



A good estate plan provides for both what happens after our death and during a period of incapacity. You do not need to be wealthy to have an estate plan. In fact, there are a variety of reasons to have an estate plan. Some of the questions you may ask yourself are:

- ❖ Who will manage my finances and make my medical decisions if I become disabled?
- ❖ If I pass away, how will I provide for the continued support and care of my family, for family expenses upon my death, for the continuation of a family business, for college educations, etc.?
- ❖ Who should receive my estate and how much should they get? Should they be given the assets outright or will they require someone to manage the assets for them?
- ❖ Who will administer my estate to carry out my wishes and maximize the inheritance to my loved ones?

To adequately protect you and your family in the event of disability or death, it is important to have a well thought out and comprehensive plan. There are four documents in a basic estate plan, which are outlined in this brochure. However, your individual needs may require more or less planning, or that other documents be prepared in addition to these basic documents.



Karen Stewart specializes in estate planning and probate matters. Karen has over 20 years of experience in preparing custom estate plans that meet her client's goals, avoid probate and minimize estate taxes. Her tax planning expertise and CPA credentials give her a strong foundation when planning an estate.

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## **Basic Facts** **About Estate Planning**



**Last Will and Testament**  
**Revocable Living Trust**  
**Durable Power of Attorney**  
**Patient Advocate Designation**



**KLS**  
Karen L. Stewart  
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## *Last Will and Testament*

A Will is a legally binding document setting forth your wishes and instructions on how you want your property distributed after you die. If you die without a Will, the State of Michigan, by statute and through your county probate court, decides who gets your property and in what portions. This may or may not be the way you would have chosen to pass on your estate. In addition, in your Will you can name the person you want to administer your estate and designate the people you want to act as guardians to take care of your minor children. However, a Will is often called a “ticket to probate court.” If you have assets that pass under your Will, there will be probate administration of your estate.

## *Revocable Living Trust*

A Trust is a legal arrangement where one party gives property to another to be held for the benefit of him or herself or others. A Trust creates a relationship among three parties: the person who places assets in the Trust (the settlor or grantor), the person who manages and administers the assets (the trustee), and the persons who benefit from the Trust (the beneficiaries).

Trusts are established for many reasons and by persons of all income levels. With a self-trusted trust, you place your assets in a trust managed by you for your own benefit. In addition, you name a successor trustee to take over in the event of your incapacity and manage your assets for your continued benefit. Upon your death, the trust assets pass to the persons of your choice without probate administration of your estate.

## **Living Trust**

A Living Trust is a trust that you establish and transfer assets to while you are living. A Revocable Living Trust can be amended and/or revoked by you at any time during your lifetime. Upon your death, the Trust becomes irrevocable and the assets you placed in the Trust pass to named beneficiaries in a private manner outside of the probate court.

## **Care of Children**

Assets may continue in trust after your death to provide for the care and support of any minor children. Under the laws of the State of Michigan, a child is an adult at age 18 and may inherit at that time. Most parents do not feel that their children will be either financially or emotionally mature enough to deal sensibly with investing or managing an inheritance at age 18. A Trust, administered by a trustee of your choosing, can manage and invest the assets for the benefit of your children, distributing funds for such purposes as education, support, and extraordinary expenses. You can then select when and how much the children receive as their inheritance.

## **Tax Planning**

A trust may contain provisions which enable you to reduce or eliminate estate tax and ensure that more of your estate goes to the people that you choose.

## *Durable Power of Attorney*

A Power of Attorney is a legally binding document by which you authorize another person to act on your behalf. A Power of Attorney may be as limited or as broad as you choose. A Durable Power of Attorney is a Power of Attorney that continues to be effective in the event of your disability – the

very time that a Power of Attorney is needed most! In the event of your physical or mental disability, a Durable Power of Attorney will allow another person you choose, such as your spouse or adult child, to manage your finances on your behalf. Without it, if accident or illness disables you, your loved ones will be required to go to probate court and request that a conservator be appointed for you. It is possible that the person appointed by the probate court to manage your affairs will not be the person you would have chosen of your own free will. A Durable Power of Attorney is the means to ensure that if you become disabled, your finances will continue to be managed by a person in whom you have complete trust.

## *Patient Advocate Designation*

Most people have heard of a living will – a document that expresses your wishes concerning life-sustaining or “heroic” measures. In Michigan, living wills are not legally binding. There is however, a somewhat similar document known as a Patient Advocate Designation, which is legally binding in Michigan. You appoint a person of your choice (called a Patient Advocate) to make medical decisions for you, including termination of life support if you so wish, in the event that you are unable to make the decisions yourself. The power of the Patient Advocate ends if you regain decision-making capacity. Without a Patient Advocate Designation, your loved ones will be forced at the time of a medical crisis to petition the probate court for the appointment of a guardian (possibly not a person of your choosing) to make these decisions for you. A Patient Advocate Designation is the means to ensure that if you become disabled, your medical decisions, as well as those concerning your care and placement, are made by a person in whom you have complete trust.