

GLOSSARY

Durable Power of Attorney: The document in which you appoint an agent (also called an Attorney-in-Fact) to take care of your financial affairs for you should you become disabled. This person acts in a **fiduciary** capacity. The Durable Power of Attorney (also called a Financial Power of Attorney) becomes ineffective upon your death and can no longer be used.

Fiduciary: A person or entity with the power and obligation to act in the best interest of another under circumstances which require total trust, good faith and honesty.

Health Care Power of Attorney: The document in which you appoint an agent to make medical decisions on your behalf should you become disabled. This person acts in a **fiduciary** capacity. The Health Care Power of Attorney (also called a Medical Power of Attorney) becomes ineffective upon your death and can no longer be used.

HEMS: Acronym for "Health, Education, Maintenance and Support." An IRS term. The common standard by which a **Trustee** can make distributions from a trust. For practical purposes, this distribution standard means your Trustee can make distributions to the named beneficiary in a manner that keeps the beneficiary in a comfortable standard of living. But the Trustee also has the right to say "no" to a request for a distribution. This ability of the Trustee to say no is what protects the trust assets from creditors.

HIPAA: The Health Insurance Portability and Accountability Act, a law passed by Congress in 1996. For our purposes, the HIPAA document lists the people who may receive information about your medical condition from health care providers.

HIPAA Agents: The list of people who may receive information about your medical condition from health care providers. Although the term "Agent" is used in the Act, it is misleading. The "agents" listed *are not decision makers* and have no authority under this document to make decisions on your behalf. They are simply qualified to receive medical information.

Living Will: The document that states your intentions regarding end-of life decisions and whether you want to be kept on life support. Sometimes called an Advanced Health Care Directive.

Personal Representative: The person nominated in your Will to go through the probate process on your behalf. Synonymous with the term "Executor." As long as your trust remains properly funded, your named Personal Representative will not have to probate your Will.

Successor Trustee: The person listed to take over for the currently acting **Trustee** should the currently acting Trustee become unable or unwilling to act.

Trustee: The person or corporate entity in charge of managing your trust assets. During your lifetime and while you are well, the Trustee will normally be you and if you are married, your spouse.

Trust Protector: The person charged with making certain changes to your trust should you become unable, namely: (1) amend your trust agreement to make sure it is in compliance with current law, (2) correct ambiguities (ex: different address of a named **fiduciary**, last name change of daughter, etc.), and (3) remove a Trustee who is not acting in the best interest of a beneficiary.