

The top 10 reasons to plan your estate

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Peace of Mind

When you have taken the time to plan your estate you will feel as if a weight has been lifted off your shoulders. You will feel secure knowing that you have a plan in place that addresses all of life's "what-ifs". Sooner is better than later, and the sooner you plan, the better you will feel.



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Protect your assets from the cost of nursing home care

- Long Term care insurance is a great way to protect your assets from the cost of nursing home care; however, many individuals are ineligible for medical or financial reasons.
- An alternative to long term care insurance is an Asset Protection Trust, which insulates your assets from having to be “spent down” before qualifying for Medicaid.



Private Pay



- Local Nursing Home costs
 - up to \$168,000 per year
- Local Assisted Living
 - \$3,000 to \$7,500 per month
- Home Care Costs can range from
 - Informal caregivers (friends/family)
 - Formal care 24/7
 - *\$17 to \$80 per hour depending on agency & care needed*
- How long will assets last?

What Are The Medicaid Eligibility Levels For Nursing Home Care?

The APPLICANT- a single person or an ill spouse

Resource Allowance

- \$15,900 Total Available Assets
- Prepaid Funeral Expenses
- \$1,500 Life Insurance (Face Value)
- IRA in Periodic Payment Status

Income Allowance

Applicant's MONTHLY income allowance= \$50



What Can My Spouse Have?

The CSRA (Community Spouse Resource Allowance)

2021 Maximum = \$130,380.50

This figure does not include the ill spouse's allowance of \$15,900

- The family home, as long as one spouse (or other qualified individual) is living in it
- A car of any value
- \$1,500 face value of life insurance
- Prepaid funeral expenses

Community Spouse's Income Allowance:

- \$3,259.50 Monthly
- \$39,114 Annually



Asset protection Trust

For the trust to qualify to protect your assets:

- **Trustee** – cannot be you or your spouse – can be children or other relatives. You reserve the right to change the trustee.
- **Principal Residence** – you maintain a life estate in your house
- **Trust Income** – you receive all the income from the trust
- **Trust Principal** – You cannot receive principal distributions from the trust (unless you do a Partial Revocation of Trust)
- **Upon your death** – trust assets go to your beneficiary/s



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Avoid Probate

Probate proceedings are expensive, public and time consuming. By executing a proper estate plan, either with the use of a Trust or by creatively titling your assets, you are able to leave your assets to your beneficiaries privately and efficiently.



What is the Probate Process?

- All Wills must go through Probate before their provisions will be given legal effect
- A probate petition typically requests the Court take the following action:
 - Offer the Will to court to pass on its **Validity**
 - Approve the Appointment of the named **Executor**
 - Approve any named **Testamentary Trustees**
- Probated Wills are Public Record

Probate and Non-Probate Property

Your will is only effective over probate property

Property that is in your individual name, and that does not have a designated beneficiary

Non-probate Property – not governed by will

- Joint bank accounts
- Real Estate owned jointly
- Retirement accounts with named beneficiaries
- Life Insurance with named beneficiaries
- Trusts



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Provide for special needs children

Particular care needs to be used when planning for children or grandchildren with special needs. There are many planning techniques that can be used to ensure your special needs child or grandchild is provided for.



Third Party Supplemental Needs Trust

- Funded with the assets of a parent, grandparent, relative or friend of the individual with the disability
- Does not need to contain a “payback provision”; can pass to other family members after the death of the beneficiary



How can funds in a Supplemental Needs Trust be spent?

- Can be used for anything that is not paid for by SSI or Medicaid
 - Extra therapy or medical supplements not covered by Medicaid
 - Recreation or vacation
 - Handicap accessible vehicles
 - Wheelchairs
 - Rent or housing expenses (but may reduce SSI benefits)
- Payments may not be given to beneficiary directly!



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Protect children of a prior relationship

- Do you have children that are “yours, mine and ours”?
- Do you have a plan in place that ensures they will all be treated fairly after your death? Without proper planning, you may unintentionally disinherit your own children.



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Plan for minor children's inheritance

- You have the ability to set up a Trust for the benefit of your minor children in your Will/Trust.
- A Testamentary Trust can ensure that your children do not have access to potentially large sums of money at a very young age and that the assets you leave them will be used for their care.
- Without a trust in place, the court will determine who will manage your child's assets and the level of resources available to them.

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Plan for minor children-guardians

- Who will raise your children if you die?
- Without a plan, a court will make that decision.
- With the correct plan, you have the ability to appoint guardian/s that will raise your children.



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Choose your beneficiaries

- Without a Last Will and Testament in place, your estate will pass according to New York's intestacy laws.
- By executing a Last Will and Testament you get to determine how your assets will be distributed upon your death.



Intestacy Law

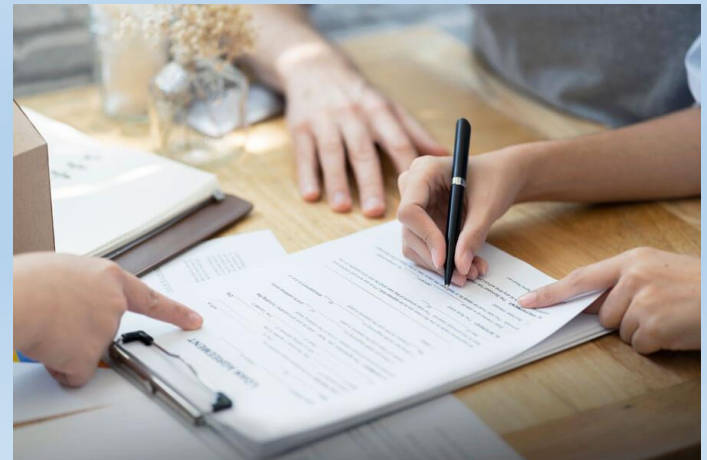


- **What if you die without a Will?**
- Laws of New York govern who inherits your property
 - If survived by spouse and kids, \$50,000 and $\frac{1}{2}$ of estate to spouse, balance to kids
 - If survived by spouse and no children, all to spouse
 - If survived by children and no spouse, all to kids
 - If no spouse or children, then to parents, then to siblings, then to nieces and nephews

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Loss of capacity-power of attorney

- A Power of Attorney is a legal document in which you appoint an Agent to make personal and financial decisions on your behalf in the event you are unable to do so.
- Even if you are married your spouse does not have the ability to access your individual assets without a Power of Attorney.





Power Of Attorney

A powerful legal document that allows an individual (Principal) to name another (Agent) to act on their behalf with financial matters

- Principal must have capacity to sign.
- Must be signed and notarized by the Principal AND the Agent(s)
- *It does NOT need to be signed simultaneously*

Power of Attorney



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- Real Estate Transactions
 - Goods Transactions
 - Stocks, Bonds, Mutual Funds, Investments, Etc.
 - Banking Transactions
 - Business Operating Transactions
 - Insurance Transactions
 - Estate Transactions
 - Claims and Litigation
 - Personal and Family Maintenance
 - Benefits
 - Health Care Billing
 - Retirement Benefits
 - Tax Matters
 - All Other Matters
 - Power to Delegate
 - ALL

Power of Attorney



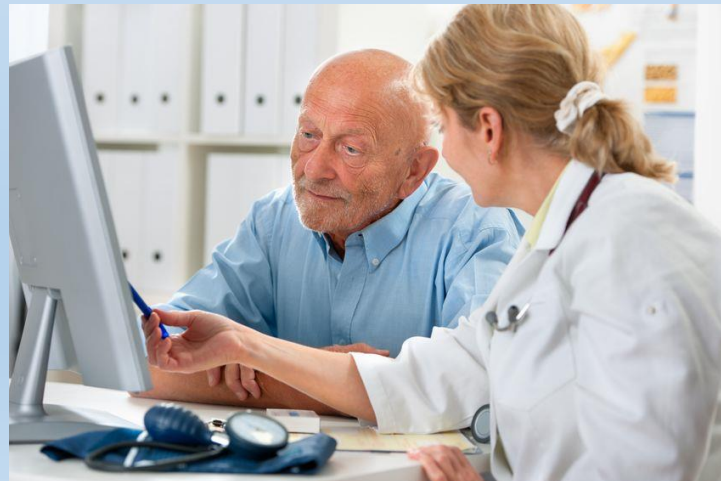
Statutory Gifts Rider

- Must be signed, notarized and witnessed by 2 disinterested witnesses
- Different Options
 - Termination
 - Revocable
 - Ceases at Death

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Loss of capacity- medical directives

- Anyone, any age can be left incapacitated without warning.
- The Terri Schiavo case was a wake up call to many families.
- Medical Directives are an important part to any estate plan.



Health Care Proxy



- A powerful legal document that allows an individual to name another (Proxy) to make medical decisions for them when they are unable to do so
- Principal must have capacity to sign
- Must be signed and witnessed by 2 disinterested witnesses

LIVING WILL

Instructions relating to end of life decisions such as:

- Artificial Nutrition and Hydration
- CPR
- Ventilator





Top 10 Summary

- If you want yourself, your assets and your loved ones protected when you can no longer do it, you will need an estate plan.
- Without a proper plan all of your hard earned money could go to pay for a nursing home.
- Last but not least, the courts could designate how your assets are divided—and even who gets to raise your children.

Free Consultation

Help you choose the Estate Plan that's right for YOU

Assist with Medicaid Application or Long-Term Care Plan

Appointments last about an hour

We DO make house calls

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Don't Wait Until It's too Late

