

Practice Areas

Estate & Incapacity Planning

- ◆ Last Will & Testament
- ◆ Living Will
- ◆ Designation of Healthcare Surrogate
- ◆ Durable Power of Attorney
- ◆ Revocable Trust
- ◆ Quit Claim Deed
- ◆ Probate & Trust Administration

Emergency & Advocacy Services

- ◆ Emergency & Standard Guardianships
- ◆ Long Term Care Facility Resident's Rights
- ◆ Medicaid Applications & Appeals
- ◆ Representation of Special Needs Trust's Trustees

Special Needs Planning

- ◆ Guardianship
- ◆ Guardian Advocacy
- ◆ Special Needs Trusts
- ◆ Pooled Trusts
- ◆ Estate Planning for People with Special Needs

- ◆ Government Benefits Eligibility Counseling

Government Assistance

- ◆ Protecting Lawsuit Proceeds & Inheritances While Preserving Medicaid & SSI Eligibility
- ◆ Exceptions to Medicaid Lien Recovery
- ◆ Veterans Benefits Eligibility Counseling

Our firm takes a holistic approach to providing excellent elder law services to clients of all ages.

We accomplish this by :

- ◆ Empowering our clients to make deliberate decisions that result in the client's peace of mind.
- ◆ Providing expert guidance to co-create the solutions that fulfill the client's needs.
- ◆ Committing ourselves to the client's well-being.



Stephanie Schneider is the former Chair of The Florida Bar Elder Law Section. She was Certified as an Elder Law Attorney by the National Elder Law Foundation October 1997 and by The Florida Bar Elder Law Section June 1998.

Board Certification assures the public the attorney has substantial experience and has demonstrated special knowledge, skills and proficiency in certified areas of practice and professionalism and ethics in the practice of law.

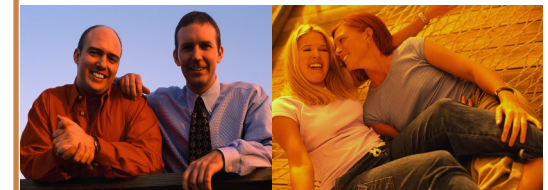
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LGBT & Domestic Partner Estate & Long Term Care Planning



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Estate & Long Term Care Planning: When it comes to your future will you be ready?

The 2010 Census reported that there were 6.3 million LGBTQ and heterosexual domestic partners living in Florida alone.

On June 26, 2013, the U.S. Supreme Court ruled in Windsor that section 3 of the Defense of Marriage Act (DOMA) creates unequal treatment of individuals based on sexual orientation and is unconstitutional. This decision marked the beginning of providing some rights under federal law to *married* LGBTQ couples. In June, 2015 The U.S. Supreme Court ruled in Obergefell that state laws that prohibit same-sex marriages are invalid. LGBTQ married couples now receive the same *federal* benefits and rights as heterosexual married couples regardless of the state of residence. These rights include:

- ◇ Income, estate & gift tax credits and exemptions
- ◇ Health, life & long term care insurance for spouses and children of federal employees
- ◇ Benefits for spouses of active military personnel
- ◇ Designating the spouse as beneficiary on an ERISA plan
- ◇ No deduction of income taxes on the portion of an employee's salary that pays for a spouse's health insurance premium under an employer sponsored plan.
- ◇ Foreigners in a same-sex marriage with a U.S. citizen can obtain a permanent resident visa.

If an LGBTQ couple chooses to register as domestic partners with a city, county or state registry, and not get married, it is not enough. LGBTQ couples who are married or not married must plan ahead.

While more same-sex partner households are having children you may still ask yourself, "Who is going to take care of me as I age?" or, "Will my partner be allowed to make decisions for me when I am incapacitated?" It is human nature to avoid confronting issues of aging, illness, and mortality. Yet, procrastinating can result in fewer desirable options for resolving those issues. **We educate and empower our clients to make informed decisions to create the future they envision.**

What unique issues should we consult with you about as domestic partners or, same-sex married couples?

Real Estate: If partners have shared in the purchase and maintenance of the home but the deed does not reflect joint ownership, the surviving partner's rights to the home may be compromised. Legal options exist that provide the surviving partner with either an ownership interest or, a legally enforceable right to live in the home, after the owner dies. If both partners have an ownership interest in real estate as joint tenants with rights of survivorship and have filed for homestead, the survivor can limit the increase in future tax bills.

Inheritance: Florida law does not provide domestic partners with inheritance rights. To ensure that your partner will inherit your assets create a comprehensive estate plan.

Benefits for Children: Both same-sex parents' names can now be listed on a birth certificate. This legalizes the relationship between them and the children of the relationship. It can have many benefits such as inheritance rights for the children, and social security survivor or disability benefits based on the second parent's work record.

Health Insurance: Each partner should ask their employer whether the company provides health insurance benefits for domestic or same-sex partners. The employer may require you to complete either an Affidavit of Relationship Status or, Domestic Partner Affidavit. By having primary coverage through your employer and secondary coverage through your partner's plan you can be dually eligible for more comprehensive healthcare coverage.

Keeping your own insurance is important in the event that your partner's employment is terminated or your partner's employer goes out of business. If your partner's employment is terminated, only the employee, the employee's spouse and dependent child are eligible for continued health insurance coverage under COBRA.

If long term care insurance is available through employment, consider purchasing it because you will be part of a group underwriting requirement. This means you will not be denied coverage if you have had or have an illness.

Some insurance companies are writing private policies for domestic partners. We suggest you check with your insurance agent or contact us regarding this option.

Partnership Agreement: Consider creating a written agreement that addresses disposition of assets in the event you and your partner decide to end the relationship, and the responsibilities of each partner. It is helpful when this is done simultaneously with estate planning.

What Legal Documents Should We Have?

The plan you create should be tailored to meet your particular needs and goals. We recommend documents that will create an estate plan and long-term care plan to maintain your privacy and avoid guardianship.

Delegate legal authority to your spouse or, partner as the **Designated Health Care Surrogate** to make your medical decisions if you are incapacitated.

Delegate legal authority to your spouse or, partner under a **Durable Power of Attorney** to make your financial decisions if you are incapacitated.

Share your preferences for end-of-life care in a **Living Will** (provision, withholding, or withdrawal of life-prolonging procedures if you are diagnosed with a terminal condition where there is no medical probability of recovery or cure).

Create a **Last Will & Testament** or, **Revocable Trust** to ensure that your spouse or, partner will inherit the portion of your estate that you desire.

If you are concerned that your family may contest your partner being named in your Durable Power of Attorney or Designation of Health Care Surrogate, designate your spouse or, partner as your guardian in a **Declaration of Preneed Guardian**.

Designate your spouse or partner as the person to make your funeral related decisions. In a **Declaration of Designee for Funeral Arrangements**.