

End of the Year Good Time to Get Those Estate Planning Documents Done

Time to consider the year end to see what tasks need to be completed before saying goodbye to 2018. You know what many of the tasks are that need to be addressed. Here is one to add to your list: completing your estate planning documents. Let's put an end to procrastination and be proactive. We've talked about this topic before and we will talk about it again. It's because people have to be regularly reminded to take care of these things because it's not something that most people get excited about doing, therefore they procrastinate. Many procrastinate until they absolutely can't take care of it because they pass away unexpectedly. But what many people don't realize is the fact that disability can cause a person to be unable to complete the estate planning task because the person no longer has the requisite capacity to execute documents.

Don't think it's just a matter of whether the person can still sign their name or not. Just because a person can sign their name has nothing to do with whether they actually can understand what they are signing. And if they can't understand what they're signing, then they don't have the requisite capacity and shouldn't be allowed to sign. If the person knows what they're doing but can't sign their name, don't worry. The law provides the help that is needed. In Texas, there are three ways that the document can be prepared to meet the signature needs of the client depending on the situation. If the person can sign their name, that's one way. If the person can't sign their name but can make a mark, that's a second way to get the documents executed. If the person can't sign their name or make a mark, then the law allows the documents to be prepared for the notary to sign at the request of the person who is making the document. Each of these ways must be completed in accordance with requirements for the number of witnesses that is set forth in each respective statute.

Disability can be a result of many different fact situations, many of which people never anticipated. You can have a heart attack, a stroke, or an unfortunate incident, such as an auto accident. Those events can happen suddenly with no warning. You were healthy, working, life looked good and then, you become severely debilitated. We all think it won't happen to us and it probably won't, but we should all plan like it will happen to us. Why would a person want to pass up the opportunity to prepare documents such as powers of attorney for property, powers of attorney for health care, living wills and medical privacy documents? Instead, becoming the subject of a court supervised guardianship proceeding which becomes a matter of public record for all the world to see, not to mention the unnecessary expense and frustration of a guardianship that could have been avoided had you just taken care of preparing the appropriate documents. And why would you want to procrastinate making a Will and then die suddenly not ever having taken time to make the Will? Now your family will have to pay more for the probate proceeding. You don't want to do this. Let's take care of this business before the end of the year.

So, let's get going. Commit yourself to getting these important matters accomplished.

You may email your questions to education@wrightabshire.com or visit our website at www.wrightabshire.com. Wesley E. Wright and Molly Dear Abshire are attorneys with the firm Wright Abshire, Attorneys, P.C., with offices in Bellaire, the Woodlands, and Carmine. Both Wright and Abshire are Board Certified by the Texas Board of Legal Specialization in Estate Planning and Probate Law and

are certified as Elder Law Attorneys by the National Elder Law Foundation. Nothing contained in this publication should be considered as the rendering of legal advice to any person's specific case, but should be considered general information.