

# ESTATE and DISABILITY PLANNING

## and ELDER LAW BASICS

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### 1 What Everyone Needs to Know about Advanced Directives, Guardianship, and Wills

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Why You Should Sign A Health Care Proxy/ Living Will

Why You Need A Durable Power-Of-Arrowney ("POA")

### 2 When Is A Guardianship Is Required?

Why You Need A Will

Testamentary Substitutes; A Will Does Not Cover Everything

What A Will Includes

How A Will Is Processed

### 3 What Happens If You Die Without A Will?

What An Executor/ Administrator Does

Why Create A Revocable Living Trust

Trusts Are NOT For The Wealthy Only

### 4 How A Supplemental Needs Trust ("SNT") Can Avoid Ineligibility For Governmental Benefits

Trusts Can Be Used to Protect Minor or Adult Children

### Estate Planning and Maximizing Inheritance

Estate Tax Summary: Only Multi-Millionaires Need Be Concerned

### 5 For Those With 5+ Million: GIFTING STRATEGIES TO REDUCE ESTATE TAX

For Wealthy Married Couples: CREDIT SHELTER TRUSTS

A Spouse Can Waive Part Of The Inheritance To Save Taxes

A Pre-Nuptial Agreement Can Be Important, Especially For Second Or Same-Sex Marriages

### 6 You Cannot Be Disinherited By Your Spouse

#### Medicaid Eligibility Issues

Medicare And Medicaid Are Different

Nursing Homes And Medicaid

Strategies For Preserving Family Assets

### 7 ASSISTED LIVING, ADULT DAY CARE AND MEDICAID

Home Care (Community) Medicaid

Spousal Refusal of Support

Trust can preserve family assets and still allow Medicaid eligibility

When the Family Home should be Transferred

### 8 A REVERSE MORTGAGE CAN HELP FAMILIES THAT ARE "HOUSE RICH" AND "CASH-POOR"

Spousal Refusal Of Support

Long Term Care insurance (LTCi) policies

Resource Directory including How to Find an Elder Law Attorney

*Estate planning involves financial and long-term care issues for families and seniors and overlaps with issues relating to people with disabilities. With lifespans increasing and tax laws and governmental entitlements (including Medicaid) becoming more complex, parents and children are more concerned and confused than ever about these interrelated matters. Planning for the "expected unexpected" can save money and grief for you and your family.*

*The goal of this article is to explain some basic facts, legal concepts, tax rules and techniques to provide for alternate decision-makers and preserve family assets for New York residents. It is critical to get competent professional advice because there are many exceptions to general rules, laws are changing (as well as their interpretation and implementation), and everyone's situation is different.*

*Topics beyond the scope of this article include Medicare, (and Managed Care programs), Social Security, SSI and SSD, abuse of seniors by relatives or strangers, and how to select a nursing home or other care environment.*

## WHAT EVERYONE NEEDS TO KNOW ABOUT ADVANCED DIRECTIVES, GUARDIANSHIP AND WILLS

### WHY YOU SHOULD SIGN A HEALTH CARE PROXY/ LIVING WILL

By signing a Health Care Proxy, you appoint someone (and an alternate) to make medical decisions and access medical information if you can't do that yourself. It requires two witnesses, and copies are valid. For adults in a hospital or nursing home who can't act, the Family Health Care Decisions Act of 2010 allows a surrogate to be named including a court appointed guardian or a family member.

A Living Will is not a will at all but rather an expression of your wishes about medical treatment. It usually states that you

do not wish your body to be kept alive if there is no reasonable hope of recovery from some terminal condition. Rather, you wish to be allowed to die with dignity and as little pain as possible. Many lawyers add Living Will language directly into the Health Care Proxy.

### WHY YOU NEED DURABLE A POWER-OF-ATTORNEY ("POA")... to appoint a trusted decisionmaker as your agent..

If you suffer a severe accident or stroke or lose your memory due to Alzheimer's disease, it may be too late. Then an expensive and time-consuming Guardianship proceeding in court may be required. By signing

