

# Make time to plan when you have ability to do so

## FARM & FAMILY

BY MARK BALZARINI



THERE ARE MANY things we plan for on a day-to-day basis. Who is going to pick up the kids from soccer practice? Where are we going to go for our next vacation? How are we going to pay for our children's college education? When are we going to retire?

These plans range from the everyday mundane of what to make for dinner to the lifetime milestones of graduations, weddings and retirement. For each, taking time to plan is essential. Without a plan it is unlikely we will ever actually achieve our goals.

One item that is often pushed to the bottom of the to-do list is making a plan for our estate. There are lots of reasons for this. Some think it is too time-consuming. Others think they will not need a plan until they are old. Others just do not know what should be in the plan.

Essentially, an estate plan is a plan for how to care for yourself and your loved ones when you cannot plan any longer. Though there are many elements that should be incorporated into an estate plan, in this column I'll discuss incapacity planning, which is one of the most essential elements of every estate plan.

Planning for incapacity commonly uses durable powers of attorney, revocable trusts and health care directives. These documents will assist your loved ones to take care of your estate and medical needs.

A durable power of attorney and a revocable trust are often used to help manage your estate in the event of incapacity.

### DURABLE POWER OF ATTORNEY

A durable power of attorney is usually a key part to any plan for incapacity. With a durable power of attorney, you name a person, called an attorney-in-fact, to make financial decisions for you in the event you cannot make these decisions for yourself. It is important that the power of attorney says it is durable so it remains effective after your incapacity. By using a durable power of attorney, your attorney-in-fact can manage all of your financial matters,



**TIME IS NOW:** The value of estate planning, specifically having durable powers of attorney and medical directives, often is learned too late — most notably by heirs left to wade through the wishes of loved ones

including your real estate, business contracts, personal property transactions, investment accounts, stocks, bonds, commodities, retirement accounts, banking transactions, bills, litigation, public benefits and gifts.

While using a power of attorney is very important for the estate plan, it has limited value because it does not provide a good opportunity for you to give specific instructions to the attorney-in-fact on how to manage your assets.

### REVOCABLE TRUST

A better option may be to use a revocable trust to plan for the management of your assets. The trustee of a revocable trust can manage all your assets in the same manner as the attorney-in-fact of a durable power of attorney, and you are able to easily provide instructions on how to manage these assets for your benefit and the benefit of your loved ones.

A revocable trust is great way to give the trustee instructions on how to use your assets for the benefit of your children if you become incapacitated. You can provide direction on a range of issues, from housing for your children to paying for their school activities, their college education, their first vehicles and future weddings.

A revocable trust is also great for helping to manage a farm operation in the event of incapacity. You can include instructions that provide your family members access to your farm equipment and machinery. You can also provide the terms for the ongoing use of your farm buildings, grain bins, sheds and barn.

Through the trust, you may set the terms of the use and may include rental prices, lease options and sale options. You may also include provisions that provide the right to your farmland. Again, you can provide use requirements, sale options and lease options. Additionally, if you operate your farm as a corporate entity, you will be able to give instructions on how to vote your interest and how to transfer your interest.

### HEALTH CARE DIRECTIVES, HIPAA

Additionally, you should provide a plan for taking care of medical and personal needs by using a health care directive and HIPAA. HIPAA is the acronym for the Health Insurance Portability and Accountability Act, passed by Congress in 1996, that provides data privacy regarding medical information.

The use of health care directives and HIPAA authorizations are central to estate planning. By using a health care directive,

you are able to appoint an agent to make health care decisions for you. The HIPAA authorization gives your physician and other medical professionals permission to release your medical information to your health care agent.

In the health care directive, you are able to provide specific instructions on the types of medical care you want and do not want to receive. These documents are recommended for any adult 18 years or older who is competent to make decisions for himself or herself. Using a health care directive helps avoid the need of a court-appointed guardian. Without this document, if you are unable to make medical decisions or express your wishes, a court may need to appoint a guardian of your person. This guardian would then be supervised by the court as he or she makes your health and personal care decisions.

I encourage you to seek advice on the use of a durable power of attorney, revocable trust, health care directive and HIPAA authorization in your estate plan. This will be a great start to your estate plan.

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