

# Estate Planning & Wills

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## Helping You to Plan

A common misconception about estate planning is that it is only concerned with what happens when you pass away. While that is true to a certain extent, your estate planning needs may also change throughout your lifetime. We work with families who range from having basic estate planning needs to those with more complex estate planning issues. Our attorneys stay up to date on the most recent changes to the law and how those changes will affect our clients' estate plans. We can review your existing documents to insure your wishes are not undermined by subsequent changes in the law, and we can prepare new documents or update your existing documents when necessary.

## Providing Peace of Mind by Understanding Your Priorities

Our attorneys consult with you to review the contents of your estate, discuss your goals and objectives, evaluate any special needs or unique circumstances you may have. We provide advice in choosing executors, trustees, guardians, agents and representatives. From there, we counsel you to develop a plan to manage your estate during your life and upon death to distribute your estate in accordance with your wishes and in consideration of tax consequences. The three most important documents to any estate plan are: wills, financial powers of attorney, and medical powers of attorney or living wills.

- Wills:** While the will distributes the assets, it also serves other purposes. For example, the will can name the guardian of any child under 18, create trusts for minor children and name executors, trustees and other fiduciaries. Our attorneys can draft your will in accordance with a comprehensive estate plan and provide you with peace of mind that your intentions will be fulfilled.
- Financial Powers of Attorney:** A financial power of attorney allows another person you trust unconditionally, typically a spouse or family member, to stand legally in your shoes in carrying out a multitude of financial transactions if you become incapacitated. Such transactions include writing checks, making withdrawals and deposits from bank accounts, transferring your personal or real property, executing legally binding documents, paying bills, making gifts, creating trusts, receiving government benefits and pursuing legal claims.
- Medical Powers of Attorney and Living Wills:** These documents are durable like financial powers of attorney, but here the agent is authorized to make certain medical decisions. Such decisions include authorizing or withholding certain medical procedures, approving admission or discharge from a medical facility, and hiring or firing medical personnel. The living will operates if a doctor finds the patient to be in an end-stage medical condition or permanently unconscious. At that point, despite any incompetency, the living will allows them to direct whether heroic measures to keep you alive should be withheld or utilized. The living will also allows you to name specifically who shall serve as your health care agent.
- Revocable Living Trust:** These documents are widely used in many states and can be helpful in Pennsylvania particularly in certain estates. Such trusts can substitute for, and supplement, your Will and Financial Power of Attorney.

## Counseling Clients Beyond the Basic Estate Planning Documents

Our attorneys frequently deal with other issues pertaining to estate planning such as tax planning for your estate, guardianships in the case of incapacity, and the special needs of certain family members.

- Tax Planning for the Estate:** We will analyze your assets to determine if your estate could be affected by the federal estate tax. We can recommend ways to plan your estate to minimize tax liability through the use of testamentary trusts under your will, living trusts created during your lifetime, qualified disclaimers and other means. We will also help you plan to avoid other taxes that affect your estate plan, such as the federal gift and generation skipping taxes, the federal income tax and the state inheritance tax.
- Guardianships:** Sometimes an individual will become incapacitated before he or she has a chance to execute any powers of attorney. In such cases, our attorneys will guide clients through the process of becoming a guardian of such an incapacitated individual so that the guardian can make decisions for on their behalf.
- Trusts:** Trusts are flexible legal tools that can be formed to carry out many purposes. Some trusts care for money given to a minor, while others provide for the ownership, enjoyment and dispersal of property until certain conditions are fulfilled or to protect property should the owner become incapacitated. Certain trusts, such as life insurance trusts, charitable remainder trusts, grantor retained annuity trusts, and qualified personal residence trusts can help to minimize liability under the federal estate, gift and generation skipping taxes. Our attorneys can guide you in selecting and drafting the appropriate form of trust to suit your estate plan.
- Special Needs Trusts:** Many people with special needs qualify for government benefits. The two keys to an effective Special Needs Trust are: (1) to provide a pool of resources for the benefit of the special needs individual who in many cases may not be

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qualified to manage those resources; and (2) to prevent the special needs individual from being disqualified from receiving government benefits. We use our expertise not only to assist our clients in drafting an appropriate special needs trust, but also to counsel them on how to serve as a trustee of a special needs trust without jeopardizing the beneficiary's qualification to receive benefits.

## Timely Counseling for a Comprehensive Estate Plan

To be useful, estate planning should be in place before an event occurs that renders you without capacity. By having current documents, you can be assured that your estate will be handled in the manner that you wish and that you have chosen trustees, agents and executors who you want to serve. If you are considering an estate plan, we can provide you with a free estate planning document checklist which can be useful to an agent or executor who may need to locate documents related to your estate. For your free copy, please call our office at (717) 293-9293.

### Recent Updates & Recommended Articles from the Lancaster Law Blog:

- Pennsylvania Joins 46 Other States in Adopting Laws to Provide Access to Digital Assets**  
So you made the jump and finally decided to go paperless on all of your billing and banking! Think of all the space and trees you will save eliminating that excess paper from your daily life. But what happens if you can no longer access those accounts?
- Second Marriage and Intestacy (dying without a Will)**  
*You have no Will, but you and your spouse have talked about it and you are confident that he or she will follow your wishes. Those wishes happen to be that your spouse gets everything, but will continue to take care of your children. Or perhaps that everything will go to your kids. Or a myriad of other scenarios. As long as you have thought about it and properly communicated it to your spouse, that is all you need right? I mean you married your spouse, you trust them. Everything will be fine, right? Unfortunately, more often than not, that is wrong.*
- How to Prepare to Meet with an Estate Planning Attorney**  
*"Oh that wasn't so bad." "You weren't as intimidating as I thought a lawyer would be." "I'm glad that's done!" "Oh how I dreaded this meeting!"*

*These are all things I have heard clients say after we meet to discuss their estate plans. For a lot of people the idea of thinking about their own mortality is difficult. But add speaking with someone else about it and planning for all the what ifs out there? Forget about it. They'd rather have their teeth drilled without Novocain. But it doesn't have to be that scary or difficult.*

### Attorneys

- Craig V. Russell
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### Range of Services

#### Basic Estate Planning

- Wills
- Living Wills / Advance Directive
- Powers of Attorney
- Living Trusts

#### Advanced Estate Planning

- Tax Analysis
- Trusts
  - Revocable and Irrevocable
  - Charitable Remainder
  - Special Needs

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Life Insurance  
Grantor Retained Annuity  
Qualified Personal Residence  
Marital  
Credit Shelter  
Disclaimer

## Related Services

- Taxation - Individuals, Families & Estates
- Estate & Trust Administration
- Prenuptial & Marital Agreements

## Helpful Links

- IRS - Estate and Gift Tax
- PA Department of Revenue - Inheritance Tax