

# Estate Planning: Guardianship & Conservatorship

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# Suggested Documents

- Will
- Durable Power of Attorney
- Health Care Proxy
- HIPAA Release
- Revocable Trust
- Guardianship nomination

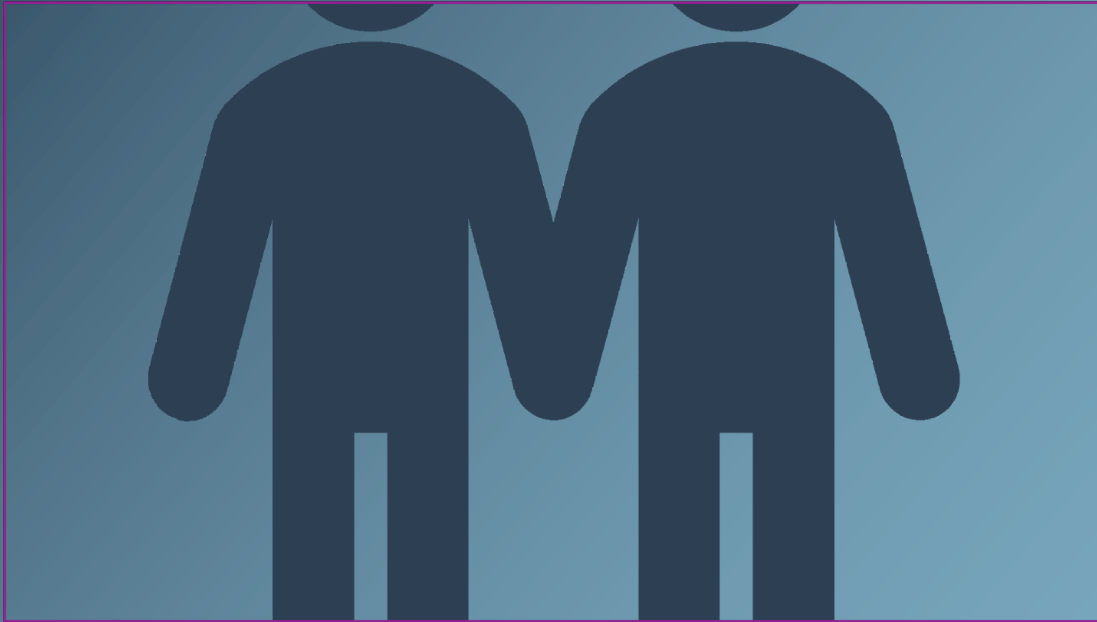
## CHECKLIST



# Planning for Financial Management

## Durable Power of Attorney

- Appoints agent to act for you in the event of incapacity
- Most important estate planning document



# Planning for Financial Management

## Revocable Living Trust

- Legal document that governs how property will be managed
- Grantor, Beneficiary, Trustee
- Stronger than POA, some financial institutions don't honor POAs



# Planning for Financial Management

## **Revocable Living Trust (continued)**

- Avoids probate (if you transfer assets into it)
- Avoids conservatorship (the conservator is not responsible for money held in the trust)
- Manage assets for minors
- Designate successor trustees



# Planning for Financial Management

## Joint Account

If client has only one adult child, a joint account may be sufficient (several children each with a joint account gets cumbersome to manage and is not a good planning tool).



## Medical Decision Making and Medical Directive

Health Care Proxy—Names a trusted person to make health care decisions in case the principal is unable to make or communicate medical decisions

Difference between Health Care Proxy, Medical Directive and Living Will



## Medical Orders for Life-Sustaining Treatment

Patients with a serious illness and their medical providers complete the form that translates the patient's wishes regarding medical care to standing medical orders.





# Alternatives

What if the patient has done nothing  
in advance?



What is  
Guardianship?

What is  
Conservatorship?

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Guardianship and conservatorship – a legal relationship whereby the Probate Court gives one person the power to make personal or financial decisions for another.

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A **guardian** is appointed for personal and medical decisions.

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A **conservator** is appointed for financial decisions.


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# Guardianship Nomination

- Is there a co-guardian?
- Execute will and guardianship nomination
- Execute a living guardianship nomination
  - Role: Medical treatment decisions, Housing decisions, Day-to-day decisions, Education





# What are the Responsibilities of the Guardian?

- Medical treatment decisions
- Housing decisions
- Day-to-day decisions
- File annual guardianship reports with the Probate Court



# What are the Responsibilities of the Conservator?

- File an inventory with the court listing the protected person's assets as of the date of appointment.
- File annual accounts detailing all income and expenses.
- Liable for all acts until court allows (approves) the account.



# Limitations and Expansion of Powers

## Guardianship

- Rogers authority (antipsychotic medications)
- Admission to a nursing facility

## Conservatorship

- Real estate transactions
- Estate planning
- Gifting



# Probate Court Process





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# Q & A & THANK YOU

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