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Navigating
the Legal
Challenges of
Aging

Presented by:

H&N

About us...



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We are attorneys, but not YOUR attorneys. Anything presented in this presentation is for informational purposes only. Please consult an attorney to discuss your specific situation.





Topics we will cover

1. PLANNING FOR INCAPACITY
 2. BENEFITS OF A TRUST
 3. WHAT IF MY PARENTS NEVER GOT AROUND TO DOING THEIR ESTATE PLAN?
- 

Which of the following best describes you?

Looking for
information
for self

Caring for
Aging Parent

Professional
Caregiver

Other

These are common client goals/objectives. Rank them from most to least important.

Avoiding probate

Avoid having to go to court

Disinheriting certain
individuals

Ensuring that people I
choose get my inheritance

Avoid costly litigation and
family disputes

Protecting inheritance from
creditors and predators

Making sure the government
doesn't get my money

Other



1.
Planning for
Incapacity

Do your parent(s) have capacity?

Yes

No

What's
capacity?

Planning for incapacity

WHAT IS INCAPACITY?

- Unable to make decisions for yourself
- Temporary or permanent impairment
- Mental and/or physical deficiency, disability, illness, or by the use of drugs

Planning for incapacity



Advance Healthcare Directive (AHCD)

Speaks for you regarding your healthcare wishes when you can no longer tell the doctor yourself

You give someone else the power to make healthcare decisions for you

Durable Power of Attorney (DPOA)

You give someone else the power to handle your finances and affairs on your behalf



Planning for incapacity

		
During Life	Has Capacity Estate Planning	
After Life		





2. Benefits of a Trust

Which of the following documents do your parent(s) have?

Will Only

Living
Trust Only

Both

Neither



Benefits of a trust


TRUST vs. WILL

Trust

- Effective during life
- Benefit during life
- Controls during incapacity
- Designate beneficiaries
- Asset protection
- Will avoid probate for all trust assets

Will

- Effective only after death
- N/A
- N/A
- Designate beneficiaries
- No asset protection
- By itself will NOT avoid probate





Benefits of a trust

PROBATE vs. TRUST ADMINISTRATION

Probate

Requires court supervision

Statutory fees set by law

Can take years

Law dictates

Public record

Potential for family
disagreements

Trust Administration

No court supervision

Minimal costs

Quick to administer



Your wishes are honored

Kept private

Minimal family
disagreements



Benefits of a trust

		
During Life	Has Capacity Estate Planning	
After Life	Passed w/ Will & Trust Trust Administration	Passed w/o Will & Trust Probate

Benefits of a trust



WILL

TRUST

<input type="radio"/>	<input type="radio"/>	Ensuring that people I choose get my inheritance
<input type="radio"/>	<input type="radio"/>	Disinheriting certain individuals
<input type="radio"/>	<input type="radio"/>	Making sure the government doesn't get my money
	<input type="radio"/>	Avoiding probate
	<input type="radio"/>	Avoiding having to go to court
	<input type="radio"/>	Avoiding costly litigation and family disputes
	<input type="radio"/>	Protecting inheritance from creditors and predators





3.
What if my
parents never set
up an estate
plan?

Or...

What if my parents did execute their estate plan but never updated it, so now it's outdated and/or inapplicable?



What if my
parents never
set up an
estate plan?

WHAT IS A CONSERVATORSHIP?

- **Takes away** an adult person's **rights**
- Have to convince a court that:
 - The proposed Conservatee is **incapacitated**
 - You are the **most suitable** person to become their Conservator

What if my
parents never
set up an
estate plan?



CONSERVATORSHIP

Court Supervision

Need court approval for everything (even after being appointed)

Need to provide yearly accounting

Best Guess

Everyone, including the judge, has to take a best guess as to what you would have wanted

Very Expensive

Can cost thousands of dollars each time you go to court

Public Record

Court proceedings are public, meaning your finances, health, and personal affairs become public record

Lengthy

Wait times are currently:

- 6 months in LA
- 6 months in OC

Family Strife

Can get ugly if there is a disagreement between family members



What if my
parents never
set up an
estate plan?

		
During Life	Has Capacity Estate Planning	Lost Capacity Conservatorship
After Life	Passed w/ Will & Trust Trust Administration	Passed w/o Will & Trust Probate



COST & TIME COMPARISON

	 Proactive Planning	 Reactive Responding
During Life	Estate Planning <ul style="list-style-type: none"> • Starts at \$2,000 • 1 - 2 months 	Conservatorship <ul style="list-style-type: none"> • \$5,000-\$50,000+ • 6 months - life
After Life	Trust Administration <ul style="list-style-type: none"> • Starts at \$1,000 • 2 - 12 months 	Probate <ul style="list-style-type: none"> • \$15,000 (\$500K estate) • \$25,000 (\$1M estate) • 6 - 24 months+

NOTE: Above figures only reflect an estimate of attorneys fees only. It does not include court costs, fees, expenses, taxes owed, debts of the decedent, etc. Furthermore, the above figures do not account for litigation. Every situation is unique and numerous factors must be considered. Please consult an attorney to discuss your specific circumstances.

FREQUENTLY ASKED QUESTIONS

1. I don't own anything, why do I need an estate plan?
2. What if things change or I change my mind?
Am I
able to amend or revoke my documents?
3. If I place my assets in a trust, how will it change
how I
access them?



FREQUENTLY ASKED QUESTIONS

4. I verbally told my family all my desires, isn't that enough?
5. My parent was recently diagnosed with dementia, but he/she still periodically has good days. Is it too late for him/her to put together an estate plan?
6. My parent is permanently incapacitated with no trust in place. Is probate inevitable?





“Estate plan is an important and everlasting gift you can give your family. And setting up a smooth inheritance isn’t as hard as you might think.”

Suze Orman





Thank you!

Any questions?



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