intended.

### 3. Durable power of attorney

Under a durable power of attorney, you appoint another person (known as your “agent”) to handle your assets on your behalf. It remains in effect after you become incapacitated and allows your agent to handle your assets in the same ways that you could. This means, of course, that you have to select your agent carefully. Even with a revocable living trust, a power of attorney may be necessary to be able to handle financial matters that don’t

involve trust assets, such as dealing with the IRS or government agencies.

## 4. Health care power of attorney

Also known as a health care directive or proxy, this document also designates an agent on your behalf, but in this case to make medical decisions (usually life support decisions) on your behalf when you are unable to do so.

## 5. Living will

Not a will at all, a “living will” is a statement of intent regarding the life support measures you want taken when you are unable to speak for yourself. It serves a different purpose than the health care power of attorney — the living will is a non-binding statement of intent, while the health care power of attorney appoints someone to make binding decisions for you. As a result, they are often used together and may be combined into one document.

## Consult with your advisors

A well-thought out estate plan deals not only with the disposition of your assets at death, but also care of yourself and your wealth during your lifetime. Such a plan will incorporate many, if not all, of the documents described above. For more information on which documents may be most appropriate for you and how they should be structured for your specific situation, talk to your estate planning attorney.



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