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ESTATE PLANNING TERMS

No one likes to think about their death. However, planning ahead can help your family avoid unnecessary complications, delay and expense. This may be done through wills, trusts, joint ownership and life insurance. In addition, modern estate planning also includes "life" planning through powers of attorney and health care proxies. These enable someone else to act for you in the event of your incapacity. Understanding the following terms is the first step towards planning your estate. However, no estate planning steps should be taken without consulting with a qualified professional.

- **Durable Power of Attorney**

Under a power of attorney, you may appoint someone else to act for you when you are unable to do so yourself. The reason may be your mental incapacity or your inability to be somewhere when needed. Traditionally, powers of attorney expired upon the grantor's incapacity. However, "durable" powers of attorney continue until death.

- **Health Care Proxy**

Similar to a power of attorney, through a health care proxy you may appoint someone else to act as your agent -- but for medical, as opposed to financial, decisions. Unlike a power of attorney, the health care proxy does not take effect until your doctor determines that you are incapable of making decisions yourself. Before that decision, your agent may not make any decisions on your behalf. You may include in your proxy a guideline for your agent to use in making decisions. These may include directions to refuse or remove life support in the event you are in a coma or a vegetative state. On the other hand, your instructions may be to use all efforts to keep you alive, no matter the circumstances.

- **Probate**

This is the name for the process in the Probate Court through which the ownership of your assets passes to your heirs. It includes the collection of your assets, the payment of your bills and the distribution of your estate. It only covers what you own outright, not joint property, trust property or life insurance proceeds.

- **Will**

Your will is a legally-binding statement of who will receive your property at your death. It also appoints a legal representative to carry out your wishes. However, the will only covers probate property, not joint property, trust property or life insurance proceeds.

- **Estate Tax**

The estate tax applies to both the probate and non-probate property of the individual who has died. At death, individuals may each give away over 5.49 million (in 2017) free of federal estate taxes at death under the federal rules. Massachusetts has a separate tax on estates which exceed 1 million dollars.

- **Marital Deduction**

Anything passing to the surviving spouse of a decedent is not included in the taxable estate and, consequently, is not subject to taxation. All of the couple's assets are then taxed upon the death of the surviving spouse, unless an estate tax plan has been executed.

- **Trust**

A trust is a legal entity under which one person -- the "trustee" -- holds legal title to property for the benefit of others -- the "beneficiaries". The trustee must follow the rules provided in the trust instrument. An irrevocable trust is one that cannot be changed after it has been created. A revocable trust is one that may be changed or rescinded by the person who created it. Trusts are often used for tax planning, to provide for someone with expertise to manage assets, or to shelter assets to protect them from creditors or for long-term care planning.