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PROTECTING YOUR FAMILY'S FUTURE

By Christine Woodcock Dettor

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The conflicting demands of caring for children and aging parents can be overwhelming, particularly when it comes to estate planning. It is critical that adults caring for both young and older family members address these issues.

Planning for Aging Parents

The "Sandwich Generation" has been defined to include those caught between the demands of raising children and caring for their aging parents. Approximately 25% of American families are involved in elder care. When preparing to care for an aging relative, it is important that you talk with your loved one to find out what their needs are and to ensure that they have all of the necessary legal documents in place. Effective legal planning will enable you to better balance their care with your other responsibilities.

The first, and perhaps the most critical step, is to obtain a Durable Power of Attorney from your parent. This is a legal document that gives you the authority to access your parents' assets in order to assist them with their legal and financial matters in the event they are incapable of doing so for themselves. Drafted by an experienced attorney, this document may even permit you to set up trusts for your parents benefit.

In addition to the Durable Power of Attorney, your parents should execute a Will. A properly drafted Will ensures that your parents' assets will be distributed according to their wishes. Almost three-quarters of adults do not have a Will, and if you die without one, New York has provided how your assets will be distributed at your death.

Planning for You and Your Children

Amid all of your planning for your parents, do not overlook the importance of executing your own Will. In New York, if you die without a Will leaving a surviving spouse and children, the first \$50,000 of your assets and then half the remainder of your assets will be distributed to your surviving spouse. Most clients assume that all of their assets will pass to their spouse upon their death. After the distribution to your spouse, the remainder of your assets will be distributed to your children, and if you have children who are under age 18, the Courts may become involved to supervise your child's property until they reach age 18, at which time they will receive all of the assets outright. Consider creating trusts under your Will for the benefit of your children until they reach a certain age. Many parents consider trusts for their children until they reach age 25



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or 30. With children under age 18, you must also name a guardian in case something happens to your spouse.

Where to Begin

Whether it is assisting your parents in planning or beginning the process for yourself, the first step should be to consider your goals. Lifetime concerns can include addressing children's issues, possible disability of your parents, spouse or children, any charitable giving, and income and estate tax concerns. You may also have second family considerations, or may be concerned without financial and functional independence.

How to Begin

Identify your assets and your parents' assets; what type, who owns them, how they are transferred upon death, and to whom. Begin with identifying cash and cash accounts, real estate wherever located, and securities, whether they are publicly traded or closely held. Identify any retirement accounts to include pension, profit sharing, 401(k), IRA, or 403(b). Identify personal property with particular emphasis on anything unique such as jewelry, antiques or other collections. Identify any life insurance and determine who is the owner and the beneficiary. Identify any jointly owned property to include real estate, bank accounts or investment accounts.

Health Care Decisions

In addition to preparing a Durable Power of Attorney and a Will, your attorney will also assist you in preparing documents to handle medical decisions. It is critical that you and your parents have a Health Care Proxy and a Living Will. A Health Care Proxy allows you to appoint a person of your choice to make health care decisions for you in the event you can no longer make such decisions for yourself. A Living Will contains your specific instructions and directions regarding your choice of consenting to or refusing medical treatment, including the right to make decisions regarding life sustaining procedures.

Advanced planning can help those of us in the Sandwich Generation maintain a sense of control over your legal and financial affairs and of those of your parents. Making your parents decisions and your decisions known will ensure that your wishes will be followed in the future and will reduce the burden on your family and loved ones.

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