



# Estate Plan Documents Explained

Preparing an estate plan requires more than a will. A comprehensive estate plan may include a will, a letter of last instruction, a durable power of attorney, a health care power of attorney, a living will, an advance instruction for mental health treatment, and/or a trust.

Your attorney can help you decide which documents you need to achieve your estate planning goals.

## Will

A will is a legally enforceable declaration of how your property will be distributed at your death, similar to a roadmap providing details of who gets your belongings. A person who makes a will is a *testator*. When a person dies leaving a will, he or she is said to have died *testate*. A person who dies without a will dies *intestate*.

## Letter of Last Instruction

This document conveys basic information to survivors upon your death. Rather than forcing survivors to become detectives and find all of your important papers, you can provide the details and instructions in one document.

A letter of last instruction provides organization and a checklist for your survivors at a difficult time. Keep your important documents in one place and leave a letter of instruction with your personal representative and family. Always attach a copy of the instructions to your will. At a minimum, include the following information in the letter:

- Name(s) and address(es) of your adviser(s).
- Name(s) and contact information for your:
  - \_employer
  - \_attorney
  - \_physician
  - \_insurance agent
  - \_accountant
  - \_financial planner
  - \_stockbroker
  - \_bank officer

- Location of your records, which may include:

- \_will
- \_securities
- \_insurance policies
- \_retirement plan beneficiary designations
- \_retirement plan survivor annuity election
- \_receivables
- \_mortgages
- \_deeds
- \_safety deposit box
- \_checkbooks
- \_savings deposit books
- \_income tax records
- \_trust agreement
- \_marriage certificate
- \_divorce decree
- adoption documents
- \_military service record, Form DD-214

- Name(s) and address(es) of relatives
- Social Security number
- Burial instructions

## Durable Power of Attorney

A durable power of attorney is a document that gives someone else the legal right to act on your behalf. The person you nominate is your *attorney-in-fact* or your *agent*. You are the *principal*.

## Health Care Power of Attorney

A health care power of attorney is a durable power of attorney that gives another individual the right to make medical decisions for you when you cannot, due to either physical or mental disability. The person nominated is your *health care agent*. You are the *principal*.

## Advance Instruction for Mental Health Treatment

This document specifies how to handle certain decisions about your mental health treatment. This document can stand alone or can be used in conjunction with a health care power of attorney. This instructional care document is most appropriate for mental health patients with diagnoses such as autism, schizophrenia, paranoia, and bipolar disorders.

## Living Will

A living will is a statement that you prefer to die a natural death as you define it; you do not want your life prolonged by artificial means if there is no reasonable hope of recovery. In North Carolina, the technical name for a living will is *Declaration of a Desire for a Natural Death*.

## Trust

A trust is a legal arrangement whereby a *grantor* transfers the legal title of property to a *trustee* to hold and manage that property for named *beneficiaries*. Trusts can be complicated legal instruments. They may also be expensive to manage.

## Additional Resources

*Estate Planning and Farm Transition*. Available at <http://www.ag-econ.ncsu.edu/faculty/feitshans/estate.html>  
*Estate Planning in North Carolina: Where There's A Will, There is a Way*. Available at [<http://www.ag-econ.ncsu.edu/faculty/feitshans/AG-688-02FinalAccessible.pdf>]

---

Prepared by

Theodore A. Feitshans, J.D., Mark Megalos, Ph.D., and Carolyn L. Bird, Ph.D., N.C. State University

The assistance of Sreedevi Gummuluri, Ph.D, and Aimee Schmidt, M.A. candidate, is gratefully acknowledged.

*This publication is provided as a public service to acquaint you with certain legal issues and concerns. It is not a substitute for legal or other professional advice, nor does it tell you everything you may need to know about this subject. Future changes in the law cannot be predicted, so statements in this publication are based solely upon the laws of North Carolina and the federal government in force as of the date of this publication.*

*Previous versions of this publication were prepared by Carol A. Schwab, Adjunct Professor, N.C. State University, Nathan M. Garren, former Extension Economist, N.C. State University, and Barrie Balzli Stokes, former Family Resource Management Specialist, N.C. State University.*

*The current authors are solely responsible for any errors or omissions.*

Published by  
 NORTH CAROLINA COOPERATIVE EXTENSION  
 COLLEGE OF  
**AGRICULTURE & LIFE SCIENCES**  
 ACADEMICS • RESEARCH • EXTENSION

---

Distributed in furtherance of the acts of Congress of May 8 and June 30, 1914. North Carolina State University and North Carolina A&T State University commit themselves to positive action to secure equal opportunity regardless of race, color, creed, national origin, religion, sex, age, veteran status or disability. In addition, the two Universities welcome all persons without regard to sexual orientation. North Carolina State University, North Carolina A&T State University, U.S. Department of Agriculture, and local governments cooperating.