

# SHOULD YOU GET YOUR WILL DONE NOW AND HOW



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# Important Estate Planning Documents

- Power of Attorney
- Health Care Advance Directives
- Trust
- Will

# Power of Attorney (POA)

- **What is it?**
- **Why do you need it? Isn't joint ownership of assets enough?**
- **Who should you appoint as Agent?**
- **Should Agent be compensated?**
- **Should you attach a Statutory Gift Rider (SGR)?**
- **How is it signed? -POA By both Principal and Agent before a Notary & SGR signed before a Notary and 2 witnesses**

# Health Care Advance Directives

- **Health Care Proxy**
- **Living Will**
- **Medical Order of Life Sustaining Treatment (“MOLST”)**
- **Health Insurance Portability and Accountability Act (“HIPAA”) RELEASE**
- **Disposition of Remains Document**

# Health Care Proxy

- **What is it?**
- **Who do you appoint as Agent?-Can physician be the agent?**
- **Duration of document**
- **Organ Donorship**
- **How is it signed-Before 2 disinterested Witnesses**
- **Family Health Care Decision Act**

# Living Will

- **What is it?**
- **Can life support be withheld or withdrawn without it?**
- **How to tailor it?**
  - 1) **Withhold artificial nutrition, hydration and respiration**
  - 2) **Maximum Pain Relief**
- **How is it signed?-Before 2 disinterested witnesses**

# **MEDICAL ORDER OF LIFE SUSTAINING TREATMENT (“MOLST”)**

- **Frequently used at end of life when in a hospital or nursing home but can be used in the community too**
- **Completed in consultation with a Doctor and thus becomes a Doctor’s order**
- **Decisions about Do Not Resuscitate and Do Not Intubate**
- **Signed by both Patient and Doctor**

# Health Insurance Portability and Accountability Act (“HIPAA”) Release

- Allow you to authorize medical institutions, physicians, nurses and other medical staff to speak with individuals you authorize about your medical care
- How is it different from a Health Care Proxy?



# Disposition of Remains Document

- Enforceable document which allows you to set forth post death decisions such as burial, cremation etc.
- Signed by Principal and Primary Agent before 2 witnesses

# Will

- Which of your assets are controlled by a Will
- What is probate?
- How much does probate cost?
- What are the responsibilities of an Executor, Trustee and Guardian?
- What happens if you have no Will but own assets in your individual ownership with no beneficiary designation?
- Are there estate (death) taxes in New York?
- How are Wills signed?

# Trusts

- What is a Trust?
- Can a Trust be revised?
- Why use a Trust instead of a Will?
- If you are bequeathing your estate to individuals other than next of kin
- If you do not know your next of kin
- You own property in multiple states
- Privacy protection
- Streamlining of administration
- How is a Trust signed?

# Governor Cuomo's Executive Orders for Witnessing Wills and Other Estate Planning documents and Notarization of documents by Video

- Must Follow the following six (6) steps:
- **1.** If person signing document is not personally known to the witnesses, then must furnish photo ID (Same is required if Notary does not personally know signer)
- **2.** Video conference must allow interaction between signer and witnesses & attorney supervisor (Same for Notary)

- **3.** Witnesses must receive legible copy of signature pages by fax or electronic means on the same date on which the document was signed (Same for Notary)
  
- **4.** Witnesses must put their witness signature on signature pages transmitted to them and return to signer (Same for Notary)
  
- **5.** Person who is signing before a Notary must confirm that they are located in the State of New York at the time of signing
  
- **6.** Witnesses may repeat witnessing (or Notary may repeat notarization) of original document if they receive both original and copy of signed document within 30 days of original signing

# THANK YOU

- If you have any questions, please visit our website:
- [www.seniorlawday.info](http://www.seniorlawday.info) and click the “ask us” button and we will get back to you.
- You can also contact Steven at [sschurkman@kblaw.com](mailto:sschurkman@kblaw.com)