



When We Die

by John D. Whitaker

Eastern religions teach us that all things are impermanent. We are all going to die. The only question is when. Hopefully it will be a while for all of us, but in the off chance that your number is about up, there are some things that you should consider doing before you cash in your chips. Sunday night sitting in the emergency room is not a very good time to figure out whose name the ranch is in, or whether grandpa still thinks you should get the Colt Revolver and not your brother.

There are several documents you should have in place to protect yourself and family if you are about to die. Seeing as how we are all potentially about to die, let's talk about a few things you can do.

First, should you have a Will? The safe answer to that question is yes. For the most part, a Will takes the court out of what should be a family matter. If you have a Will you can clearly state what happens to your property. If you don't have a Will, your estate will pass under the intestate succession law of Wyoming. How your property is distributed there depends upon whether you leave a wife and kids. Under certain circumstances all relatives may have a claim to your estate. It can get real complicated if you are estranged from some of your children, or if you have deceased children who had children you don't even know. Not having a Will may also result in your family being forced to go to court to get authority to administer your estate. This can cost money and you may be forced to post a bond, which may cause an unnecessary dissipation of the estate. Not having a Will may also cause significant tax problems which could result in forcing your family to sell property that may have been in your family for generations.

Second, you should have a Durable Power of Attorney for Health Care. This document allows you to select someone to make medical treatment decisions for you in the event you are not capable of doing so because you are too ill to do it yourself. If you are in a coma and need some type of



surgery, this person can act for you to consent to the procedure.

Third, you should have a Living Will. This is a document that allows someone you select to have the power, with the help and input of your physicians, to discontinue any medical procedures that will only serve to prolong the dying process. Some people want their doctors to perform all medical procedures under the sun to keep them alive. Other people just wish to stay comfortable and hydrated until they die. Your family may not have a clue what you prefer, and so setting all this up when you feel fine helps your family to feel more comfortable discussing

it with you.

Fourth, you should consider a General Power of Attorney. This allows someone you select to step into your shoes and act for you. If you are trying to sell your house and are in the hospital, it can be a real hassle to transact business. With a power of attorney you can legally appoint someone to have the authority to transact business in your name.

It is very important to carefully think about these decisions and select a person that you trust to act for you. I would also say that you should consider sharing these decisions with your family. Most family members are reluctant to talk about these issues when someone is seriously ill. When a family member is going through the dying process it can be very stressful for everyone. If everyone knows beforehand how you want things to turn out, it takes this whole issue off the table so that everyone can concentrate on being there for you. It can also give you the time to talk things over with your family so that you do not overlook someone or forget something you may have promised or intended to do years ago.

There are a number of competent estate planning attorneys and accountants here in Casper, and it is well worth the money to visit with these professionals to talk about these issues when there is no hurry. If you wait until Sunday night at the emergency room, it may be too late.

The Wyoming State Bar does not certify any lawyer as a specialist or expert. Anyone considering a lawyer should independently investigate the lawyer's credentials and ability, and not rely upon advertisements or self-proclaimed expertise. This informative column is brought to you by John Whitaker who practices personal injury and criminal law throughout Wyoming. He can be reached at JDWTL@aol.com or by calling his office in Casper at 265-6204.