

## **BASIC ESTATE PLANNING**

The essential documents:

### **I. Durable Power of Attorney**

- decision making authority may be granted to almost anyone,
- most useful to address the problems created by the principal's incapacity, e.g., payment of bills,
- must contain language to the effect "this durable general power of attorney shall not be affected by the disability of the grantor except as provided by law" as required by statute,
- must be executed properly, 2 witnesses and notarized.

Who should have this: virtually everyone

### **II. Living Will Declaration**

- not a Will, but a statement of instruction,
- validity and enforceability supported by statute and Florida case law,
- along with powers of attorney, appointment of health care surrogate are known as advance directives. When you are admitted to a hospital or treatment facility that received payment from Medicare, admitting office must inquire and obtain these documents and place them in the patient's file.

Who needs this? After receiving an explanation of what these are and what they accomplish, almost everyone wants one.

### III. **Last Will and Testament**

- allows the maker to direct what is to be done with property which is individually owned,
- provides a forum to resolve disputes and cut off creditor claims,
- provides flexibility given changing facts and circumstances,
- must be signed with proper formality - 2 witness and notary.

Who needs this: everyone!

### IV. **Revocable Living Trust**

More sophisticated property ownership arrangement having as its purpose:

- avoiding probate
- providing for financial asset management in the event of incapacity,
- reduce or eliminate Federal Estate taxation.
- only effective if assets transferred and reregistered in to the name of the Trustee.

Who needs this? People who want to avoid probate, protect inherited assets from creditors and bad marriages, provide money management for irresponsible beneficiaries.