



ESTATE PLANNING

FREQUENTLY ASKED QUESTIONS

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WHAT ARE ADVANCE DIRECTIVES?



Advance directives are written in “advance” of need, and express a person’s desire to give decision-making authority to someone who is trusted. In each case, the person must have the mental capacity to understand what they are doing at the time the directive is signed. Each has legal requirements for both the contents and validity. Examples include:

WHAT IS A DURABLE POWER OF ATTORNEY?

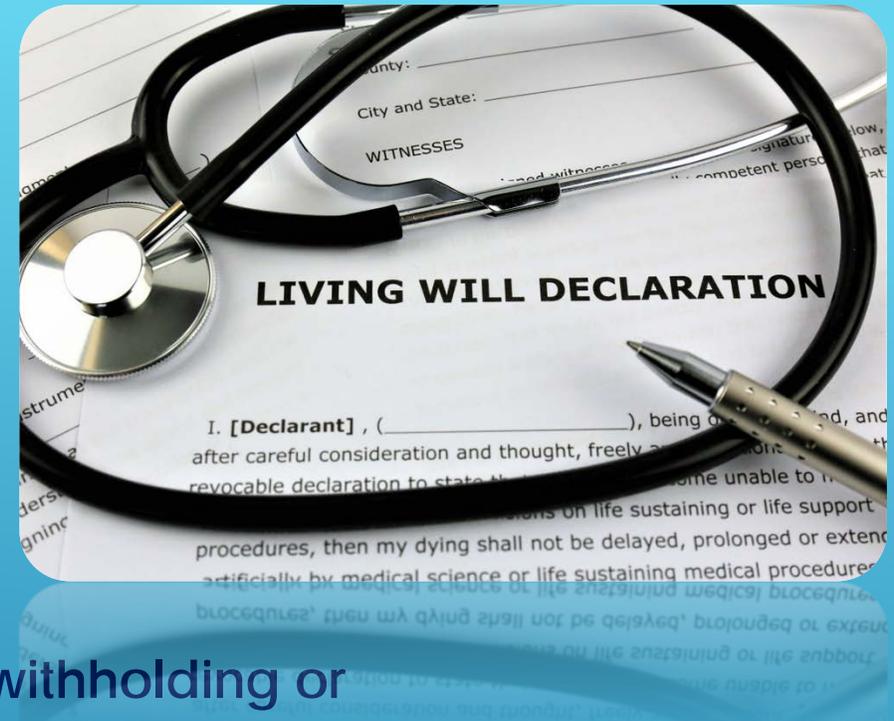
If a person has the capacity to understand the transfer of decision-making rights to another, a durable power of attorney may be appropriate. This is a legal document that allows the “grantor” to give decision-making rights to an “agent” (also known as “attorney-in-fact”). The rights granted can be as broad or as limited as the law allows. A power of attorney is “durable” when it is intended to continue even if the grantor becomes incapacitated. The powers granted to the agent are effective immediately upon execution of the document.



WHAT IS A HEALTH CARE SURROGATE?

This is a written document that permits an individual to name a surrogate health care decision maker to make medical decisions if the individual is not able to give informed consent. The individual must name a health care surrogate while capable of making medical decisions. The surrogate does not assume responsibility until the individual is incapable of making medical decisions.





WHAT IS A LIVING WILL?

This document sets out the maker's wishes for the withholding or withdrawal of life prolonging procedures. It specifies whether you would like to be kept on artificial life support if you become permanently unconscious or are otherwise dying and unable to speak for yourself. It is used to inform your doctors and family about your stance on life prolonging treatments in the event that you are unable to express your desires at that time. Individuals who feel strongly about these kinds of medical treatments and legally wish to ensure the honoring of their decision in the event of failing health, are encouraged to consult a lawyer to write a living will.

WHAT IS A DECLARATION OF PRE-NEED GUARDIAN FOR ADULT OR CHILD?



A competent person may make a designation of a qualified adult to serve as guardian for his/her child or for himself/herself, in advance of needing one. The Declaration must clearly identify the person to serve as guardian, and it must be executed with particularity, including signing with two witnesses. The Declaration may be filed in your local Clerk of the Court office. A Pre-Need Declaration creates what is considered a rebuttable presumption of who is entitled to serve as your guardian.

WHAT IS A LAST WILL & TESTAMENT?

A last will & testament is a legal document that communicates a person's final wishes, as pertaining to their possessions and dependents. It outlines what to do with possessions, whether they are being left to another person, group, or charity, and what will happen to other things for which they are responsible, such as custody of dependents and accounts and interests management. Within the provisions of your will, you nominate a Personal Representative (known as an Executor in some states) to be responsible for the proper administration of your estate and the disposition of your property to your intended beneficiaries.



LAST WILL & TESTAMENT

CONTINUED

Great care must be taken when you execute (i.e., sign) your last will and testament because Florida law requires that you precisely follow certain steps to properly execute your will. The failure to execute your will in the proper manner may invalidate the entire document — thereby frustrating your intentions with regard to the disposition of your property on your death. In addition, if you wish to make changes to your last will and testament — even changes that appear simple to you — you must do so in very precise ways else that particular change or even the entire document could be invalidated. A last will and testament is an important legal document that is the first building block to any good estate plan.

WHAT ARE TRUST AGREEMENTS?

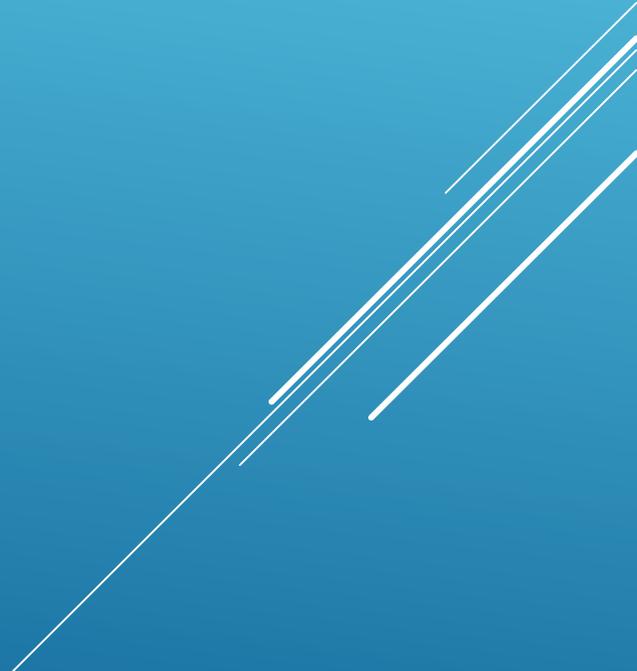


Trusts are estate planning tools that can help you manage property during life while ensuring a smooth transition of affairs after death. They manage the distribution of a person's property by transferring its benefits and obligations to different people. Trusts can replace or supplement wills, as well as help manage property during life. A trust is simply a transfer of legal ownership of property or assets from a property owner (the "trustor") to a person or institution (the "trustee").

TRUST AGREEMENTS

CONTINUED

There are several factors that go into setting up a trust, such as the age, size of the estate, and marital status of the trustor. Because a trust allows the grantor to specify conditions for receipt of benefits, as well as to spread payment of benefits over a period of time instead of making a single gift, many people prefer to include a trust in their estate plan. Trusts have important tax, governmental assistance, probate, and personal ramifications, so an estate planning attorney should be consulted at all stages of the process — from preliminary discussions to execution of trust documents.



PLEASE DIRECT ANY FURTHER QUESTIONS TO
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