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Basic Estate Planning

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The Essential Documents for Estate Planning

The Building blocks of Estate Planning are:

- Durable Power of Attorney
- Living Will
- Last Will and Testament
- Revocable Living Trust
- 1. Locate these documents and read them
- 2. Regarding the maker of these documents, is he or she:
 1. Mentally well and understand what the documents accomplish
 1. While the maker is still alive
 2. While the maker is incapacitated
 3. After the maker dies
 2. Are the people named responsible if the maker becomes incapacitated or dies:
 1. Understand what they are to do
 2. Still, well and able to act
 3. Have conflicts with other beneficiaries, health problems, family problems or job problems.
 4. Are the documents
 1. Out of date
 2. Do not address the right issues
 3. Name the wrong people to be responsible
 4. After you read and review your present documents:
 1. Define and assess your present needs, your spouse's present needs, and the needs of your family.
 2. Describe these needs and the instructions to family members, helpers or hired workers who will be responsible to take care of these described needs when the maker of the documents and spouse becomes incapacitated or die.
 3. Identify your "Estate Planning Team." Your lawyer, accountant, and financial advisor and understand what they do and how can they help your family backup people and your other backup helpers. Determine what they are supposed to do and how they are to be compensated.
 4. Review and discuss:
 1. "Estate Planning Survival Kit"
 2. Your Living Trust Should

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)



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- 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, two 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.