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## *Powers of Attorney, Wills, and Trusts*

- Have you planned out a Will? Have you revisited it lately?
- Have you thought about what would happen if you could not control your own finances? What is Power of Attorney?
- What if you were incapable of controlling your own medical decisions? What is an Advanced Directive/Living Will?
- What is an Irrevocable Trust, and when is that necessary?



# WILL – WHAT IS IT GOOD FOR?

- What it is:
  - Short document
  - Name Executor(s) to distribute your estate
  - Name beneficiaries and determine what share of your estate they inherit
  - Appoint Guardian-ad-Litem to care for minor children



## WILL – WHAT IS IT GOOD FOR? – Cont'd

- Why you need it:
  - Generally:
    - Decide who gets what and in what proportion
    - Peace of mind for your family
    - Peace of mind for you
    - Disinherit that “ahem” disfavored grandchild
  - Probate – prevents loved ones from needing to pay a bond to act as your administrator



## **Benefits of Irrevocable Trust**

- Puts your plan in place while you are living
- May eliminate worries of what would happen if you become incapacitated
- May eliminate the cost and delay of the probate process
- Shelters your wealth from creditors
- May reduce post-death taxes



# The Building Blocks of Estate Planning

## I. Power of Attorney (POA)

Definition: A duly signed and acknowledged document in which a Principal authorizes an Agent to act on his/her behalf

Source: NJSA 46:2B-10

Durable POA: A form of POA allowed by statute, which remains effective if the Principal becomes incompetent to perform or consent to the acts delegated.

Source: Random House Webster's Legal Dictionary 3<sup>rd</sup> Ed.



## Some Points to Remember

- A Power of Attorney (POA) is *void upon the death* of the Principal
- The Principal must sign the POA
- The Agent does not need to sign the POA
- A person must be competent to execute a POA
- If you relocate to another state, have your POA reviewed by a licensed attorney in the new location
- Can take effect upon disability or immediately



## ADVANCE HEALTHCARE DIRECTIVE – WHAT IT IS

- Also known as
  - Healthcare Proxy
  - Healthcare POA
  - Living Will
- Two part document
  - Designation of Healthcare Representative
  - Instruction Directive



## ADVANCE HEALTHCARE DIRECTIVE – HOW IT WORKS

- Designation of Health Care Representative
  - Designee (one at a time, please)
  - Alternate (optional)

**Deliberately broad for benefit of representative making decisions**





## ADVANCE HEALTHCARE DIRECTIVE – HOW IT WORKS

- Instruction Directive
  - Statement of general wishes -
    - “There are [or are not] circumstances in which I would not want my life prolonged by further medical treatment”
  - When does it take affect?:
    - Terminal illness
    - Permanently unconscious
    - Incurable & irreversible illness–
      - More subjective “burdens of continued life w/ treatment become greater than benefits”
  - Tubes – food, liquid
  - Do not recisitate
  - Anatomical gifts (organ donation)



## ADVANCE HEALTHCARE DIRECTIVE – WHAT HAPPENS IF YOU DON'T HAVE ONE

- Why you might want one
  - Have someone in your corner
  - Let people know your med status
  - Decide your own fate
  - Gift to your loved one

*Thank  
you*



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