Basics of Estate Planning in Florida

**WILL**
A will is a written direction controlling the disposition of property at death.

**LIVING WILL**
A declaration by an individual specifying directions as to use of life-prolonging procedures. Every competent adult has the right to make a written declaration commonly known as a "Living Will." The purpose of this document is to direct the provision, the withholding or withdrawal of life prolonging procedures in the event one should have a terminal condition. The suggested form of this instrument has been provided by the Legislature within Florida Statutes Section 765.303. In Florida, the definition of "life prolonging procedures" has been expanded by the Legislature to include the provision of food and water to terminally ill patients. Under Florida law, a Living Will must be signed by its maker in the presence of two witnesses, at least one of whom is neither the spouse nor a blood relative of the maker. If the maker is physically unable to sign the Living Will, one of the witnesses can sign in the presence and at the direction of the maker.

**POWER OF ATTORNEY**
A power of attorney is a legal document delegating authority from one person to another. In the document, the maker of the power of attorney (the “principal”) grants the right to act on the maker’s behalf as that person’s agent.

**HEALTHCARE SURROGATE DESIGNATION**
A designation of person to make health care decisions for you when you may not be able to do so. Included in this important appointment is the power to decide when to withdraw medical procedures. Any competent adult may also designate authority to a Health Care Surrogate to make all health care decisions during any period of incapacity. During the maker’s incapacity, the Health Care Surrogate has the duty to consult expeditiously, with appropriate health care providers. The Surrogate also provides informed consent and makes only health care decisions for the maker, which he or she believes the maker would have made under the circumstances if the maker were capable of making such decisions. If there is no indication of what the maker would have chosen, the Surrogate may consider the maker’s best interest in deciding on a course of treatment. Under Florida law, designation of a Health Care Surrogate should be made through a written document, and should be signed in the presence of two witnesses, at least one of whom is neither the spouse nor a blood relative of the maker. The person designated as Surrogate cannot act as a witness to the signing of the document.

**PRE NEED GUARDIAN DESIGNATION**
Florida law allows you to designate a person who could be appointed guardian over you should you become incapacitated and/or over your children should you become incapacitated or upon your death. If you fail to designate a guardian, the court will do so for you if it becomes necessary.
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