

# Stewardship and Estate Planning

My church has had a stewardship ministry for decades. That ministry essentially addressed tithes and offering. It evolved from including financial management which facilitates the payment of tithes and offering to later including healthcare management which incorporates the principle that our bodies are the temples of the Holy Spirit.

I am encouraged by the expansion of the stewardship umbrella. Yet, I would like to expand it even further to include another concept: estate planning. Estate Planning is often defined as the management of an individual's assets because of incapacitation or death. The planning generally includes the distribution of the individual's assets to heirs. It also involves management of an individual's health in the event of incapacity.

## The typical estate planning documents are:

1. Last Will and Testament
2. Financial Power of Attorney
3. Medical Power of Attorney
4. Trusts

While we should all have an estate plan, I am most concerned about the need for families with minor children and the elderly to have estate plans. To illustrate the importance of estate planning for families with minor children, consider the following scenario:

*John and Tracey Evans die while on vacation. They leave behind two children, a 15-year-old and a 4-year-old. While the couple vacationed, the children were left in the care of Tracey's best friend Kim and her husband David Nelson. John and Tracey do not have a Will or a Trust, however, Tracy had always had an understanding with the Nelsons that they would be the children's guardians, should the Evanses predecease their children. The Evans' together have life insurance of approximately 1 million dollars; the beneficiaries are the children. The arrangement with the Nelsons was*

*significant because the Evanses and Nelsons are Christians and have been friends since childhood. They have similar values and parenting styles. John's parents are deceased, Tracey's parents are Christians, but Tracey has many negative memories from her upbringing and would not like her parents or siblings to be the guardians of her children. Moreover, both her parents and her siblings are financially irresponsible.*

## Documents Make Decisions

Without a legal document authorizing the Nelsons to be guardians of the Evanses children and ultimate trustees of their life insurance proceeds, a court will make the decision regarding the guardianship of the children. There are many factors that would influence the court in awarding guardianship. However, one of the most important factors is the family relationship. Unless there is solid documentation that the parents or siblings are unfit to care for the children, it is very likely that a court would award the children to Tracey's parents or siblings. Additionally, while the guardians would have to give an accounting to the court for the proceeds of the life insurance, at the age of 18 the children would be entitled to any unused funds.

With proper planning the Evanses could have executed Wills in which they appointed the Nelsons' as guardians. Additionally, they could have executed a Trust in which the Nelsons' are named as trustees of their life insurance policy. It is unlikely that in 3 years when the 15-year-old receives his share of the million dollars that he would be financially responsible to manage those funds.

## Failure to Execute

If an individual fails to execute a Will, the state of residence will distribute the assets based on its default provisions; such distributions could be detrimental to the surviving family members.

Estate Planning becomes very important as we age. In many cases individuals become incapacitated and a guardian is needed to make financial and healthcare decisions. The financial power of attorney allows the agent, the person authorized to act, to make financial decisions. It is important that a financial power of attorney be executed while the individual giving the power has the mental capacity to do so. In cases where one spouse becomes mentally incapacitated, the other spouse may need to sell the home. Depending on the titling of the property the healthy spouse may have to obtain a court order to be appointed guardian in order to sell the house. Executing a financial power of attorney while both spouses are healthy is a good planning strategy.

# Successful Appointments

A successful appointment requires a trusting relationship and financial acuity on the part of the agent. It is not unusual for an elderly parent to be in the care of a child who lacks financial management skills. If the parent does not make an affirmative decision while having the requisite mental capacity, the child in the home may well be the person with access to the parents' funds.

The advance healthcare directive authorizes an agent to make routine healthcare decisions as well as end of life healthcare decisions. The advance healthcare directive eases the burden of making decisions for a parent. For example, a parent executes an advance directive that states the following: If my doctors certify that I am in a persistent vegetative state, that is, if I am not conscious and am not aware of myself or my environment or able to interact with others, and there is no reasonable expectation that I will ever regain consciousness: keep me comfortable and allow natural death to occur. I do not want any medical interventions used to try to extend my life. I do not want to receive nutrition and fluids by tube or other medical means. If there is disagreement among the children as to whether the parent should be kept on life support, the document will provide the answer. Disputes among the children, guilt, and other emotions may be reduced.

# Estate Planning is Stewardship

There are numerous estate planning issues that cannot be addressed in this article. However, the general principles and the need for estate planning are highlighted.

While there are many forms available online for preparing estate planning documents, such forms do not address the more nuanced yet critical legal issues and therefore are not recommended for making life and death decisions. Consult an estate planning attorney to ensure the documents you execute are effective.

*Disclaimer. This material is intended for general information purposes only and does not constitute legal advice.*