

# Annutto Law Office

*Experience you can trust*

## ESTATE PLANNING IN NEW HAMPSHIRE



# CONTENTS

## **3 ESTATE PLANNING 101**

*What is estate planning?*

## **4 TYPES OF TRUSTS FOR YOUR ESTATE PLAN**

*Revocable Trusts*

*Irrevocable Trusts*

*Medicaid Trust*

## **5 TYPES OF WILLS FOR YOUR ESTATE PLAN**

*Wills*

*Living Wills*

## **6 UNDERSTANDING POWERS OF ATTORNEY**

*Durable Power of Attorney for*

*Financial Affairs*

*Durable Power of Attorney for*

*Medical Care*

## **7 ESTATE PLANNING CHECKLIST**

## **9 YOUR EXPERIENCED ESTATE PLANNING ATTORNEY**

*Contact Us Today*

# ESTATE PLANNING 101

**Everyone needs a plan for what happens to their family, their property, and their remains upon their death. Also, everyone needs to have a plan in place to make healthcare and financial decisions in the event of their incapacity. Having a proper estate plan in place ensures your wishes are carried out, provides optimal tax avoidance, and makes things easy for your family during their difficult time. Having a proper estate plan gives you peace of mind knowing things are taken care of after you pass**

Attorney Joseph M. Annutto is an experienced estate planning lawyer in Nashua, NH. No matter what your age is or what your finances are, you have an estate. You may have more assets than you think; retirement accounts, life insurance, and the equity in your home are all assets of your estate. Without an effective Estate Plan in place, your passing will create a legal headache for those you leave behind.

Each estate plan is different depending on your wishes and the assets you want to protect. Two major documents considered in an estate plan are a will or a trust, but other documents must consider, like powers of attorney and living wills. There are also different strategies to consider when crafting your estate plan with an experienced attorney.



# TYPES OF TRUSTS FOR YOUR ESTATE PLAN

## **Revocable Trusts**

Revocable trusts are the most common kind of trust people who are estate planning use. It is a trust that has two phases to it. Phase one happens while the person who designed the trust is still living. The beneficiary of the trust can transfer any assets they may have, including cars, homes, other real estate, bonds, stocks, and so forth. When these assets have transferred the creator of the trust can use these assets in the same way they did before they were owned by the trust. The second phase starts when the creator of the trust dies. It functions much like a Will; the trust distributes the property of the deceased to the loved one. If there is a trust in place at the time of death, family members can skip Probate Court and directly receive their inherited items.

## **Irrevocable Trusts**

Irrevocable Trusts are beneficial to you in your Estate Planning because it gives you the option of putting assets you no longer want into this trust and your ownership and responsibilities will be terminated. This is beneficial because when you pass your family will not be responsible for paying taxes on those particular assets. Unlike revocable trusts which protect cars, homes, and stocks, this trust is for businesses, life insurances, cash, and investments. Once you create this kind of trust there is no modifying it or revoking it.

## **Medicaid Trust**

Medicaid trusts are extremely helpful when Estate Planning. Americans are living longer than ever before; therefore, the elderly population is rapidly growing. When we grow older and fragile, we eventually will need care from professionals. Unfortunately, this care we will require is expensive and most people cannot afford it.

Medicaid is a program that, if you qualify for, enables the state to pay for some of the expenses, including in-home health care or hospital visits. A Medicaid trust is a type of irrevocable trust that you can transfer your assets into to increase your chances to qualify for Medicaid.

# TYPES OF WILLS FOR YOUR ESTATE PLAN

## Wills

Wills are the most popular estate planning document. A Will is a document that is created to name whom you want to handle your final affairs and whom you'd like to receive your assets after you pass away. If you do not have a Will, your property is dispersed via the state's laws of intestacy.

A Will can do more than just pass property; it also has the power to assign Guardianship, a Custodian, and an Executor. A Guardian is whom you nominate to care for your minor children when you pass, they take on the responsibility as their parents. If no one is named the Guardian of the minor children, it could become a guardianship battle and unfortunately, the children would be in the middle. A custodian is a person who holds and protects the assets that are meant for the minor children until the appropriate age for them to handle the inheritance. An Executor is a legal representative nominated by you or appointed by the court. They will be responsible for all your remaining financial obligations, including, gathering your assets, paying off your debts, filing taxes on your behalf, and distributing your property by the terms of the will you create.

## Living Wills

Living Wills are similar to standard Wills in that they make your wishes legal and enforceable. The difference is in the name, this will is enforced while you are still alive. If you are or become disabled, but not terminally ill, you may name a loved one as your advocate; this will give them the authority to make decisions about your health care. If you are terminally ill, the Living Will gives you an opportunity to decide on end of life choices before you are unable to communicate your wishes yourself. This includes religious requirements, decisions to pass away naturally, provision or denial of life support, denial of specific medical treatments, and revival. If there is not a Living Will in place, there could be frustration, miscommunication, indecision, and disagreement between your family members.



# UNDERSTANDING POWERS OF ATTORNEY FOR YOUR ESTATE PLAN

## **Durable Power of Attorney for Financial Affairs**

A Durable Power of Attorney for Financial Affairs is a document that you create that nominates a representative to act for you in matters of your financial affairs. This person will have the authority to buy and sell assets, file your taxes, and handle all other finances. It is essential to have a Durable Power of Attorney for Financial Affairs in case you become disabled or incapacitated, to help protect you and your family from taking these steps through the court system later on.

## **Durable Power of Attorney for Medical Care**

Creating a Durable Power of Attorney for Health Care allows you to select a person to make any and all medical decisions when you are unable to make those decisions on your own. Annutto Law Office can help you in identifying an agent and leading you in the correct direction. It is significant to have the living will in place with the Durable Power of Attorney for Health Care so the agent can communicate what your wishes are through your Living Will. Annutto Law Office will ensure your Living Will and Powers of Attorney for Health Care are coherent with one another and provide the education needed to understand all aspects of this document.



# ESTATE PLANNING AUDIT CHECKLIST

## What things should you consider when drafting your estate plan?

### 1. Decide which estate planning tool is right for you.

The primary vehicle for your estate plan can be either a Last Will and Testament or a trust. A Last Will and Testament is a document that details what will happen to your property upon your death. It also details who will care for minor children and what will happen with your remains. However, a Last Will and Testament requires a judge to sign off on everything. This document means that a court probate process will be necessary. During this probate process, the judge oversees who is the Executor named for your estate. This individual is in charge of notifying interested parties and creditors, taking inventory of your belongings, and distributing assets. This probate process can take months. If it is a contested probate process, where not everyone agrees on what should happen, the process could take years.

If you want to save your family from going through the probate process, you use a trust instead of a Last Will and Testament. A trust is a document that is a contract between you (the Grantor) and another person (the Trustee). The Trustee agrees to hold your property under specific terms and conditions that you set out in the trust document. Your trust can be revocable or irrevocable. Each type of trust has a particular purpose and affords certain advantages. You don't need to be rich to have a trust – a trust can be an excellent solution for anyone.

### 2. Decide who your beneficiaries are.

After you decide if a Last Will and Testament or a trust is right for you, you will want to consider whom you want to inherit your property after you die. You worked hard for your things, and you can leave them to whomever you want. You can leave your property to family members, friends, or even charity.

### 3. Determine who will take care of your minor children.

If you have minor children, it is essential to give thought to who would care for them after your death. This person would be the minor's guardian. A court will ultimately decide who the guardian is, but whom you nominate for this role has a significant responsibility. When making this decision, consider the following:

- Who does the minor already have a relationship with already?
- Does the potential guardian have a similar parenting style to yours?
- Does the potential guardian have other minor children?
- Do you have religious concerns or preferences?
- Would your minor child have to relocate far away?
- Would the minor child still have access to other family members?

# ESTATE PLANNING AUDIT CHECKLIST CONTINUED

## **4. Decide how you want your remains handled.**

The most common ways to dispose of remains would be burial or cremation. You can also detail other wishes:

- Where do you want to be buried, or where do you want your ashes to remain?
- What do you want your funeral arrangements to be?

## **5. Get your Powers of Attorney and Living Will in place.**

A vital part of your estate plan should include two powers of attorney – your financial power of attorney and your healthcare power of attorney. The former details will handle your financial matters in the event you are unable to do so. The latter details will handle your healthcare decisions in the event you are unable to do so. Without these critical documents in place, your loved ones would have to go through a court process to get someone appointed in that role. This process can be very time consuming and costly.

You may also choose to have a living will in place. A living will document your healthcare preferences. You can also choose to give your healthcare agent broad discretion to make those decisions when the time arises.

## **6. Ensure you have proper asset ownership and beneficiary designations.**

An asset can be titled, for example, sole ownership, joint tenancy, or tenancy in common. Each type of ownership has legal consequences. If you have a trust, you will need to ensure assets are transferred to the trust to be effective. You may want to execute a transfer on a death document. And you will want to ensure that beneficiary designation forms for your life insurance or retirement plan have a proper execution. Having each asset considered is significant for your estate plan. Your estate plan will only be useful to the extent that assets are titled correctly and beneficiary designation forms are appropriately executed.

## **7. Consider insurance options.**

Frequently, insurance is a part of an estate plan. It could be advantageous to have disability insurance, long-term care insurance, life insurance, or more. Each type of insurance serves a particular purpose and can provide peace of mind for you and your family.

## **8. Draft instructions for your Executor/Trustee.**

Your Last Will and Testament or trust will have instructions to your Executor or Trustee. But you may want to include more information, such as a list of assets or passwords. You may also want to leave things of a more personal nature, such as leaving letters for loved ones.



# EXPERIENCED ESTATE PLANNING ATTORNEY WORKING FOR YOU!

Attorney Joseph M. Annutto is an experienced estate planning lawyer in Nashua, New Hampshire. No matter what your age is or what your finances are, you have an estate. You may have more assets than you think; retirement accounts, life insurance, and the equity in your home are all assets of your estate. Without an effective Estate Plan in place, your passing will create a legal headache for those you leave behind.

With a compassionate team of legal professionals and comprehensive planning, you can avoid the vast majority of problems that come with inadequate planning. You can protect your assets and your family while addressing significant issues that may impact the inheritance value you pass down.

The Annutto Law Office is highly educated in estate planning and can help you check off everything you need in your estate plan. Contact us today and learn more about building an estate plan fit for your financial future.

**Contact Attorney Joseph M. Annutto for an estate planning consultation.**

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