Key Terms:

- **Testator**: one who makes a will
- **Executor**: person you select to handle your estate
- **Guardian**: one legally empowered to care for the person or property of another
- **Probate**: the legal process of verifying your will through the courts
Last Will and Testament:

- Discusses funeral expenses and debts
- Gives specific bequests
- Residuary Clause – who gets everything else
- Guardians/Trustees for minor children
- Executor/Executrix
Why Do I Need a Will?

- Do you have assets?
- Do you have more than one heir that could collect your property?
- Does your bank account have a payable on death provision?
- Do you have minor children/grandchildren?
What Happens if I Die Without a Will?

- You die intestate which means that an administrator has to be appointed by the courts.
- You don’t get to select the administrator.
- The state has written a “will” for anyone who doesn’t do it themselves.
- Property goes to next of kin in order of relationship.
How Can I Attach a List to a Will?

- To hide specific bequests from premature viewers to your will; also easier to change than if the list is in the will

- Legal list – binding or not?

- Incorporation by reference

- If you need to make a change, consider a codicil instead of an entirely new will
Choose the Right Executor/Trustee

- Good common sense
- They will be around to act
- Corporate Trustees
- Co-Executors / Co-Trustees
- Review and Revise
Approach to Guardian

Three Steps

1. Make a list of possible Guardians
2. Consider the factors important to you
   a. Religion / Parenting style / Finances / Involved / other children, etc.
3. Match the Factors to your prospects
What’s the Difference Between a Will and a Living Will?

- Last Will and Testament is not legally binding until after a person has died.
- A Living Will is commonly referred to as the combination of a Power of Attorney and an Advance Medical Directive.
Power of Attorney:

- Allows a person to step in your shoes and do everything and anything you can do
- Can be currently effective or exercisable only upon your disability or incapacitation, although this version creates issues
- Expires upon death
What Do I Do With My Power of Attorney?

- **Never** give out the original!
- Banks, schools, hospitals, lenders, creditors
- Can be recorded in court records
Advance Medical Directive

- Distinguished from a DNR
- Main statement of intent – terminate medical care
- Agent to make decisions on your behalf (medical conditions)
- Distribute to physicians; get into your medical records
Avoiding Probate in Virginia

- Small Estate Procedure
- Transfer-on-death
  - Vehicles
  - Real Estate
  - Stocks and Bonds
- Payable-on-death
  - Bank Accounts
- Joint Ownership
  - Real Estate
- Living Trusts
Trust

A relationship created at the direction of an individual, in which one or more persons hold the individual’s property subject to certain duties to use and protect it for the benefit of others.
Trust

Individuals may control the distribution of their property during their lives or after their deaths through the use of a trust that is a legal agreement used to transfer and distribute property and income to beneficiaries.
A trust agreement requires three parties:

1. The settlor - the Trust creator (person who transfers property into the trust)
2. The trustee (manages and distributes the principal and/or income of the trust)
3. The beneficiary (receives the principal and/or income of the trust)
Types of Trusts

- Intervivos Trust
- Revocable Trust
- Irrevocable Trust
- Charitable Trust
Benefits of a Trust

- Avoid Probate
- Maintain Control
- More Efficient
- Private
- Less Expensive
- Low Maintenance
- Effective Pre-Nuptial Planning
- Tailored to Your Legacy
Important Tips

- Notarize all your estate documents
- Initial each page
- Avoid pre-written wills
- Keep originals in a safe deposit box, dresser, Bible or somewhere near all other important documents
Contact Information

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Areas of Practice

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