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India

Estate Planning

Before writing a will, you must consult the Hindu Succession Act or the Indian Succession Act if you belong to another religion. These let you create a will that is in line with the legal framework.

- A will outlines your wishes for the distribution of your assets after death. Two witnesses are necessary and it must be registered.
- A Trust is a transfer of your property to a Trustee for the benefit of your heirs, and offers tax benefits. Trusts may be living, testamentary, funded, unfunded, revocable or irrevocable. They must be registered.
- A Limited Liability Company (LLC) ensures that your assets are under your control while you live and can be passed to your heirs.
- Power of Attorney (general, special or limited) allows you to appoint someone to make financial and legal decisions if you become incapacitated. Lasting Power of Attorney lets you nominate a person to make both medical and financial decisions.

Advance Care Planning (ACP)

ACP lets doctors and patients make decisions about healthcare at the end of life. It includes the Advance Medical Directive (AMD)/Advance DIrective (AD)/Living Will. This document records your preferences regarding the medical care you wish to receive if you become terminally ill. You must possess mental capacity when an AMD is put in place, but capacity is not required for it to be implemented. You can also nominate a guardian to make medical decisions on your behalf when you are incapacitated. The AMD should be in writing, signed by two witnesses, and notarized. An AMD provides a Medical or Healthcare Power of Attorney.

The Do Not Resuscitate Order (DNR) has no accepted method of documentation, however the patient or their relative may discuss this informally with clinicians.

Passive euthanasia is legal, provided the person has an AMD. This involves the withdrawal of artificial life support (such as ventilation or a feeding tube) to patients in a permanent vegetative state. It is more commonly known as withholding and/or withdrawal of life support.

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- In India, 80% of the population die without making a will

- About four in ten requests to will writing firms are from people in their 30s and 40s
- 73% of urban Indians don't know about Living Wills

Source: India Spend

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Useful websites

The 2023 article Advance Care planning in India: Current status and future directions. A short narrative review explores the role of civil society and the palliative care sector.

AngloInfo explains the procedures after a death in India, and contains information on repatriation for foreign nationals.

AZB and Partners explain how the Supreme Court simplified the 2018 Advance Medical Directives in 2023.

This BMJ Supportive and Palliative Care blog examines how the Supreme Court 2023 ruling on AMDs will disadvantage some patients.

DNR Guideline is a PDF examining DNR procedures.

The Economic Times looks at the Supreme Court 2023 ruling on AMDs.

The 2013 study End-of-life care: Indian perspective examines cultural norms at the end of life and palliative care provision.

A Guide on Estate planning for Indian professionals (2023) explains how to make provision for your death.

India Law Office LLP supplies information on wills and Trusts.

The Indian Association of Palliative Care (IAPC) is a national forum connecting individuals and institutions.

Indian Money answers Frequently Asked Questions about estate planning.

Legal Mantra explores estate planning and probate.

The 2023 study Life before death in India: a narrative review looks at access to palliative care.

Live Law 10 decodes the Indian Advance Medical Directive/Living Will (2023).

Making end of life and palliative care viable in India: a blueprint for action is a 2019 article that suggests ways of developing the ecosystem of caring for the terminally ill.

Memorial Planning offers a short guide to Hindu death and funeral rituals.

Pallium India offers access to resources and training in the field of palliative care. They supply a template for an Advance Medical Directive and Healthcare Power of Attorney here.

The 2021 article Shared decision making: Advance Care Planning for chronic kidney disease patients notes the role of shared decision-making as a standard of care intervention.

Thereafter is a project started in 2021 that seeks to improve the death preparedness of Indian families using a web-based platform.

Vajiram and Ravi explain the characteristics of an AMD/Living Will (2023). The 1993 study Palliative Care: a review of past changes and future trends provided an overview of developments in the UK at the time.

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Translation disclaimer: Content originally written in English.