FINANCIAL PLANNING TOOLS

1. POWER OF ATTORNEY

A power of attorney is a written document which allows you to transfer legal authority to another person who is called an "agent" or an "attorney in fact" (the person doesn't have to be a lawyer) to act on your behalf. You make specific choices about the areas in which you would like your agent to act. For example, you could give the person the authority to do your banking or to sell a piece of property or both. The agent cannot operate outside the scope of the authority that you have delegated. You have the legal right to stop an agent who acts against your wishes or who operates outside the scope of authority that you have delegated. Since your agent cannot act without your instructions, if for any reason you become unable to instruct your agent, the power of attorney ceases to exist and the agent is no longer allowed to act for you. You can revoke the power of attorney at any time.

2. DURABLE POWER OF ATTORNEY

You might want your power of attorney to continue to operate even if you can no longer give your agent directions. For example, you might want your agent to pay your rent and other bills for you if you become incapacitated. You can do this with the durable power of attorney. A durable power of attorney allows your designated agent to continue to carry on your business even if you become incapacitated. A durable power of attorney must be in writing. It can be drafted so that it either continues to remain in effect if you become incapacitated or so that it only takes effect if you become incapacitated. The person who you name as your agent is the person who makes the decision about whether you have become incapacitated. If you disagree with that determination you can challenge the agent, however it is best to pick someone as a agent whose judgment you really trust.

NOTE: Effective September 1, 2009, New York State has revamped its Power of Attorney law. Among the changes are:

- Your agents (the people who will act for you) must have their signatures
notarized before the Power of Attorney can be used.

- Unless otherwise indicated, the new Power of Attorney automatically revokes all prior Powers of Attorney.
- The authorization of your agents to make gifts, either to themselves or others, must be done on an additional Major Gifts Rider.
- You can designate a Monitor to oversee the actions of your agent(s) under the Power of Attorney.

You should consult an attorney before signing a Power of Attorney.

3. JOINT BANK ACCOUNTS

Creating a joint bank account is another way of picking someone to help you with your financial responsibilities. When you hold a bank account jointly with someone else both of you can make deposits and withdraw money from the account. This means that another person could make deposits and pay your bills for you. You must be very, very careful to pick someone that you trust completely if you set up a joint bank account. This person will have the legal right to withdraw any amount of money from your account at any time. You should also be careful about setting up a joint bank account if you receive Medicaid or SSI (or think you might in the near future) because the account might affect your eligibility in these programs. You will want to consult with someone who knows about these entitlement programs before opening a joint account.

HEALTH PLANNING TOOLS

1. HEALTH CARE PROXY

A health care proxy is very much like a durable power of attorney except it allows the agent or "proxy" to make medical decisions on your behalf, instead of financial decisions. A health care proxy is a written document which delegates the legal authority to a person of your choosing to "step into your shoes" and to make medical decisions for you if you are temporarily or permanently unable to make decisions for yourself. A proxy will not be able to make decisions for you about "nutrition" (receiving food) or "hydration" (receiving water) unless you specifically spell out your wishes in these areas. The health care proxy must be in writing and
signed, dated and witnessed. Your attending physician determines when you are unable to make medical decisions for yourself. The doctor must put his determination in writing in your medical file before the proxy can make decisions for you. You can change or revoke your health care proxy at any time or you specify that it expires after a certain date or event.

2. LIVING WILLS

A living will is a written document which expresses your wishes with respect to certain kinds of medical treatment in the event of a terminal or chronic illness. The living will only takes effect if you become unable to make decisions for yourself. It can cover your views on "nutrition" (feeding) and "hydration" (water), pain medication, and on life-prolonging machines, such as respirators. A living will can express your wishes in continuing to receive treatment, as well as discontinuing treatment. You should always consult with your doctor about these decisions before signing a living will. Since living wills involve very personal decisions which are influenced by your own religious and moral beliefs you may also want to consult with family, friends and clergy.

TESTAMENTARY INSTRUMENTS

1. LAST WILL AND TESTAMENT

A last will and testament is a written document which indicates your personal desires for handling your estate after your death. For example, it can name the person who you want to handle your affairs, it can designate who you want to receive your personal possessions, it can explain how you would like your burial arrangements to be carried out, and it can indicate charities or persons to whom you would like to receive your assets. A will must be "executed" in a very formal way in order for it to be valid. It must be in writing, and it must be witnessed and signed. You can change your will at any time, but the changes must be done with the same formal ceremony as if it was a new will. You can also make additions to a will in a separate document called a codicil. A codicil must be executed with the same formalities as a will. You can revoke a will completely at any time.

2. “IN-TRUST FOR” FOR BANK ACCOUNT
A bank account, clearly labeled in trust for (name of person) will pass to the named person at the death of the account owner. The named person has no rights to the funds in the account until the death of the owner. The named person must bring the owner’s death certificate to the bank to establish ownership; the bank may require additional documentation or a tax waiver.

3. INSURANCE POLICIES/ IRA’S/ 401K’S/ PENSIONS

All these accounts require one to name a beneficiary. The beneficiary receives the proceeds from the policy/account at the death of the account owner. The account owner can change the beneficiary by contacting the issuer of the policy/account to obtain a change of beneficiary form.