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DOCUMENTS NO ONE SHOULD BE WITHOUT

WILL

A Will is a tool that allows a person to designate to whom he wishes his property to pass. If you do not have a valid Will at the time of your death, the state will write a Will for you according to the laws of intestacy and it may not be how you want your property distributed. It is important to note that a Will cannot always ensure that property is inherited by the intended heirs. Joint bank or investment accounts with survivorship rights, life insurance policies, retirement plans, property held in trust, and certain deeds can all pass to the joint owner or designated beneficiary regardless of what is written in the Will. Therefore, an essential step in creating an effective and complete estate plan is to verify and change ownership of assets as needed to reflect the intentions of the client.

DURABLE POWER OF ATTORNEY

A Power of Attorney is a document that allows another person to act on your behalf with respect to financial decisions. Powers of Attorney can be limited in scope, such as for use for a single event (a real estate closing) or can be broad in scope to be used for any and all financial transactions. Most people think of Powers of Attorney as being used for a person who is incapacitated. However, in order for a Power of Attorney to be able to be used for an incapacitated person, it must be a Durable Power of Attorney. "Durable" means it survives incapacity and can be used while the person is incapacitated. Durable Powers of Attorney can also be effective when a person is not incapacitated.

HEALTH CARE PROXY / HIPAA AUTHORIZATION

A Health Care Proxy allows a client to select one or more people to make health care decisions for him in the event the client is unable to make those decisions for himself. The Health Care Agent is supposed to stand in the shoes of an ill or incapacitated person and make health care decisions that person would have made. A Health Care Proxy does not allow your agent to access your medical records. To access medical records, your agent will require a HIPAA Authorization. Massachusetts does not recognize the use of Living Wills. A Living Will may be helpful to assist your Health Care Agent in decision making in times of crisis, but it is not binding on any medical facility.

HOMESTEAD

There is an automatic \$125,000 homestead exemption on a person's principal residence. However, for persons who file a declaration of homestead, their primary residence will be protected up to \$500,000. The owner or owners of a home and the holders of a beneficial interest in a trust owning real estate who occupy the home or intend to occupy the home as a personal residence may file for homestead protection. If there are more than two joint tenants who own the property, there may be an additional \$250,000 of added protection in some circumstances. Owners of manufactured homes or mobile homes are also eligible to file for homestead protection. If there are two owners who are 62 or over or who are disabled and both file for homestead protection, they are protected to \$1,000,000. A Declaration of Homestead does not protect the home from enforcement of court ordered payments (child support, unpaid taxes, etc.) or if debts involve duress, fraud, etc., and will not stop foreclosure on your mortgage or debts incurred before filing the declaration.