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New Hampshire Estate Planning Questionnaire Packet

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New Hampshire Estate Planning Questionnaire Packet

Simple Will | Revocable Trust | Pot Trust | Special Trust Planning | Durable Power of Attorney | Advance Directive / Living Will

Client Name(s)	*Write full legal name(s).* _____ _____
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Purpose of this packet
This packet helps clients organize estate planning information before meeting with counsel. It explains common options in plain language, but it is not a substitute for legal advice. Final documents should be drafted and reviewed by an attorney based on the client's facts, assets, family circumstances, and tax/public-benefit issues.

Complete what you know. Use "unknown," "not sure," or "discuss with attorney" where appropriate. Attach extra pages if needed.

1. Start Here - Which Documents May Be Needed?

Updated sections include pot trust planning, trust tax issue-spotting, home-transfer warnings, and Medicaid/long-term-care asset-protection review.

Document / Planning Tool	What it generally does	Client decision points
Simple Will	Directs who receives probate property, names a personal representative, and can name guardians/trustees for minor children.	Who receives property? Who serves as personal representative? Are there minor children, blended-family issues, or disinheritance concerns?
Pour-Over Will	Works with a revocable trust by directing any probate property into the trust at death.	Is a revocable trust being used? Has the client funded assets into the trust?
Revocable Living Trust	A lifetime trust the settlor can usually amend or revoke. Often used for probate avoidance, privacy, incapacity management, and coordinated trust distribution.	Who serves as trustee/successor trustee? Which assets will be retitled or assigned to the trust? What distribution rules apply after death?
Durable Financial Power of Attorney	Allows an agent to handle financial/legal matters during the principal's lifetime. It can be effective immediately or upon a future event if drafted that way.	Who is trustworthy enough to manage property, accounts, taxes, benefits, and legal paperwork? Should gifting/trust/beneficiary powers be limited?
Advance Directive / Health Care POA / Living Will	Names a health care agent and states end-of-life treatment preferences if the client lacks capacity.	Who can make medical decisions? What care should or should not be continued in terminal or permanently unconscious conditions?
Irrevocable / Advanced Trust	May be used for tax, insurance, asset protection, public benefits, long-term care, charitable, business succession, or wealth-transfer planning.	Client must understand control, tax, creditor, Medicaid, and administrative consequences before using advanced trusts.
Pot Trust / Common Trust for Children	A distribution design, not a separate stand-alone trust category. One combined trust fund is held for multiple children or young beneficiaries, usually until the youngest reaches a selected age or milestone.	Should one common fund be used for all children, allowing unequal spending based on need, or should each child have a separate share immediately? Who is trusted to make those judgment calls?
Medicaid / Long-Term Care Asset-Protection Trust	Usually an irrevocable trust used to explore whether a home or other assets may be protected from long-term-care spend-down after the applicable look-back period.	This requires elder-law/tax review. A revocable trust generally does not protect assets. Transfers can affect Medicaid eligibility, taxes, title, mortgage rights, refinancing, property-tax exemptions, and control of the home.

Packet design recommendation
The explanations are embedded directly in the questionnaire. That usually works better than a separate pamphlet because clients see the decision note immediately before the question they need to answer.

2. Client and Family Information

Question / Topic	Client Response / Attorney Notes
Full legal name	*Include middle name, suffix, and any prior names used on deeds, accounts, or beneficiary forms.*
Preferred name / pronouns	*Optional. Used only for communication and drafting clarity.*
Date of birth	*Month/day/year.*
Citizenship	*United States citizen? If not, identify citizenship and immigration status if relevant to property/tax planning.*
Residential address	*Street, city/town, county, state, ZIP. Identify whether this is homestead/primary residence.*
Mailing address	*Complete only if different from residential address.*
Phone / email	*Preferred contact method and any privacy concerns.*
Marital status	*Single, married, civil union, separated, divorced, widowed, engaged/partnered, other. Identify spouse/partner name.*
Prior marriages / divorce obligations	*Identify divorce decrees, QDROs, support orders, property settlements, life insurance obligations, or beneficiary promises.*

Question / Topic	Client Response / Attorney Notes
Children	*List all biological, adopted, afterborn, deceased, minor, adult, estranged, disabled, stepchildren, and children from prior relationships.*
Other dependents	*Parents, siblings, grandchildren, disabled adults, or others financially dependent on client.*
Family concerns	*Blended family, estrangement, addiction, creditor issues, divorce risk, spendthrift issues, special needs, minor beneficiaries, immigration, or out-of-country beneficiaries.*

3. Asset, Debt, and Beneficiary Designation Inventory

Why this matters
A will usually controls probate property only. Many assets pass by deed, joint ownership, beneficiary designation, payable-on-death designation, transfer-on-death registration, trust ownership, or contract. Accurate planning requires knowing both title and beneficiary designations.

Question / Topic	Client Response / Attorney Notes
Real estate	*Address, owner(s), type of ownership, mortgage, estimated value, homestead status, out-of-state property, timeshare, camp, land, or business property.*

Question / Topic	Client Response / Attorney Notes
Bank / credit union accounts	*Institution, owner(s), approximate balance, POD/TOD beneficiaries, and whether account should be used for estate expenses.*
Retirement accounts	*401(k), 403(b), IRA, Roth IRA, pension, TSP, military retirement. List beneficiaries and whether spouse consent is required.*
Life insurance	*Company, policy type, owner, insured, death benefit, cash value, beneficiaries, and any obligation to maintain coverage.*
Vehicles / boats / trailers	*Year/make/model, owner, loan status, special instructions.*
Business interests	*LLC/corporation/partnership/sole proprietorship, operating agreement, buy-sell terms, valuation, succession plan.*
Digital assets	*Password manager, crypto, online financial accounts, social media, domain names, cloud storage, photos, email, electronic communications.*

Question / Topic	Client Response / Attorney Notes
Personal property	*Jewelry, firearms, collections, tools, equipment, sentimental items, pets, household goods, heirlooms.* _____ _____ _____ _____ _____
Debts / liabilities	*Mortgages, credit cards, student loans, taxes, personal guarantees, litigation, support obligations, medical debt.* _____ _____ _____ _____ _____
Existing estate documents	*Prior wills, codicils, trusts, POAs, advance directives, beneficiary forms, prenuptial/postnuptial agreements, divorce orders.* _____ _____ _____ _____ _____

4. Distribution Language Primer - Per Stirpes vs. Per Capita at Each Generation

Why clients should decide this
Distribution language controls what happens if a beneficiary dies before the client. The difference matters most when one or more children have died and left descendants. The client should choose the default rule intentionally rather than relying on boilerplate.

Option	Plain-language meaning	Example result
Per stirpes / by representation	Each family branch receives the share that branch would have received if the deceased person in that branch had survived. It protects branch equality.	Client has children A, B, and C. A is living. B died leaving two children. C died leaving one child. A receives 1/3. B's two children split B's 1/3, so each receives 1/6. C's child receives C's 1/3.
Per capita at each generation	At the first generation with a living taker, living members take equal shares. The shares of deceased members at that generation are pooled and divided equally among descendants at the next generation.	Using the same facts, A receives 1/3. The remaining 2/3 is pooled and divided equally among the three grandchildren, so each grandchild receives 2/9.
Equal shares to named beneficiaries only	Only the people named receive a share. A deceased named beneficiary's descendants do not automatically take unless the document says so.	If B dies before the client and the document does not provide a substitute gift, B's share may lapse or pass under a residuary/contingent clause.

Question / Topic	Client Response / Attorney Notes
Default descendant distribution rule	*Choose one: [ ] per stirpes/by representation [ ] per capita at each generation [ ] equal shares to named beneficiaries only [ ] discuss with attorney*
If a child dies before client	*Should that child's descendants receive the child's share? Any exceptions?*
Adopted children	*Should adopted children be treated the same as biological descendants? Usually yes, but note any special concerns.*
Stepchildren / foster children	*Should any stepchild or foster child be included? If yes, identify by full legal name and whether inclusion applies only to that person or to their descendants.*
Afterborn children	*Should future-born or future-adopted children be included automatically?*
Contingent takers	*If no spouse, children, descendants, or named beneficiary survives, who receives the estate?*

5. Simple Will Questionnaire

Core will decisions
- A will can nominate a personal representative, nominate guardians for minor children, make specific gifts, and direct the residue of the probate estate.
- A will generally does not override beneficiary designations, joint tenancy, payable-on-death accounts, or assets already owned by a trust.
- A trust may still need a pour-over will to catch assets not transferred during life.

Question / Topic	Client Response / Attorney Notes
Primary personal representative / executor	*Full legal name, relationship, address, phone/email. Choose someone organized, trustworthy, and available.* _____ _____ _____ _____ _____
Alternate personal representative(s)	*List in order of preference.* _____ _____ _____ _____ _____
Bond	*Should bond be waived if legally permitted? [ ] Yes [ ] No [ ] Discuss* _____ _____ _____
Specific gifts of property	*Item, recipient, alternate recipient, and whether gift is sentimental, high-value, or must be appraised.* _____ _____ _____ _____ _____ _____ _____
Specific cash gifts	*Amount, recipient, alternate recipient, and whether gift is payable only if estate has sufficient liquid assets.* _____ _____ _____ _____ _____
Residue of estate	*Who receives everything not specifically gifted? Percentages must total 100%. Include alternates.* _____ _____ _____ _____ _____ _____ _____

Question / Topic	Client Response / Attorney Notes
Minor beneficiary trust terms	*At what ages should minors receive funds? Common options: staggered distributions at 25/30/35, trustee discretion for health/education/support, or continuing trust.*
Guardian for minor children	*Full name, relationship, address, and why this person is appropriate. Include alternates.*
Guardian concerns	*Who should not serve as guardian? Are there custody, relocation, school, religion, special needs, or family-conflict issues?*
Pet care	*Pet names, caregiver, funds for care, veterinary instructions, end-of-life wishes.*
Funeral / burial / cremation wishes	*Optional. Identify preferences, prepaid arrangements, cemetery plot, military honors, organ donation, memorial instructions.*
Disinheritance / unequal treatment	*Identify anyone intentionally omitted or receiving less than others. Explain reason to discuss drafting strategy and contest risk.*

Question / Topic	Client Response / Attorney Notes
No-contest clause	*Discuss whether client wants a clause discouraging contests, recognizing enforceability and strategy should be reviewed by counsel.* _____ _____ _____ _____
Pot trust / common trust for children	If assets are left for more than one minor child or young beneficiary, choose one: [ ] one combined pot/common trust [ ] separate shares immediately [ ] unsure/discuss. State the age or event when the pot trust should end, such as youngest child age 21, 25, 30, completion of education, or other milestone. Identify whether trustee may spend unequal amounts based on health, education, maintenance, support, disability, housing, emergencies, or other needs. _____ _____ _____ _____
Separate shares vs. common pot	If separate shares are preferred, state whether each share should be equal, percentage-based, or adjusted for prior gifts/education expenses. If a common pot is preferred, state whether the trustee should try to be equal over time or may prioritize need over strict equality. _____ _____ _____

6. Trust Planning Guide - Common Trust Options

Revocable vs. irrevocable - practical distinction
A revocable trust is usually controlled by the client during life and can normally be changed or revoked. It is commonly used for privacy, probate avoidance, incapacity management, and smoother administration. An irrevocable trust usually requires the client to give up or restrict control. Irrevocable trusts may support tax, insurance, asset-protection, public-benefit, charitable, or long-term-care planning, but require separate analysis before use.

Trust type	Typical use	Key impact / issue to discuss
Revocable Living Trust	Probate avoidance, privacy, incapacity management, coordinated distribution, out-of-state real estate.	Not usually a creditor, Medicaid, or estate-tax shield while revocable. Must be funded to work well.
Pour-Over Trust Plan	Will pours remaining probate assets into revocable trust at death.	Still may require probate for assets not transferred to trust or otherwise passing outside probate.
Testamentary Trust	Trust created under a will after death, often for minors or staged inheritance.	Does not avoid probate; useful when lifetime trust funding is unnecessary.

Trust type	Typical use	Key impact / issue to discuss
Minor's Trust	Holds property for minor children or grandchildren until stated ages.	Client chooses trustee, distribution standards, age milestones, education/health support, and remainder beneficiaries.
Spendthrift / Discretionary Trust	Beneficiary has creditor, divorce, addiction, immaturity, or money-management risk.	Trustee discretion and spendthrift terms can protect funds but reduce beneficiary control.
Special Needs / Supplemental Needs Trust	Supports a disabled beneficiary without unintentionally disrupting needs-based public benefits.	Must be drafted carefully. First-party and third-party trusts have different payback and funding rules.
Irrevocable Trust	Tax planning, asset protection, gifting, long-term care, family wealth transfer, business succession, or restricted-control planning.	Client may lose control/access. Tax, creditor, Medicaid, and administration issues must be reviewed before signing.
Irrevocable Life Insurance Trust (ILIT)	Trust owns life insurance to support estate liquidity, beneficiary protection, or estate-tax planning.	Requires independent administration, ownership/beneficiary review, premium gift mechanics, and tax advice.
Charitable Trust / Charitable Gift Plan	Charitable intent, income stream planning, tax-sensitive giving, legacy gifts.	Options may include charitable remainder trust, charitable lead trust, donor-advised fund, or direct bequest. Requires tax analysis.
Pet Trust	Provides care funds and caregiver instructions for animals.	Identify caregiver, trustee, budget, remainder beneficiary, and oversight mechanism.
Gun / NFA Trust	Specialized firearm ownership and transfer planning.	Must comply with federal and state firearms law. Use only with firearm-specific review.
Dynasty / Generation-Skipping Trust	Long-term family wealth preservation across generations.	Requires tax planning, trustee structure, state law review, and generation-skipping transfer tax analysis.
Asset Protection / Medicaid Planning Trust	May be considered for creditor protection or long-term-care planning.	Highly fact-specific. Lookback, retained rights, fraudulent-transfer, tax, and public-benefit rules require separate review.
Pot Trust / Common Trust for Children	Minor children, young adult beneficiaries, blended families, education funding, or beneficiaries with unequal needs.	Not a separate tax vehicle. It is a distribution structure inside a will trust, testamentary trust, or revocable living trust. It gives the trustee flexibility to spend unequally while children are young, but requires a highly trusted trustee and clear end date/milestone.
Medicaid Asset Protection Trust / Long-Term Care Trust	Client wants to explore protection of a home or assets if future nursing-home/assisted-living care may require Medicaid/state-funded long-term care.	Usually irrevocable. A revocable trust generally does not protect assets from the client's own creditors, Medicaid eligibility review, or estate recovery. Transfers can trigger a look-back/penalty period and may affect tax deductions, property-tax exemptions, mortgage/refinancing, control, sale authority, and trust bank/account administration.
Home Protection / Residence Trust Planning	Client wants to place a residence into trust but continue living there or preserve it for children/family.	Attorney should review deed/title, homestead/property-tax exemptions, capital-gains exclusion, step-up basis, mortgage due-on-sale/refinance issues, homeowner insurance, right to occupy, sale authority, trustee powers, and Medicaid transfer rules.

Trust type	Typical use	Key impact / issue to discuss
Qualified Personal Residence Trust (QPRT)	Advanced estate/gift tax planning for a residence, usually for higher-net-worth clients, not ordinary Medicaid planning.	Can reduce taxable gift value if properly structured, but client must outlive the retained term and later may need to pay rent to remain in the home. Mortgage payments, deductions, sale, and property-tax consequences require tax review.
Grantor vs. Non-Grantor Irrevocable Trust	Income-tax planning classification for irrevocable trusts.	A grantor trust is generally reported to the settlor for income-tax purposes. A non-grantor trust may file Form 1041 and may reach compressed trust tax brackets. This classification also affects who receives deductions and who pays tax on income.

7. Revocable Trust Questionnaire

Question / Topic	Client Response / Attorney Notes
Do you want a revocable living trust?	*Choose: [ ] Yes [ ] No [ ] Not sure [ ] Only if recommended. Explain goals.*
Primary trust goals	*Check all that apply: [ ] avoid probate [ ] privacy [ ] incapacity management [ ] minor children [ ] blended family [ ] out-of-state real estate [ ] beneficiary protection [ ] business succession [ ] other.*
Settlor / grantor	*Who creates the trust? For married clients, should there be one joint trust or separate trusts?*
Initial trustee	*Usually the client during life. Identify if someone else should serve now.*

Question / Topic	Client Response / Attorney Notes
Successor trustee(s)	*List primary and alternates. Include relationship, contact information, and whether professional trustee is desired.*
Trustee powers / limits	*Any limits on sale of real estate, business assets, firearms, family property, distributions, investment authority, or compensation?*
Trust funding plan	*List assets to retitle/assign to trust: real estate, bank accounts, taxable investments, business interests, personal property, etc.*
Assets intentionally left outside trust	*Retirement accounts, vehicles, checking account, personal property, or assets with beneficiary designations. Explain why.*
Distribution after death	*Who receives trust property? Percentages must total 100%. Include contingent beneficiaries.*
Continuing trusts for beneficiaries	*Who should inherit outright and who should receive assets in continuing trust? Identify reasons and desired ages/standards.*

Question / Topic	Client Response / Attorney Notes
Trust protector / advisor	*Should anyone have power to remove/replace trustee, correct drafting issues, advise on investments, or adapt to tax/law changes?* _____ _____ _____ _____ _____
Real estate instructions	*Keep, sell, allow occupancy, buyout rights, right of first refusal, family camp/cabin rules, expense sharing.* _____ _____ _____ _____ _____ _____
Pot trust at death	Should the revocable trust divide into a common pot trust for children/young beneficiaries after death? [ ] Yes [ ] No [ ] Unsure. If yes, identify beneficiaries, trustee discretion, spending standards, and ending age/event. _____ _____ _____ _____
Home funding and tax/Medicaid review	If real estate will be transferred to this revocable trust, identify mortgage lender, property-tax exemptions/credits, homestead concerns, homeowner insurance, and whether long-term-care protection is a goal. Note: a revocable trust generally does not protect the home from the settlor's own creditors or Medicaid eligibility/estate recovery analysis. _____ _____ _____ _____

8. Advanced / Special Trust Planning Addendum

Attorney review required
This section flags issues for attorney review. It should not be treated as a recommendation to use an advanced trust. Irrevocable trusts, special needs trusts, ILITs, Medicaid planning trusts, charitable trusts, and asset-protection trusts can create tax, creditor, public-benefit, fiduciary, and control consequences.

Question / Topic	Client Response / Attorney Notes
Special needs beneficiary	*Identify beneficiary, age, diagnosis/disability if relevant, benefits received/applied for, current resources, guardian/conservator, and whether funds are client-owned or third-party.*
Supplemental needs goals	*What should trust supplement? Housing, therapies, travel, equipment, education, recreation, companion care, vehicle, technology, caregiver support.*
Spendthrift / creditor protection	*Identify beneficiary risk: creditor claims, divorce, bankruptcy, lawsuits, addiction, gambling, financial immaturity, undue influence.*
Irrevocable trust interest	*Why is client considering irrevocable planning? Tax, creditor, Medicaid/long-term care, business, insurance, gifting, family wealth, charitable, or other.*
Life insurance / ILIT	*List policies, owner, insured, beneficiary, death benefit, cash value, premium source, loans, and whether a new policy or transfer is contemplated.*

Question / Topic	Client Response / Attorney Notes
Estate tax / gift tax concerns	*Estimated net worth, prior taxable gifts, gift tax returns filed, expected inheritance, business interests, life insurance death benefits, and tax advisors.*
Long-term care / Medicaid planning	*Client or spouse health status, home value, care needs, recent transfers, nursing-home risk, desired retention of control/income, and timing concerns.*
Business succession trust planning	*Business entity, ownership percentage, operating agreement restrictions, buy-sell provisions, successor manager, key person insurance, valuation.*
Charitable planning	*Charities, religious organizations, donor-advised funds, scholarships, charitable trusts, restrictions, named legacy gifts, contingent charities.*
Professional trustee / fiduciary	*Should a bank, trust company, attorney, CPA, or professional fiduciary serve? Identify candidates and compensation expectations.*
Investment management	*Current advisor, preferred investment policy, restrictions, ESG/religious preferences, family business concentration, real estate concentration.*

Question / Topic	Client Response / Attorney Notes
Tax/legal advisors to coordinate with	*CPA, financial advisor, insurance advisor, benefits specialist, elder law counsel, out-of-state counsel.* _____ _____ _____ _____ _____
Pot trust / common fund planning	Identify beneficiaries to be included in one common fund, whether trustee may spend unequally, permissible purposes, accounting expectations, age/event for division, and whether prior gifts or education expenses should be equalized. _____ _____ _____ _____
Home / Medicaid asset-protection goal	Does client want to protect a home from long-term-care spend-down or Medicaid estate recovery? Identify property address, owner(s), mortgage, equity, current tax exemptions/credits, client health status, spouse status, recent transfers, anticipated care needs, and willingness to give up control. Attorney should explain that an irrevocable trust may protect only if properly designed and timed; a transfer during the look-back period can create a penalty. _____ _____ _____ _____ _____
Tax deductions and personal tax benefits	Before transferring a residence or investment asset into trust, review mortgage-interest deduction, property-tax deduction/SALT limits, capital gains exclusion, basis/step-up issues, depreciation if rental/business property, grantor vs. non-grantor income tax treatment, and who will receive Forms 1098/1099/K-1. _____ _____ _____ _____
Property-tax exemptions / credits	Identify any elderly, disabled, veterans, blind, solar, current-use, tax deferral, or low/moderate income property-tax relief currently claimed. Trust ownership may require additional forms, proof of beneficial/life interest, or assessor review. Client should not assume benefits continue automatically after transfer. _____ _____ _____ _____
Mortgage, lender, and insurance review	Identify whether property is mortgaged, whether lender consent is needed, whether transfer could affect due-on-sale/refinancing, whether insurance must be changed to name the trust/trustee, and whether the trust will maintain a separate bank account for expenses. _____ _____ _____

Question / Topic	Client Response / Attorney Notes
	_____
Separate trust administration	For irrevocable or non-grantor trusts, identify who will obtain EIN if required, open trust bank/investment accounts, maintain books, issue K-1s if required, file Form 1041 if required, pay expenses, and communicate with beneficiaries. _____ _____ _____ _____

8A. Pot Trust, Trust Tax, and Asset-Protection Planning Guide

This section is intended to flag issues for attorney and tax review. It should not be used as a self-help trust selection tool. Trust planning can affect Medicaid eligibility, taxes, title, creditor exposure, mortgage terms, insurance, and public benefits.

Planning issue	Client-friendly explanation	Attorney/tax review points
Pot Trust / Common Trust for Children	A pot trust holds assets in one combined fund for multiple children or young beneficiaries. The trustee may spend more for one beneficiary than another based on age, education, medical needs, disability, housing, emergencies, or other circumstances. The trust usually ends when the youngest beneficiary reaches a stated age or event.	Draft clear standards: HEMS or broader discretion; accounting; whether equality over time is expected; end date; whether disabled beneficiaries require supplemental-needs language; whether blended-family issues require separate shares. No special tax protection merely because it is a pot trust.
Revocable Living Trust	A revocable trust is usually controlled by the client during life and can be amended or revoked. It is often used for probate avoidance, privacy, incapacity management, and coordinated distribution.	Generally not an asset-protection or Medicaid-protection device while revocable. IRS guidance treats a revocable living trust as a grantor type trust for federal tax purposes. Review funding, deeds, beneficiary designations, and pour-over will.
Irrevocable Medicaid / Long-Term Care Trust	This may be considered when a client wants to protect a home or other assets if future long-term care requires Medicaid/state-funded assistance. The client must understand that protection usually requires giving up meaningful control and surviving the applicable look-back period.	NH Medicaid transfer rules use a 60-month look-back for transfers of assets. Improper transfers can cause a penalty period. Review income/resource treatment, estate recovery, retained rights, trustee identity, power to sell, right to occupy, tax classification, and timing. Refer to elder-law/tax counsel where appropriate.
Home transferred to trust	Putting a home in trust is not just paperwork. It changes title and may change who can sell, refinance, insure, deduct expenses, or claim property-tax relief.	Review deed, mortgage, due-on-sale/refinance consent, title insurance, homeowner insurance, real estate tax bill, veterans/elderly/disabled credits, low/moderate property-tax relief, homestead/exemption issues, capital gains exclusion, step-up basis, and whether trust must maintain a bank account for taxes/insurance/repairs.
Grantor vs. Non-Grantor Trust	Some trusts are still taxed to the person who created them; others are separate taxpayers. This matters for deductions, tax reporting, and whether a trust return is required.	IRS Form 1041 instructions explain that revocable living trusts are generally grantor trusts, while domestic trusts may need Form 1041 when taxable income or gross income thresholds are met. Non-grantor trust income can be taxed at compressed trust rates. Coordinate with CPA.

ILIT	An irrevocable life insurance trust may keep insurance proceeds outside a taxable estate if properly designed and administered. It usually requires giving up ownership/control of the policy.	Review existing vs. new policy, incidents of ownership, premium gifts, Crummey notices, trustee powers, beneficiary designations, GST allocation, and three-year rule risk for transferred existing policies.
Special Needs / Supplemental Needs Trust	This trust can help provide extras for a beneficiary without unintentionally replacing or disqualifying means-tested public benefits.	Identify first-party vs. third-party trust. First-party trusts generally require Medicaid payback; third-party trusts usually should not be funded with the beneficiary's own assets. Avoid mandatory distributions that count as income/resources.
Spendthrift / Discretionary Trust	This can protect a beneficiary from poor decisions, creditors, divorce risk, addiction, or financial immaturity, depending on the drafting and applicable law.	Usually protects beneficiaries, not the settlor who created and funded the trust for the settlor's own benefit. Use clear discretionary standards and spendthrift language.
Charitable / Tax-Planning Trust	Charitable trusts and split-interest trusts may create income, gift, estate, or charitable planning benefits but are more complex and require administration.	Review charitable deduction rules, private foundation/split-interest reporting, valuation, payout requirements, donor intent, restricted gifts, and trustee/fiduciary accounting.

Client questions for attorney: What asset am I trying to protect? Am I willing to give up control? Do I need Medicaid/long-term-care planning, tax planning, probate avoidance, or beneficiary protection? What benefits, deductions, exemptions, or mortgage rights could be lost or changed?

Question / Topic	Client Response / Attorney Notes
Home protection goal	Do you want to protect your primary residence from long-term-care spend-down or Medicaid estate recovery? Identify the home, current owners, mortgage, estimated value, equity, and whether you want to keep living there. _____ _____ _____ _____ _____
Current tax/property benefits	List any mortgage-interest deductions, property-tax deductions, veterans credits, elderly/disabled exemptions, tax deferral, low/moderate property tax relief, current-use status, or other benefits currently claimed. _____ _____ _____ _____ _____
Control you are willing to give up	Would you accept an independent trustee controlling sale/refinance/distribution decisions? [ ] Yes [ ] No [ ] Unsure. What decisions must you retain? _____ _____ _____ _____
Long-term-care timing	Any current diagnosis, pending assisted-living/nursing-home need, recent hospitalization, home care, dementia/Alzheimer's concern, or transfers within the last 5 years? _____ _____ _____ _____

Trust administration capacity	Who will serve as trustee, open accounts, pay taxes/insurance/repairs, maintain records, coordinate with CPA, and communicate with beneficiaries? _____ _____ _____ _____
Pot trust preferences	If planning for children, should funds be held in one common pot? When should it end? Should trustee prioritize need over strict equality? Should education, housing, medical care, disability, or emergencies be prioritized? _____ _____ _____ _____ _____

9. Durable Financial Power of Attorney Questionnaire

Decision note
A financial power of attorney can be very powerful. The agent may be able to manage bank accounts, real estate, taxes, benefits, legal claims, business interests, digital assets, and other property. Some powers, such as gifts, trust changes, beneficiary changes, or delegation of authority, should be granted only after careful review.

Question / Topic	Client Response / Attorney Notes
Primary agent	*Full legal name, relationship, address, phone/email.* _____ _____ _____ _____ _____
Alternate agent(s)	*List in order of preference.* _____ _____ _____ _____ _____
Effective date	*Choose: [ ] immediately upon signing [ ] only upon incapacity/future event [ ] discuss.* _____ _____ _____ _____

Question / Topic	Client Response / Attorney Notes
Real estate powers	*May agent buy, sell, mortgage, lease, or transfer real estate? Any limits?*
Banking / investment powers	*May agent access, manage, open/close accounts, trade investments, or work with advisors?*
Tax powers	*May agent prepare/sign/file tax returns, communicate with IRS/state tax agencies, and obtain tax information?*
Government / military benefits	*May agent handle Social Security, VA, military, DFAS, retirement, disability, insurance, or other benefits?*
Business powers	*May agent operate, sell, vote, manage, or wind down a business interest?*
Gifting authority	*Should agent be allowed to make gifts? To whom, in what amount, and for what purpose? Consider tax/Medicaid/abuse risk.*
Trust authority	*Should agent be able to create, amend, revoke, or fund a trust? Identify limits and when allowed.*

Question / Topic	Client Response / Attorney Notes
Beneficiary / survivorship changes	*Should agent be allowed to change beneficiary designations or survivorship rights? Usually requires very careful limits.*
Digital assets	*May agent access electronic records, email, crypto, online accounts, cloud storage, or password manager?*
Compensation / reimbursement	*Should agent be compensated or only reimbursed for expenses?*
People who should not serve	*Identify persons who should not act or receive information.*

10. Advance Directive / Health Care POA / Living Will Questionnaire

Decision note
This section addresses health care decision-making if the client lacks capacity. It is separate from a financial power of attorney. The client should choose an agent who can communicate with medical providers, handle family pressure, and follow the client's stated wishes.

Question / Topic	Client Response / Attorney Notes
Primary health care agent	*Full legal name, relationship, phone/email/address. Agent should be available and willing.*

Question / Topic	Client Response / Attorney Notes
Alternate health care agent(s)	*List in order of preference.*
People to receive medical information	*Who may receive updates even if not the agent?*
People excluded from decisions/information	*Any person who should not receive information or participate?*
General treatment values	*What matters most: longevity, comfort, staying home, avoiding burden, religious beliefs, quality of life, ability to recognize family, independence?*
Terminal condition preferences	*When death is imminent or condition is terminal, should life-sustaining treatment be continued, withheld, withdrawn, or decided by agent based on circumstances?*
Permanent unconsciousness / severe brain injury	*Preferences for artificial nutrition/hydration, ventilation, dialysis, surgery, antibiotics, or other life-sustaining care.*
Pain relief / comfort care	*Confirm desire for comfort care even if medication may indirectly affect alertness or length of life.*

Question / Topic	Client Response / Attorney Notes
Artificial nutrition and hydration	*Specific preferences for feeding tube/IV fluids in terminal or permanently unconscious conditions.*
Organ/tissue donation	*Preferences and any religious or medical limits.*
DNR / POLST discussion	*Does client want to discuss portable medical orders, DNR, or POLST with a medical provider?*
Religious / cultural instructions	*Clergy contact, sacraments, rituals, modesty, dietary, autopsy, burial/cremation concerns.*
End-of-life location	*Home, hospice, hospital, nursing facility, or no preference.*

11. Military, Federal Benefits, and Special Property Addendum

Question / Topic	Client Response / Attorney Notes
Military status	*Active duty, Guard/Reserve, retired, veteran, dependent, none. Branch/component and rank if relevant.*
SGLI / VGLI / FSGLI / life insurance	*Policy type, beneficiaries, contingent beneficiaries, trust coordination concerns.*

Question / Topic	Client Response / Attorney Notes
TSP / military retirement / SBP	*Beneficiary designations, spouse rights, survivor benefit plan elections, former spouse obligations, court orders.*
VA disability / survivor benefits	*Identify benefits and any dependent/spouse issues.*
Firearms / NFA items	*List items requiring special handling, storage, transfer, or trust review.*
Out-of-state / foreign property or beneficiaries	*Real estate, bank accounts, citizenship, beneficiaries abroad, guardians abroad, travel/immigration concerns.*
Pending litigation / claims	*Claims client has or may have, judgments, settlements, personal injury claims, business disputes, divorce, support, or creditor issues.*

12. Attorney Review Checklist

Document selection

[ ] Simple will only is sufficient for current goals.

[ ] Revocable trust should be discussed because of probate, privacy, incapacity, out-of-state real estate, blended family, or continuing trust needs.

[ ] Advanced trust referral/review is needed for tax, public-benefit, Medicaid, ILIT, charitable, business, or asset-protection planning.

[ ] Client has existing estate documents that should be revoked, amended, or coordinated.

Issue spotting

[ ] Beneficiary designations reviewed for retirement accounts, life insurance, POD/TOD accounts, and transfer-on-death assets.

[ ] Spouse rights, elective share, ERISA/retirement consent, divorce obligations, and beneficiary conflicts reviewed.

[ ] Minor children, guardianship, trustee selection, and distribution ages reviewed.

[ ] Pot trust/common trust reviewed where client has multiple minor children, blended family concerns, unequal needs, education funding goals, special needs issues, or desire to avoid rigid equal shares during childhood.

[ ] Special needs/public benefit issues reviewed before naming beneficiary outright.

[ ] Disinheritance, unequal shares, no-contest strategy, and capacity/undue influence risk reviewed.

[ ] Real estate title, joint ownership, homestead, mortgages, and out-of-state property reviewed.

[ ] Medicaid/long-term-care trust planning reviewed for home transfers, including 60-month look-back issues, estate recovery, revocable-vs-irrevocable distinction, tax deductions, property-tax exemptions, mortgage/refinance, insurance, and loss of control.

[ ] Business succession and operating agreement restrictions reviewed.

[ ] Digital assets and fiduciary access reviewed.

[ ] Execution requirements and witness/notary logistics confirmed for each document.

Question / Topic	Client Response / Attorney Notes
Attorney notes / follow-up items	*Use this space for questions, missing documents, referrals, tax issues, title issues, or drafting instructions.*

Question / Topic	Client Response / Attorney Notes
Documents client must provide	*Deeds, account statements, beneficiary confirmations, divorce decrees, trust documents, business documents, insurance policies, benefit statements.*
Drafting decisions still unresolved	*List any decisions that require client follow-up before drafting.*

13. Client Confirmation

Before signing estate planning documents
The client should review all names, fiduciaries, distribution percentages, beneficiary designations, trust funding instructions, and health care choices before signing final documents. Drafts should not be signed until reviewed with counsel.

Question / Topic	Client Response / Attorney Notes
Client questions for attorney	*List questions you want answered during the consultation.*
Most important goal	*In one or two sentences, what is the most important result you want this estate plan to accomplish?*

Question / Topic	Client Response / Attorney Notes
Concerns about family conflict	*Identify any likely conflict and who may object.* _____ _____ _____ _____ _____
Client signature / date	*Signature confirms only that client completed intake information; it is not execution of a will, trust, POA, or advance directive.* _____ _____ _____ _____

14. New Hampshire Statutory Reference Notes for Attorney Review

Topic	New Hampshire reference	Attorney note
Will capacity	RSA 551:1	Person must satisfy statutory capacity rules, including sane mind and written will requirements.
Will execution	RSA 551:2	Will/codicil must be written, signed by testator or at direction/presence, and signed by two or more credible witnesses. Electronic wills are not authorized by this section.
Self-proving affidavit	RSA 551:2-a	Use self-proving affidavit to ease probate proof where appropriate.
Advance directive execution	RSA 137-J:14	Principal signs in presence of two subscribing witnesses meeting statutory restrictions, or before notary public/justice of peace.
Advance directive form/disclosure	RSA 137-J:19 and RSA 137-J:20	Statutory disclosure and form address health care agent and living will structure.
Financial POA durability	RSA 564-E:104	POA is durable unless it expressly provides termination upon incapacity.
Financial POA execution	RSA 564-E:105	Requires signature/acknowledgment and statutory disclosure statement.
Financial POA effective date	RSA 564-E:109	Effective when executed unless future date or event is provided.
Specific financial POA grants	RSA 564-E:201	Certain powers require specific grants, including gifts, trust changes, beneficiary changes, survivorship rights, and similar authority.
Trust creation	RSA 564-B:4-402	Requires capacity, intent, definite beneficiary or statutory exception, trustee duties, and separation of roles/interests.

Topic	New Hampshire reference	Attorney note
Revocable trust creditor note	RSA 564-B:5-505	During settlor's life, revocable trust property may remain subject to settlor creditor claims; do not describe revocable trust as an asset-protection device.
Irrevocable trust creditor note	RSA 564-B:5-505A	Irrevocable trust and spendthrift/creditor rules are specialized and require careful review.
Medicaid transfer look-back	NH DHHS Medical Assistance Manual 415.03	NH DHHS states that the look-back period for transfers of assets on or after 2/8/2006 is 60 months. Attorney should verify current policy before advising on long-term-care trust planning.
Estate recovery	NH DHHS Estate Recoveries	DHHS may recover funds from certain recipients or their estates for covered support services. Review impact before representing that a home is protected.
Revocable trust tax treatment	IRS Form 1041 Instructions	IRS states that because a revocable living trust is revocable, it is treated as a grantor type trust for tax purposes.
Trust income tax filing	IRS Form 1041 Instructions	Domestic trusts generally may require Form 1041 if they have taxable income, gross income of $600 or more, or a nonresident alien beneficiary.