

FLORIDA ESTATE PLANNING DOCUMENTS

Revocable Living Trusts

- A Living Trust can be established by an individual or a couple, and becomes effective immediately while the creator(s) is still living; designates Trustees and Successor Trustees.
- Trust contains instructions for the management of assets should the Trust Creator (Settlor) become disabled and directions for the distribution of trust assets upon death. Trust administration is private.
- Settlor(s) of a trust retains total control of all assets. The Trust can be amended or revoked at any time while the settlor(s) are living.
- Can avoid probate; can avoid or greatly reduce estate taxes; and can avoid guardianship by providing for the management of assets should the Settlor become incapacitated or incompetent.
- Can provide for asset administration when property is owned in more than one state to avoid multiple probate proceedings.
- Can provide for a fair distribution of assets when husband and wife are married later in life, each having separate assets and/or families,
- Can provide income for a "special needs" loved one.
- Can prevent a child from wasting his or her inheritance; and can be drafted to include "spendthrift" provisions.

Last Will and Testament

- Individually owned assets must go through probate.
- Only effective upon your death; the will is probated; and is public
- Provides instructions for the final disposition of your assets upon death.
- Appoints a personal representative to handle the disposition of your estate, and may appoint guardian(s) or conservators.
- Can provide "pour-over" of individually owned assets to an existing Trust.

Durable Power of Attorney (Financial and/or Health Care)

- Appoints a person (attorney-in-fact) to handle your property and personal affairs for you.
- You can provide that the power of attorney retains its full force and effect even though you later become incapacitated and unable to act, but becomes void upon the principal's death.
- If created properly, use of the power of attorney can avoid guardianship proceedings.
- Power of attorney can be created, but not given to the person chosen, until you become incapacitated in the future. (springing power)
- Health Care Power of Attorney designates one or more individual's to speak, on your behalf, to doctors and hospital personnel when you are unable to do so.

Living Will/Healthcare Surrogate Designation

- A Living Will is an advance health care directive to doctors and hospital personnel directing that life-prolonging procedures may be withheld or withdrawn, when you are incapacitated, **and** it has been determined that you have a terminal condition, or are in an irreversible coma.
- A Healthcare Surrogate designation names one or more individuals to make health care decisions for you should you become unable to make them for yourself.