SENIOR LAW DAY
COLLABORATIVE

ESTATE PLANNING IN SIMPLE TERMS

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LAW OFFICE OF
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Estate Planning/Asset Protection

Power of Attorney

Last Will and Testament

Health Care Proxy

TRUST

MEDICAID PLANNING

Crisis/Incapacitation

Medicaid Application

Transfer of Funds

Supplemental Needs Trust

Guardianship Proceedings

Estate/Probate

Filing Court Documents for Executor/Administrator

Guardianship of Minors

Distribution of Shares

WHAT EXACTLY IS AN ESTATE PLAN?

An Estate Plan is a plan for you, your loved ones and your assets:

- *while you are living*
- *if you no longer want to handle those things yourself*
- *if you get too sick to handle certain things*
- *when you pass away*

GOAL: If I can't speak for myself - or when I'm gone - I want my wishes to be clear."

5 DOCUMENTS, 5 JOBS, 1 PLAN

Will
Living Will
Power of Attorney
Health Care Proxy
HIPAA Authorization

These documents are teammates - NOT substitutes for one another.

MARRIAGE IS **NOT** A SUBSTITUTE FOR ESTATE PLANNING DOCS

LAST WILL AND TESTAMENT

A legal document that says who gets your property and assets after you die IF you failed to list a beneficiary

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Testator: The person making the Will

Beneficiary: A person receiving something in the Will

Executor: The person named in the Will to handle the estate after death.

Probate: The court-supervised process used to validate a Will and administer certain estate assets.

A legal document created by the Testator that says who gets your Estate through Probate by listing what you want your Executor to give your Beneficiaries.

LAST WILL AND TESTAMENT

Don't just decide who gets what—make sure the right people know where your Will is.

If you do not have a Will, your assets do not automatically go to the government nor your Spouse.

You cannot use you Will to control things when you are still alive including arranging your funeral

POWER OF ATTORNEY

A legal document that allows you to choose someone you trust to make financial and legal decisions for you

Translation: SIGNING POWER

Agent: the person you choose to act for you and handle your financial or legal matters when you give them that authority.

POWER OF ATTORNEY

Authority: The specific actions that your agent will be allowed to take

Incapacity: Your inability to make or communicate your wishes or needs

Durable: The Authority you are giving your Agent can continue even if the principal becomes incapacitated

TIP: Pick someone you TRUST, not just someone with an MBA

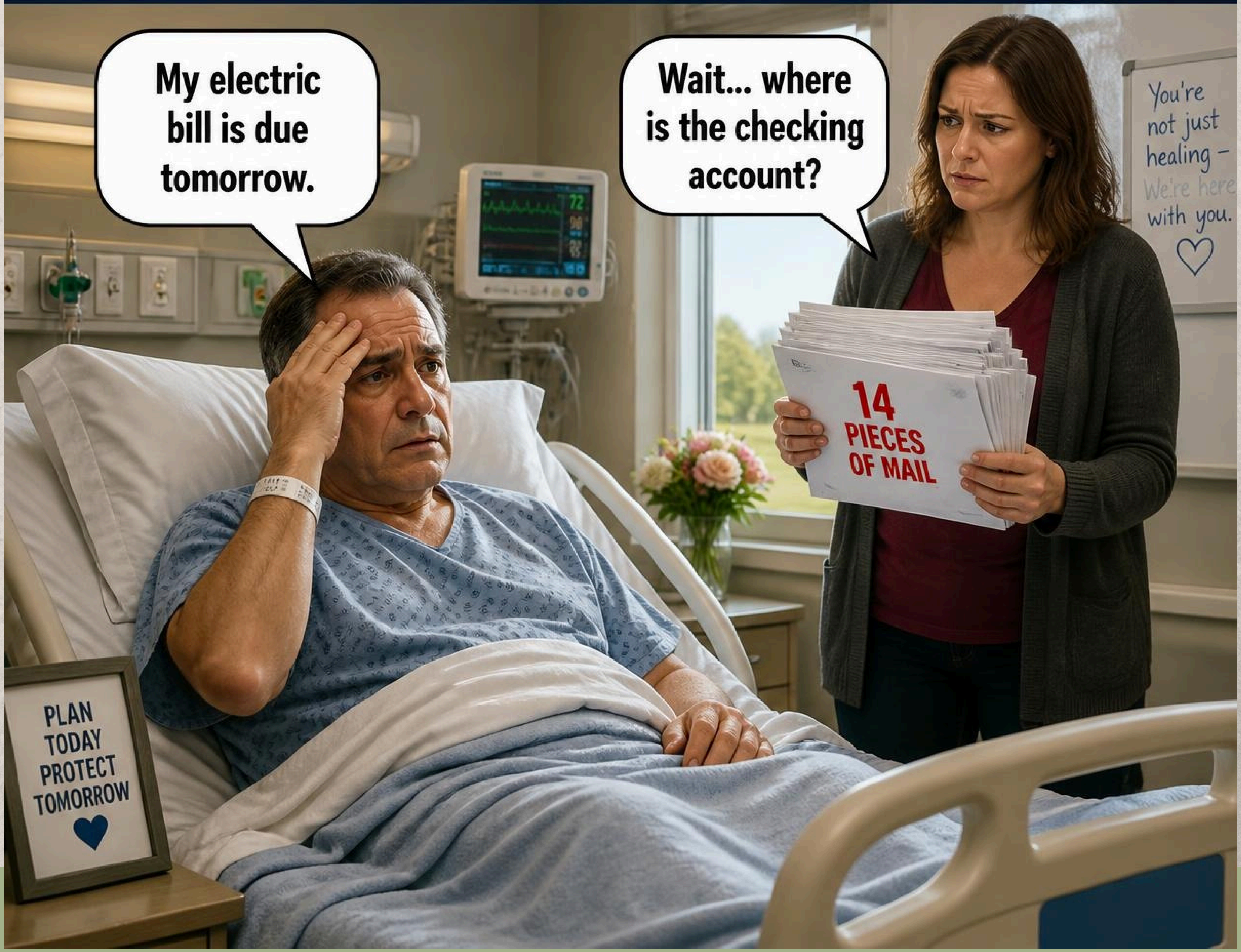
Power of Attorney
of
Jennifer Lopez

New York Statutory Short Form

(a) CAUTION TO THE PRINCIPAL:

Your Power of Attorney is an important document. As the "principal," you give the person whom you choose (your "agent") authority to spend your money and sell or dispose of your property during your lifetime without telling you. You do not lose your authority to act even though you have given your agent similar authority.

Who Is Going to Pay the Bills If You Can't?



ADVANCED DIRECTIVES

Health Care Proxy
ADVOCATE

Living Will
WISHES

HIPAA FORM
ACCESS

HEALTH CARE PROXY

A legal document where you choose someone to make medical decisions for you if you can't make them yourself.

Agent or Proxy: the person you choose to make health care decisions for you if you're unable to make them yourself.

ADVANCED DIRECTIVES: LIVING WILL

A legal document that explains your wishes about medical treatment if you're unable to communicate or make decisions yourself.

Don't make your family guess what "quality of life" means to you.

ADVANCED DIRECTIVES: HIPAA FORM

A legal document that lets you give permission for certain people to access or receive your private medical information.

Who can access my medical information?

DOCUMENT	What does it answer?	Key Person/Term
Will	What happens to my property after death?	Executor
Power of Attorney	Who handles my finances?	Agent
Health Care Proxy	Who makes my medical decisions?	Health Care Agent
HIPAA Authorization	Who can receive my medical information?	Authorized Recipient
Living Will	What medical treatment do I want?	My Instructions

CASE EXAMPLE: Maya is seriously injured and cannot commuicate.

The Mortgage is due. Who handles it? → Maya's Agent under her POA

Doctors need someone to make a decision on whether to do a specific surgery on Maya. Who steps in? → Maya's Health Care Agent

The ER doctor requests the Health Care Agent to retrieve Maya's records from Maya's Cardiologist. What gives the Cardiologist's office permission to disclose the info? → HIPAA Authorization

How can the Agent best determine what medical treatment Maya wanted? → Instructions listed in her Living Will

What happens to Maya's property if she later dies? → Her Will

LAST WILL AND TESTAMENT

A Will does not avoid probate it controls probate.

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Chronological Steps of the Probate Process

Why not try to avoid the Will and the Probate process altogether?

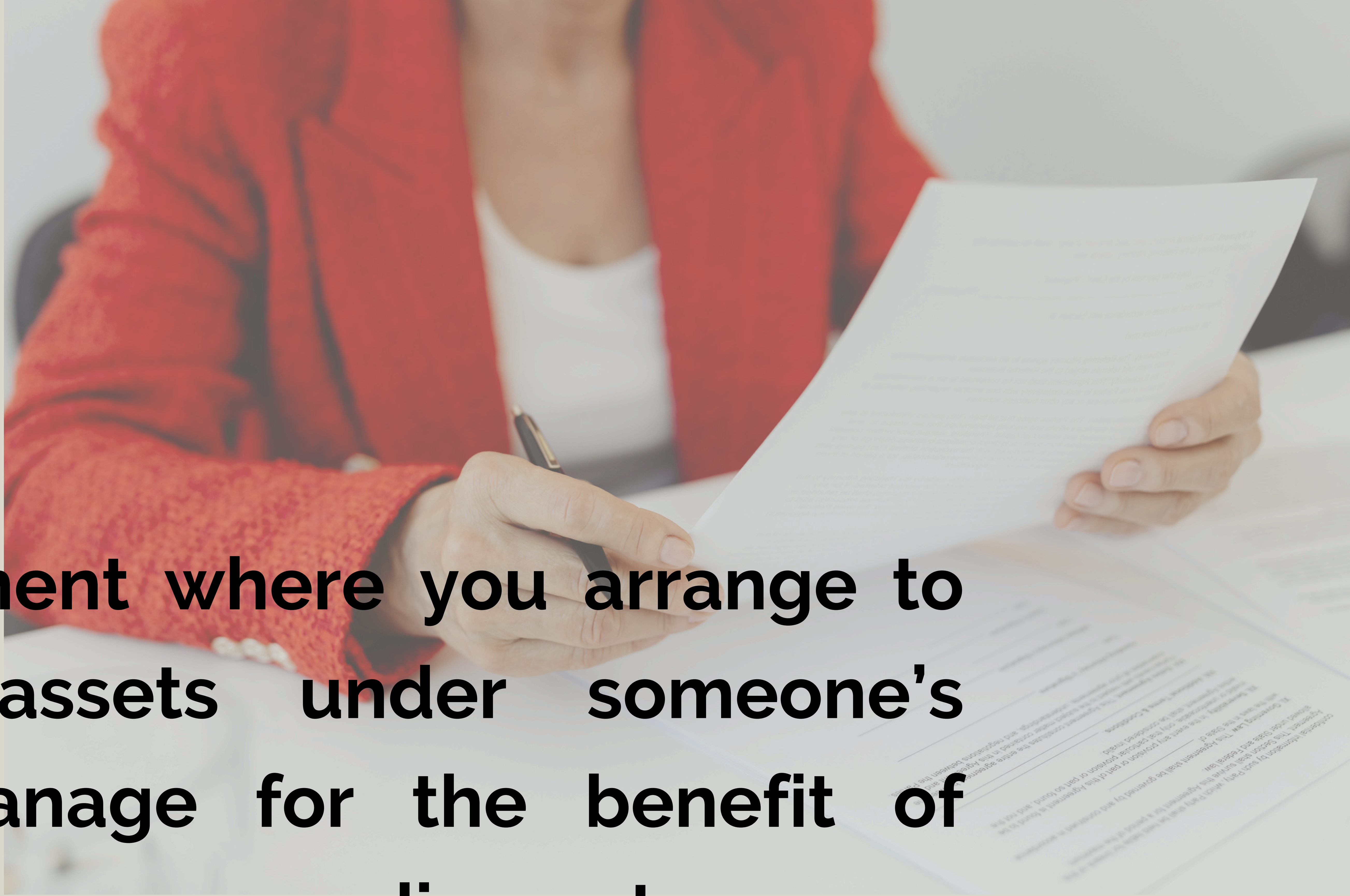
Comon Beneficiary Mistakes

- NOT UPDATING OLD BENEFICIARIES
- CHECKING BUT NOT SAVINGS
- SPELLING ERRORS IN LIFE INSURANCE POLICIES
- FORGETTING SUCCESSOR BENEFICIARY
- NAMING MINORS DIRECTLY
- HAVING INCONSISTENT DESIGNATIONS;


LAST WILL AND TESTAMENT
I LEFT EVERYTHING TO MY CHILDREN IN MY WILL!
ACTUALLY, I'M GOING TO THE BENEFICIARY YOU NAMED ON THE ACCOUNT.
BANK ACCOUNT

A TRUST CAN BYPASS THE PROBATE PROCESS

WHAT IS A TRUST?



A legal document where you arrange to put certain assets under someone's control to manage for the benefit of someone else, according to your instructions.

The Microwave & The Revocable Trust

Most of us use only a few buttons on the microwave.

The rest are there just in case—but when you need to reheat your food, you usually press the same familiar buttons.

A Trust is similar.

It can have plenty of bells, whistles, and sophisticated features, but the main goal is simple:

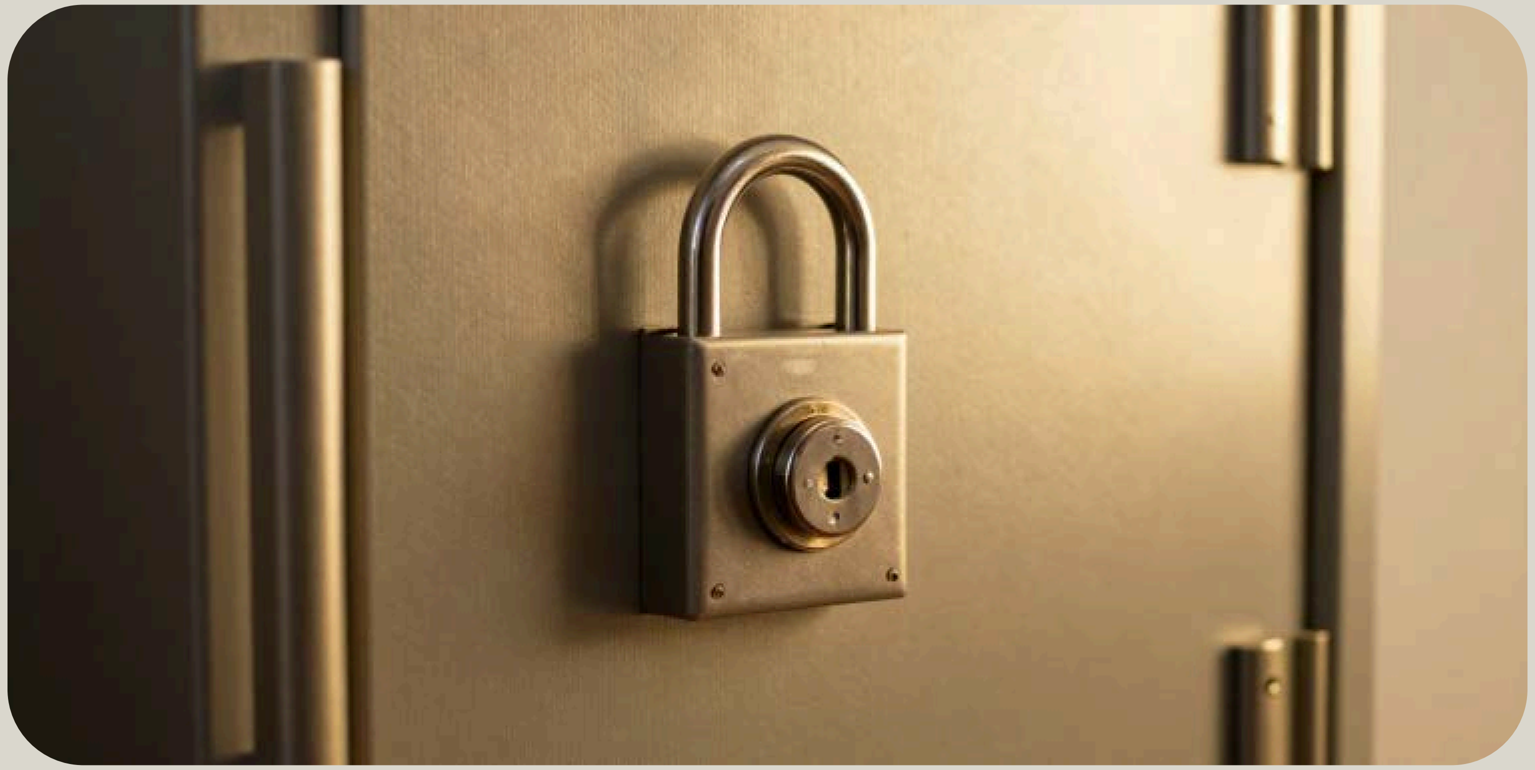
KEEP YOUR ASSETS OUT OF PROBATE.
THE FEATURES MATTER—BUT THE PURPOSE MATTERS MORE.

REVOCABLE TRUST (LIVING TRUST)

A trust that can be changed or canceled by the person who created it.

You keep full control. You can change, update, or cancel it at any time during your lifetime.

IRREVOCABLE TRUST (MAPT)



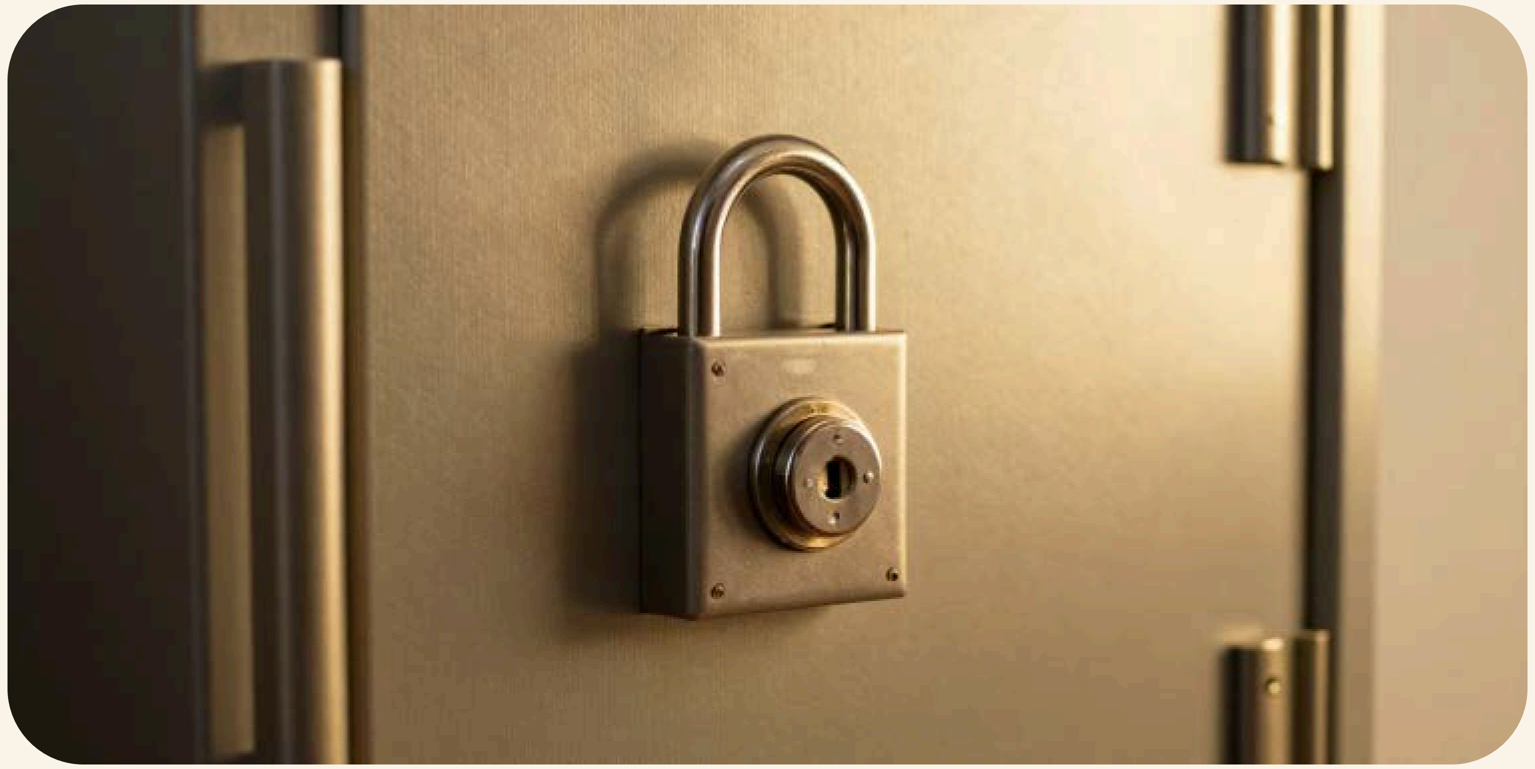
A trust that generally cannot be changed or canceled once it is created.

Once created, you give up control. It cannot be easily changed or revoked — but offers stronger protections.

TYPES OF TRUSTS

Revocable Trust

✓ Avoids probate
✓ You remain in control of assets
✓ Can be modified as life changes
✗ Does NOT protect from creditors
✗ Assets can still be taxed.



Irrevocable Trust

✓ Avoids probate
✓ Protects assets from creditors
✓ Can reduce estate taxes
✓ Shields assets for Medicaid planning
✗ You give away control of assets
✗ Difficult to modify once established

WHEN SHOULD YOU PASS ON CREATING A TRUST?

- You don’t have significant assets that need to be placed in a trust.
- You’d rather avoid the cost of setting up and time maintaining a trust.
- You’re comfortable with your estate going through probate.
- Keeping your estate matters private isn’t a major concern.
- You already have a durable power of attorney to handle your financial affairs if you become unable to do so.
- You prefer to keep your estate plan as simple as possible.

HAVING A JOINT ACCOUNT IS NOT AN ESTATE PLAN

It Doesn't Cover the Rest of Your Estate Plan

It doesn't name guardians or handle other wishes. A joint account cannot address things like who manages your estate, guardianship of minor children, or how other assets should be distributed.

The Money May Go Directly to Your Child

Your child may get the money automatically. Depending on how the account is set up, the money may pass directly to your child when you die, regardless of what your Will says.

It Can Create Family Conflicts

It can create family issues. Other children or family members may feel the money was supposed to be divided differently.

Your Child Has Access While You're Alive

Your child may have access while you're alive. As a joint owner, they may be able to withdraw or use the money during your lifetime.

It Only Covers One Account

It doesn't cover everything. A joint bank account only deals with that specific account—not your other assets.

Different Ways to Pay for Long Term Care

1. Private Pay
2. Long Term Care Insurance
3. Medicaid Planning
4. Wait and See

Common Mistakes

Keep Beneficiaries Up to Date — Don’t let outdated beneficiary designations send your assets somewhere you never intended.

Plan for Incapacity — Have a plan in place for who can step in and make important decisions if you’re unable to.

Don’t Keep Your Plan a Secret — Make sure the people who may need to help you **know your wishes and where to find your documents**.

Plan Ahead for Aging at Home — Think early about the care, support, and resources you may need to remain safely at home.

Talk to an Elder Law Attorney Early — Before arranging in-home care or paying for nursing home care, understand your options and how those decisions may affect your future.

Think Twice Before Adding Children to Accounts or Property — Adding a child outright can have unintended legal, financial, tax, or family consequences.

Don’t Overlook Safe Deposit Boxes — Make sure you have a plan to properly access, manage, and close safe deposit boxes belonging to you or your family.


"My children know what I want."
MY WISHES
Take care of each other
Family home
My values
My legacy
"We talked about it."
"It's all going to be fine."
Peace of Mind
LATER...
I thought YOU were getting the house!
Mom said I should make all the decisions!
Why does HE get the inheritance?
WHAT DID MOM ACTUALLY WANT?!

Burial Disposition Form

Designates the person you want to have authority to make decisions about your Funeral Arrangements.

You can also write down your wishes on what kind of arrangments you prefer

Pre-Plan Funeral

Making decisions and writing down specific details about your funeral ahead of time.

Pre-Need Funeral

A pre-need funeral goes a step further by arranging—and often paying for—those services in advance.

FREE THINGS TO DO RIGHT NOW!!

Know What You Own — Create one simple list of your assets, including the asset name, owner, and beneficiary.

Review Your Beneficiaries — Check who is listed and make changes where needed.

Start the Conversation — Help your loved ones understand their plans, wishes, and important decisions before they're needed.

Gather Important Documents — Collect everything needed to apply for Medicaid and keep it organized in one folder for your loved ones.

Build Your Team — Choose the people you trust, and talk with your family about your wishes early and often.

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THANK YOU!