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ANNIVERSARY

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WESTCHESTER

NEW YORK CITY

HUDSON VALLEY

CONNECTICUT

T 914 761 1300  
F 914 761 5372  
[cuddyfeder.com](http://cuddyfeder.com)

# Elder Law 101

**Senior Law Day**

Neil T. Rimsky

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# Basic Documents

- Power of Attorney
- Health Care Proxy with HIPAA
- Living Will



# Basic Documents

## Power of Attorney

- Document for managing assets
- Statutory Form Revised as of 6/13/21
- Must be competent to execute
- Primary agent or agents
- Successor agent or agents
- Powers – Standard
- Powers – Modified including possible gifting
- Signed before a notary and two witnesses (notary can be a witness)
- Agents must sign affidavit
- Effective when signed

# Basic Documents

## Health Care Proxy

- Designation of an agent to make health care decisions
- Statutory form is easily recognized
- One agent
- One successor agent at a time
- Should indicate that your agent knows your wishes regarding nutrition and hydration
- Two Witnesses

# Basic Documents

## Living Will – also called a Health Care Declaration

- Sets forth your wishes regarding nutrition and hydration
- No Statutory form
- Recommend at least two witnesses
- Recommend separate document

# Medical Care

- Skilled Care
- Custodial Care



# Skilled Care



- Private Insurance
- Medicare A & B
  - Medicare Supplement
  - Part D
  - Medicare Advantage

# Custodial Care

- Private Pay
- Long Term Care Insurance
- Government Assistance – Medicaid





# Medicaid

- Home Based or Community Care
- Nursing Home or Institutional Care
- Income for individual- **\$884**/month Plus **\$20** disregard
- Resources **\$15,900** for individual
- Countable –
- Non-Countable Resources
  - Primary residence
  - IRA in pay status with regular distributions



# Home Care

- Transfer Penalty and 30 month look back – **although effective, not yet implemented**
- Pooled Income Trust
- Consumer Directed Personal Assistance Program

# Institutional Care

- Transfer Penalty – sixty-month lookback
- Exempt Transfers
  - Spouse
  - Disabled Child – Trust for sole benefit
  - Homestead – and caretaker child
  - Spousal rules
    - Asset \$74,820 - \$130,380
    - Income \$3,259.50
    - Spousal refusal and spousal support suit

# Alternate Levels of Care

- Independent Living
- Assisted Living
- Continuing Care Retirement Community



# New Concepts and Approaches

- Continuing Care Retirement Community
- Naturally Occurring Retirement Communities
- Village Concept
- Telemedicine
- Green House/Small Home Program



# Estate Planning

## Last Will and Testament

- Probate
- New York Law provides flexibility for Testamentary Trusts

## Revocable Lifetime Trust

- Avoid Probate
- New York Law offers no protection for Self or Spouse with a Revocable Trust

# Contact

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**Neil T. Rimsky**

[nrimsky@cuddyfeder.com](mailto:nrimsky@cuddyfeder.com)

914.761.1300