

ESTATE PLANNING PLANNING DOCUMENTS THAT EVERY SENIOR NEEDS

1. Last Will and Testament with Testamentary Children's Trust--Purpose is to provide a "roadmap" for the disposition of assets and appointment of administrators following death
 - a. May include burial/body disposition instructions
 - b. References a separate written statement for the disposition of personal items
 - c. Leaves all assets to spouse, then the Trustee of the Children's Trust
 - i. Allows the parent to choose who will administer the children's money
 - ii. Authorizes distributions for the children for health, education, welfare, support for life of the trust
 - iii. Allows the parent to decide at what age or ages the children will take control of their own money
 - iv. Minimizes court-ordered guardianship of the property in which the children receive full distribution at age 18
 - v. Creates a designatable beneficiary for life insurance, IRAs, etc., so that children are not designated individually (creating need for court ordered guardianship of property) and family members are not designated individually (potentially depriving children of assets.
 - d. Provides for an alternate disposition of family assets in the event of the death of the entire family
 - e. Appoints the guardian for the children in the event of the death of both parents.
 - f. Appoints the spouse as personal representative (executor), and an alternate.
2. Durable Power of Attorney--Purpose is to avoid a court ordered guardianship of the parent in the event a parent is incapacitated or missing
 - a. Appoints the spouse first, then an alternate, as "attorney-in-fact"
 - b. Authorizes the "Attorney-in-Fact" to do almost anything for the parent that the parent can do for themselves, such as sign parent's name, sell assets, sign tax returns, make medical decisions, etc.
 - c. Takes effect immediately regardless of intent for times of incapacity
 - d. Can be revoked at any time
 - e. Can't be used to revoke or amend Wills, Codicils, Separate Writings, Trusts, Living Wills.
3. Living Will--A directive to hospitals and physicians not to artificially prolong life when there is no possible chance of recovery.
 - a. Takes the burden off of the spouse and family to "guess" at what the patient might want in such a circumstance.
 - b. Minimizes the probability of costly and lengthy hospital stays and medical care.
 - c. Takes the burden of making the decision off of the spouse and family.
4. Other documents that may be helpful
 - a. Durable Power of Attorney for Health Care
 - b. Designation of Preneed Guardian
 - c. Living Trusts
 - d. Prenuptial/postnuptial agreements