Any estate planning attorney in Texas can give you a laundry list of reasons why estate planning is important for adults at all stages of life and all financial circumstances. However, there is one set of individuals that can really suffer—both emotionally and financially—when they fail to make the proper preparations, and that is couples who are living together in a committed relationship but who are not married.

Your relationship may be absolutely rock solid in the eyes of everyone you know, but as far as Texas law is concerned, your relationship doesn't even exist. And that can cause huge problems if something happens and you haven't taken the proper steps to protect each partner's rights.

It is essential to remember that estate planning is not solely about making arrangements to manage finances upon someone's passing. A comprehensive estate plan covers medical decision-making and aspects to protect you during emergency situations in your lifetime. Every adult should have certain critical documents prepared and plans in place, particularly if they are in a committed relationship not legally recognized by the state of Texas.

Preparations for a Medical Emergency

On the increasingly busy roads of Collin County, traffic accidents frequently cause annoying backups. But if you or a loved one is involved in that accident, it becomes much more than a mere annoyance. Injuries in car and truck collisions frequently render victims unconscious. In that state, someone cannot authorize treatment, make medical decisions, or instruct the hospital staff on who should be allowed to discuss their condition with doctors.

Your partner may know your preferences for medical care, but if you haven't executed a medical power of attorney naming your partner as your health care agent, then your partner has no power to inform the doctors of your wishes. Depending on the situation, medical staff may look to a blood relative for decisions, even if you're not on good terms with that member of your family.

If you haven't prepared a privacy rules release authorizing medical staff to share

information with your partner, then doctors cannot discuss details of your condition and care needs with your partner. They might not even tell your partner where you are and what happened to you. Legally, your partner has no right to be informed or to help you.

It can be a heartbreaking situation, but it is also one that is easily preventable if you simply plan ahead for emergencies. Have an estate planning attorney draft a medical power of attorney that designates a healthcare agent. That document will allow your partner or whoever you name as your agent to make decisions about care and authorize treatment if you are incapacitated and unable to take these actions for yourself. In addition, your attorney can also create a universal HIPAA release that authorizes doctors, medical staff, insurance companies, and others to discuss medical issues with your partner.

The third medical document you can get an estate planning attorney to prepare for you is a directive to physicians and family, also known as a living will. This document informs healthcare providers and loved ones about the types of treatment you would (or would not) want if you were suffering from a terminal condition and unable to communicate your preferences due to illness or injury. Having this document prepared ensures that your wishes will be honored, and it eases the worries of loved ones.

When you work with an experienced estate planning attorney, all of these documents can be tailored to your specific preferences. You can discuss possible scenarios and describe what you would want to happen. You can authorize certain individuals to access specific information, while others are authorized to access more or all information. You can designate an alternate person to make decisions or authorize treatment if health care providers are unable to reach your primary agent. You can stay in control in times of emergency if you plan ahead.

Preparing for the Financial Impact of an Emergency Situation

If you’ve been in a serious accident or you’re hit with a serious illness that puts you

in a coma, healthcare decisions are not the only decisions that will go unmade. You will be unable to handle financial matters such as paying bills. If you were married, your spouse would have legal access to many financial accounts to be able to manage financial issues, but the law doesn't give unmarried partners any similar rights.

However, you can give your partner those rights and abilities if you plan ahead. You can have your estate planning attorney prepare a durable financial power of attorney naming your partner as your agent who is authorized to make financial moves on your behalf. This power can be customized any way you wish. You can set it up so it only takes effect if a particular event occurs, such as if a doctor declares you to be incapacitated. You can put limits on the power you grant so that it only covers specific accounts or allows your agent to undertake certain actions. The power can be set to expire or to last indefinitely.

When you work with a knowledgeable lawyer to create a power of attorney, you can feel confident that you will have a document that grants power under the terms you want. If you try to create a power of attorney using DIY software, however, you may have serious problems that probably won't become apparent until it's too late to make changes. The document might grant more power than you want, opening you up to financial liability. Or banks and other institutions may not accept the document, making it useless.

Another step you can take to allow an unmarried partner access to financial matters is to add their name to bank accounts, credit accounts, and other accounts. However, when you do that, you are not only sharing access and control but also ownership rights. This means that your partner's creditors can seize your assets, because those assets belong equally to anyone whose name is on the account. With a power of attorney, your partner can access and use assets but doesn't gain ownership rights, so the assets are not available to your agent's creditors.

Wills and Trusts

Of course, your estate plans should also address what will happen when one partner passes away. Texas law has detailed rules specifying how property passes when

someone dies without a will or other estate plans in place. Those rules give no consideration whatsoever to your intentions or promises you've made or the state of your relationship with official family members. Unless you have a will or trust or you've formally titled your property in a way that shares ownership with your partner, then your partner will not receive any of your property, no matter how long you've lived together. Instead, your property will go to a blood relative specified in the Texas laws of intestate succession.

For instance, if you and your partner bought a sofa together, upon your passing, your half of the sofa might belong to your parents or your sister. If you lived together in a house that you both paid for, but your name is the only one on the deed, then the house will belong to your family, and your partner will likely have to leave. Joint belongings may need to be sold so that family members can get their share of the value. Life for your partner can become extremely painful financially as well as emotionally.

But you have the power to prevent these problems by working with an estate planning attorney. Your attorney can set up a will or trust to ensure that your partner's rights and interests are protected when you pass away. A will directs the distribution of your property after your death. The document only takes effect after you die, and it can be changed at any time while you are alive and mentally competent. (The easiest way to change a will is to destroy it and create a new one.) You can also use a will to designate a guardian for your minor children, which is particularly important if you want your partner to raise your children, especially if they are not biologically or legally related to your partner.

Revocable living trusts can be used to accomplish many of the same purposes as a will. However, they take effect immediately. You can transfer your property into your trust and name your partner as your successor in ownership and control of that property. Then, when you pass away, your partner can take over quickly and easily without the need for approval by the court. Your estate planning attorney can provide more information about how wills and trusts would work in your situation and which option makes the most sense for you and your family.

Let The Nordhaus Firm Protect You Regardless of What Happens in the Future

Estate planning is all about being prepared and protecting yourself and your loved ones in a future that is unknown. You can set up a power of attorney that you may never need to use. But if an accident or illness causes you to become incapacitated, your partner will be relieved that they don't have to worry about legal issues on top of everything else.

At The Nordhaus Firm, we take the time to understand your goals so we can help you make the right preparations to achieve those objectives. To find out more about the ways we can safeguard your future, schedule a free consultation by calling 214-726-1450 or contacting us online now.