Wills & Powers of Attorney Fact Sheet

Continuing Power of Attorney for Property

- ✓ A Continuing Power of Attorney for Property is a legal document which gives someone else (attorney) the authority to make decisions about their finances (pay bills, access bank accounts, sell real estate, spending, do tax returns, safeguard valuables, or take out loans).
- ✓ This document allows you to select a person to help you manage your finances if you become unable to manage them. It can also be used for a limited time (if you are out of the country for a period of time).
- ✓ Property includes your money, your home, and anything else you own.
- ✓ Unless specified in the document, an attorney can do almost anything with your property that you could do.
- ✓ However, an attorney **cannot** make personal care decisions, make or change a Will or select a new attorney.

Power of Attorney for Personal Care

- ✓ A Power of Attorney for Personal Care is a legal document in which one person gives another person the authority to make personal care decisions on their behalf ONLY if they become mentally incapable. Personal care includes: health care, nutrition, shelter, clothing, hygiene and safety.

When does a Power of Attorney end?

- ✓ A Continuing Power of Attorney for Property and Power of Attorney for Personal Care ends:
  - Upon death
  - If the attorney dies, becomes incapable, resigns, unless another attorney or substitute was named
  - When a court appoints a Guardian of Property for you
  - When a new Continuing Power of Attorney for Property is created
  - When one revokes the Power of Attorney

The Legal Clinic
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Mental Capacity

- ✓ Mental capacity test: the individual must have the ability to understand relevant information for making decisions and must show the ability to appreciate the consequences of a decision or lack of decision.

Wills

- ✓ A Will is required to declare how a person wishes to have his/her assets divided upon death. An Executor must be named to do so.

- ✓ An Executor's first obligation is to pay creditors.

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