

Protecting Your Family and Leaving a Legacy



Legacy Wealth Planning Seminar



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ABOUT THE FIRM, ABOUT THE SPEAKERS



Having a direct and personal relationship with your lawyer is an essential part of any attorney-client relationship. A close relationship with your attorney is something you may not always get if you engage the services of a large law firm. Yet, while some clients enjoy the individual attention that a small law firm can provide, small firms may not always have the available resources to take on a complicated trust, and they may not be able to devote enough time to each individual case.

Hiring a large firm does not necessarily mean a larger settlement or a better result. Large firms often have more significant caseloads than small firms. On the one hand, your situation may get more personal attention at a smaller firm. Moreover, a small firm may spend more time working on your case and preparing the best claim they can before negotiating a settlement with an insurance company.

It is essential to find a law firm that you feel will give your concerns about the personal attention it deserves. You want to find a firm that is willing to take the time to educate you on the applicable law and how the process works. However, the right lawyer for your interests is the individual who is willing to explain your case and the process in a way that allows you to understand your legal rights fully.

This is why communication is the cornerstone of every successful attorney-client relationship. If you plan on interviewing several law firms, consider focusing a healthy portion of your conversation on how often the law firm plans on communicating with you and who in the firm will keep in touch with you. Given how vital communication is to a successful relationship, you will likely want to understand how often you can expect to hear directly from your lawyer.

What You'll Learn at Our Seminars

In our seminars, we discuss subjects most of us want to avoid: death, disability, and taxes. Many people don't give a thought to the certainty of their own death; yet it will happen to each of us. Then what? When you ask most people to summarize their wishes for their estate after they pass, most reply that they:

- ▶ Want to avoid excessive attorney's fees, court costs, and delays in passing on their inheritance;
- ▶ Want to avoid or, at least, minimize the payment of state and federal death taxes; and
- ▶ Want their estate to be distributed to the people they choose, when they choose.

Our firm is dedicated to you, and the goal of our seminars are to provide you with new information, likely never discussed with you before, based on research, studies and our real life experiences working with families just like yours.

Why We Do What We Do

Our firm is different than most because we have a passion for this work and feel there is a gap in most families' plans. They mainly address "after death" issues, leaving families vulnerable when the unexpected happens "during life." We know it is a great privilege to help families effectively plan their estate and leave a meaningful legacy, and we realize that when clients come to us they entrust us with all of their worldly wealth and ask us to make sure it's preserved, not only for their use but for generations to come.

About the Speaker

RAYMOND E. BROWN, ATTORNEY AT LAW

Raymond E. Brown is a founding member of The Law Office of Raymond E. Brown, LLC. His focus is on estate planning and associated practices in Maryland and the District of Columbia. Raymond brings compassion, understanding, and thoroughness to the table when listening to clients explain their goals and vision. He regularly donates free time to assisting underrepresented and impoverished individuals, believing that everyone should have a say when it comes to their legacy and medical decisions.

Whether you have a large or small estate, you're single, divorced, military, or a business owner, Raymond's approach and system of processes will provide you with unparalleled representation.

Raymond is a member of the Bar Associations of Maryland and the District of Columbia, the American Bar Association groups of Elder Law and Estate Planning, and the American Academy of Estate Planning Attorneys. In his spare time, he works for the National Security Agency as a senior developer focused on privacy research and technologies.

Raymond received his J.D. from the University of Baltimore School of Law after receiving his B.S. in Electrical Engineering from Marquette University. Raymond is a veteran, having served as an enlisted and Naval Officer.

WHAT IS ESTATE AND LEGACY PLANNING

When we die, we pass on much more than just our financial assets. Sadly, traditional estate planning ignores the non-financial legacy we leave behind. Our goal is to help you examine your financial and non-financial goals, take action to minimize the impact on your family, and ensure that your legacy lives on through those you love. Before we talk about planning options available to you, let's start with the basics.

An estate is everything a person owns when he or she dies. This includes, but is not limited to:

- ▶ Bank accounts and cash
- ▶ Personal property
- ▶ A home, real estate
- ▶ Retirement plans
- ▶ Vehicle(s)
- ▶ Life insurance
- ▶ Family heirlooms
- ▶ Business interests
- ▶ Stocks, bonds, mutual bonds

What Is an Estate?

Many people mistakenly think they don't need an estate plan because they don't have an "estate." Almost everyone has an estate and estate planning doesn't have to be complex to be worthwhile. Often, people think if they don't own a huge house, multiple vehicles, art, antiques, jewelry and other financial investments, that they don't have an estate. *The truth is that we all have estates, even those of us with a modest home, one car, one good piece of art, a diamond ring, or some money tucked away in the bank.* Even if you don't have seemingly great financial wealth you still need effective estate planning.

Traditional estate planning only focuses on the transfer of what you own at death to whom you want, when you want, and in the way you want all at the lowest possible cost. Estate planning should include more than just the passing on of physical property and assets. It starts with those personal moments in life that define who we are and what is truly important to us.

Defining Moments

Your defining moments are those precious events that are emotional anchors for all of us, those moments you will remember and look back on. They are special days like:

- ▶ College graduation
- ▶ Your wedding day
- ▶ Births of your children, grandchildren or other loved ones
- ▶ Weddings of your children, grandchildren or other loved ones
- ▶ A serious illness or health scare
- ▶ Death of loved ones

Often times when these moments occur, the last thing we think about is the condition of our finances. We instead think about how to preserve the little things left behind: stories, values, life lessons, and family heirlooms that are emotionally priceless.

What Are YOUR Defining Moments?

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Wealth Is More Than Just Financial

In estate planning, wealth is usually discussed in limited terms such as: financial assets, investments, real estate, cash, and possessions. **True wealth, however, is more than just money it's about what we value. Once we see what we value most in our lives, financial assets and material things may not be at the top of our list.**

Let's look at a more holistic approach regarding family wealth, something more than just finances or possessions, and discover how this changes everything you've ever thought about estate planning.

What Do YOU Value Most in Your Life?

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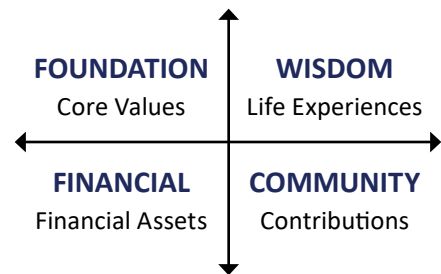
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A Holistic View of "True" Wealth

We can categorize family wealth into four categories of "true" wealth:

1. **Foundation**—These are our core values: family, health, talents, background, and attitudes. This can also include family heirlooms that have little or no real financial value, but are treasures to family members.
2. **Wisdom**—The sum of our life experiences: formal and informal education, relationships, work ethic, and our commitment to spiritual beliefs or practices.
3. **Financial**—This refers to our collective financial assets or material wealth; real estate, vehicles, life insurance, cash, stocks, bonds, and retirement accounts.
4. **Community**—This is our contribution back to society, our responsibilities as good citizens and neighbors. This can include financial charitable gifts or volunteer work.



**Rank the 4 categories of TRUE WEALTH in order of what's important to you
(List in order of importance 1 – 4)**

_____ Foundation _____ Wisdom _____ Financial _____ Community

Leaving a Legacy

Your legacy—and the legacy of your ancestors—also includes your family's values, history, traditions and anecdotes. Your family will appreciate the assets you pass on, but they will treasure even more, the memories and stories you leave behind. You want to protect your legacy by setting up an estate plan that addresses all pieces of what you have spent a lifetime accumulating. You want the years you have invested in building your estate and legacy to actually mean something to future generations.

TRADITIONAL ESTATE PLANNING HAS THE WRONG FOCUS

The current mantra of traditional estate planning is to divide, dump and dissipate financial assets. As legal and financial professionals, we are taught to primarily protect our clients' material possessions from probate and taxes. However, it should not stop with your financial assets. Think about the impact your planning has on:

- ▶ Your surviving spouse
- ▶ Your children and grandchildren and potentially their spouses (or possible future ex-spouses)
- ▶ You or your spouse, if either of you become disabled during life
- ▶ Your treasured items (i.e. family photos and heirlooms, dad's class ring, etc.)

You've worked hard over your lifetime to provide for your family and hopefully leave something for future generations. Think about why you work so hard and what you want your estate plan to focus on. While financial assets are important when considering your estate plan, planning your non-financial legacy is just as important.

Why Most Estate Plans Fail

There is more wealth to pass on today than any generation before. Unfortunately, most wealth is lost in three generations because heirs are not prepared and assets are not protected. Poor planning can cause your inheritance to be squandered or reduced to next to nothing.

There are five main reasons why most traditional estate plans fail:

1. Lack of maintenance
2. No protection against real life issues (i.e. nursing home care, remarriage, divorce, financially inexperienced heirs, special needs, etc.)
3. Poorly drafted documents
4. Not updated with changes in the law or new planning strategies
5. Doesn't capture your legacy... your Defining Moments

We want to show you how you can make your estate plan a valuable tool to protect your legacy and leave the assets you've earned over your lifetime, both financial and emotionally valuable, to those you love.

Typical Concerns

Here are just a few of the common concerns we hear from our clients when discussing their estate plans...

- ▶ **Long-term care expenses:** Losing their nest egg to rising nursing home costs.
- ▶ **Living probate:** Possibly expensive court proceedings that would manage their estate if they became mentally or physically disabled, such that you are unable to manage your own affairs.
- ▶ **Death probate:** Expensive court proceedings to manage and distribute their estate after death.
- ▶ **Death taxes:** Federal estate tax of 40% on everything above the amount that can pass free of federal estate tax, which varies depending upon the year of death. There may also be a state estate tax, depending on the state.
- ▶ **Victimization of the surviving spouse and heirs** by unethical, immoral predators, or creditors.
- ▶ **Family concerns:** Possible remarriage of their surviving spouse, new blended families or their children going through a divorce, leaving their nest egg exposed to new or ex-spouses.
- ▶ **Family conflict and feuds** over the improper dispersal of personal items and heirlooms.
- ▶ **Outright distributions** leaving an inheritance to financially inexperienced heirs to squander their hard-earned assets.
- ▶ **Not passing on values and wisdom:** Allowing their lifelong guiding principles and unique life experiences to die with them.

What Are Your TOP Concerns About Passing on Your Estate?

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Here are some of the critical times *during* your life as well as *after* your death that you may need to plan for.

CRITICAL REASONS TO PLAN: WHILE YOU'RE ALIVE

The truth is that there are many life situations that need to be planned for while you are living. One of the greatest risks isn't death, it's disability. What will you do when the unexpected happens; such as your spouse having a stroke or you becoming disabled? What about planning for those needs that may happen while you are still living?

A Health Emergency or Disability

Modern medicine has lengthened our lives, giving us more time to spend with our loved ones, but with that we have also seen an increase in chronic or debilitating illness. Medical decisions will need to be handled by someone other than you **if you are incapacitated**. In many states your spouse can make medical decisions for you, but this is not always true. If you are unmarried but have a life partner, that person will have no legal right to make decisions for you.

A Few Facts About Long-Term Care

- ▶ The average cost of a private room in a nursing home is approximately \$307/day or \$112,055/year.¹ That's \$257,727 in 2.8 years, the average stay in a nursing home.²
- ▶ It is estimated that more than 40 million Americans provide care to an adult with limitations in daily activities.³ Nearly 62 million⁴ provide care to an adult at some time during the year. These family caregivers provide a staggering \$470 billion worth of unpaid care every year!³
- ▶ An estimated 3 in 5 bankruptcies are due to overwhelming medical bills.⁵

1 <https://www.genworth.com/corporate/about-genworth/industry-expertise/cost-of-care.html>

2 <http://franklinrs.com/wp-content/uploads/2014/08/50-Must-Know-Statistics-About-Long-Term-Care.pdf>

3 National Alliance for Caregiving and AARP—Caregiving in the U.S. 2015. By Greenwald & Associates, with study direction by Lisa Weber-Raley and Erin Smith.

4 AARP Public Policy Institute Report—Valuing the Invaluable: 2011 Update The Growing Contributions and Costs of Family Caregiving. By Lynn Feinberg, Susan C. Reinhard, Ari Houser, and Rita Choula.

5 NerdWallet—NerdWallet Health Finds Medical Bankruptcy Accounts for Majority of Personal Bankruptcies. 2014. By Christina Lamontagne. (Relied on a widely cited Harvard study published in 2009. NerdWallet Health chose to include only bankruptcy explicitly tied to medical bills, excluding indirect reasons like lost work opportunities, also used official bankruptcy statistics, released through March 2013, from US Courts.)

Living Probate/Conservatorship

Mention the word probate and most people think it's something that only happens to your estate when you die. Probate can also occur while you're still living, often referred to as a *living probate*, technically called a *conservatorship* or *guardianship* proceeding. **If you become mentally or physically disabled, such that you are unable to manage your own affairs, the probate court will appoint someone to take control of all your assets and personal affairs.** In the event that you don't recover and are unable to manage your own affairs, you will need to go through living probate. The entire process is often expensive, time-consuming, and humiliating.

Long-Term Health Care Concerns

Statistics reveal that you are six times more likely to become disabled before you die, so it's not a surprise that most people aged 65 and older are more afraid of going into a nursing home than death. The expense for nursing home care rises every year, and if you require long-term care your nest egg may quickly diminish and the plans you've made for the future may quickly unravel.

FIVE WAYS TO PAY FOR LONG-TERM CARE

1. **Savings:** Dip into your personal savings and pay it all yourself.
2. **Long-Term Care Insurance:** Regular health insurance won't pay for these long-term custodial care bills.
3. **Medicare:** Health insurance for those aged 65 and over (and with certain disabilities), which offers very limited long-term care benefits. Most people think Medicare is an option for paying their long-term care when in most cases, it's not.
4. **Medicaid:** A federal and state partnership program that pays for medical and long-term health care expenses when most of a person's wealth has been depleted, and pays for about 50% of the nursing home costs of Americans.
5. **Aid & Attendance for Veterans:** Qualifying wartime Veterans may be eligible for Aid & Attendance benefits to pay for long-term care expenses.

Missteps with Medicaid Pre-Planning

Statistically, about half of us will end up in a nursing home for one to two years before we die. To qualify for Medicaid, many families naively think they have to improv-

erish themselves and that they can just give away their assets in order to qualify for benefits. There are strict laws and penalties in place when giving away assets to qualify for Medicaid benefits, not to mention the estate planning problems it may create.

Caring for a Family Member with Special Needs

When a family member has physical, emotional or mental challenges, planning is even more crucial. Depending on the degree of their disability, they may require specialized treatment that encompasses therapy, housing, education, adaptive equipment, and in-home care, among many other costly services. The need for this care may extend throughout their childhood and last well into adulthood, or even their entire life. Without the right plan in place, leaving financial resources to family members with special needs could jeopardize their eligibility for government and private benefit programs.

CRITICAL REASONS TO PLAN: AFTER DEATH

Now that we've talked about some of the unexpected things that can happen while you are still alive, let's look at some of the planning needs that occur after your death.

The Final Expense... Funeral Arrangements and Costs

Many funeral homes have instituted some kind of pre-need planning program for Americans to plan their funeral well in advance. This method of planning with a specific funeral home is riddled with potential problems that have been well-documented, including funeral homes not honoring commitments, funeral homes being sold, or funeral homes just closing their doors. This leaves family members to bear the financial burden and plan a funeral when everyone assumed that a funeral plan was in place.

For family and friends, the hours and days following a loved one's death are no time for weighty decisions. According to the National Funeral Directors Association, the average cost of a funeral today ranges from \$7,000 to \$8,500¹ (not including cemetery cost, grave stones, flowers, obituary, or burial services.) That's an expense that can quickly escalate as survivors deal with a bewildering range of options.

Administration and Probate of Your Estate

DYING INTESTATE

If you die without an estate plan, it is called dying intestate. Your estate will be subject to intestacy laws in your state and go through probate court. This means the division and distribution of your estate will be subject to a predetermined formula, usually providing half of your estate to your spouse, and the remaining half allocated in equal portions to your biological children. For many parents in

¹ <http://nfda.org/about-funeral-service-/trends-and-statistics.html>

blended families and unmarried couples, the state's distribution plan is worlds apart from how they would choose to distribute their assets themselves.

WILLS AND DEATH PROBATE

If you have a Will or do not have an estate plan, probate court will take over at your death to make sure your debts are paid, assets are distributed to your heirs, and any loose ends are taken care of. **A Will guarantees death probate.** All property that is controlled by your Will must go through the probate court. A Will does not control distribution of all of your assets and does not take effect until you die so it is no help with lifetime or long-term care planning. Upon your death, your Will becomes a public document, enters the probate process and is in the hands of probate attorneys—not your family.

In some states, the probate process may be long, complicated, and costly. While probate is more streamlined in some states, it still has other disadvantages, such as a loss of privacy. There are five exhaustive steps to settling an estate in probate court, of which just a few are: all assets are frozen, all records of the estate are made public, inventory and appraisal of all assets must be made, and payment of all debts and other expenses before heirs receive their share.

Exposure to Death Taxes

In addition to the expense and delay of probate, your family may also be liable for death taxes. Death taxes come in two varieties, “estate” and “inheritance” taxes. An estate tax is a tax on your right to transfer property to others at your death. Current federal law provides for an estate tax of 40% of every dollar in your estate over the amount of the exemption. The federal exemption is over \$5 million (it's inflation adjusted). That exemption is temporarily doubled between 2018 and 2025 and then reverts in 2026 to \$5 million adjusted for inflation. In addition to the federal estate tax, many states have a separate state estate tax. If a state has a separate estate tax, it typically has a much lower exemption than the federal exemption. The result is that state estate taxes typically kick in at a much lower level than the federal estate tax. A few states also have an “inheritance” tax. An inheritance tax is levied on transfers at death based on the relationship of the recipient to the deceased. So, with an inheritance tax, a transfer to a friend may be taxed more steeply than a transfer to a child, for example.

No Protection for Your Family

Family is often the primary reason why you feel the need to plan ahead. You want to leave your “true wealth” to those who matter most. The following are common family concerns.

- ▶ **Concerns with Blended Families:** If you've remarried and established joint ownership of assets with your new spouse, you may be unintentionally disinheriting children from a prior marriage.
- ▶ **Remarriage Protection for Your Surviving Spouse:** Remarried life complicates estate planning for many families because the most fundamental assumption, how wealth will be passed on, can no longer be taken for granted.

- ▶ **Divorce Protection for Your Children:** With divorce affecting over half of the marriages in the country, your child's inheritance is at risk of ending up in the hands of a "soon-to-be-ex" in-law.
- ▶ **Creditor and Lawsuit Protection for Your Children:** You don't want to hand off your inheritance just to have all that you've worked for lost in a frivolous lawsuit your heirs may get mixed up in.

Your Non-Financial Legacy

Few things are as heart-wrenching as a dispute among family members. Families can often be torn apart when cherished heirlooms are fought over. Most of these items have no real financial value, but instead have deep emotional value to your family, like mom's china or grandfather's class ring. Which of your heirs end up with what items, and which don't can ignite arguments or long-lasting feuds in even the happiest of families. More families fight over these sentimental items than any financial item.

You also have to consider that you have more to share with your family than the material things you've accumulated during life. This important legacy is perhaps your most valuable possession. If they are not documented, discussed, and passed on, the values, experiences and life lessons you have to impart, will be lost forever after you're gone.

OPTIONS FOR PLANNING YOUR FAMILY'S LEGACY

Do Nothing

For those without a plan in place, state law dictates how their estate is distributed if they die without a Will or any other estate planning, this is called dying intestate. The government's plan of distribution does not always take the best interests of your family into consideration. The "do nothing" route costs you probate and attorney fees, possibly death taxes, and is a public process.

Hold Your Assets in Joint Tenancy

Joint Tenancy is often used because it is thought to be a cost-free replacement for a Will, which avoids probate. The fact that joint tenancy ownership avoids death probate at the first spouse's death is a small reward for the many other disadvantages of joint tenancy ownership. It can lead to unexpected liability by subjecting the asset placed in joint tenancy to the creditors and divorcing spouse of the person who was added on as a joint tenant. Although joint tenancy offers some short-term conveniences, in the long run it poses a host of problems that can cost you and your loved ones many times the expense you thought you were avoiding.

Downsides to Joint Tenancy

- ▶ Could trigger "gift tax"
- ▶ Creditors can go after property
- ▶ Limits Medicaid eligibility

Create a Last Will and Testament

A Will is one of the most basic and widely used estate planning tools. It is a legal document that describes how you want your assets distributed at your death and names guardians for minor children. A Will only goes into effect at your death. When you pass, an executor, whom you name, oversees the distribution of your estate to any heirs named. The actual distribution of your assets, however, is controlled by the probate court, which is often time-consuming and expensive. Additionally, a Will does not provide you with lifetime/long-term care planning, an increasingly important consideration now that Americans are living longer. Of course, having a Will that expresses your wishes is much better than dying with no plan at all.

5 Options for Passing on Your Estate

1. Do nothing
2. Hold title to your assets in Joint Tenancy
3. Create a Last Will and Testament
4. Create “Bare Bones” Living Trust
5. Set up a Legacy Wealth Plan which may include:
 - ▶ *Family Wealth Trust with Pour-Over Will*
 - ▶ *Medicaid Protection Trust*
 - ▶ *Special Needs Trust*
 - ▶ *Funeral Trust*

Create a “Bare Bones” Living Trust

Many people have created a simple “Bare Bones” Living Trust in an attempt to avoid probate. However, most simple Living Trusts fail to provide any protection against probate at death. In addition, very few simple Living Trusts protect you in the event you become disabled and are unable to manage your financial affairs. Also, they often fail to address death tax issues or provide protection against remarriage concerns or creditors of surviving spouses and beneficiaries. “Bare Bones” Living Trusts are particularly harmful because they give people a false sense of security.

Legacy Wealth Plan

A Legacy Wealth Plan looks at all of your concerns, before and after death, and puts together a plan to make sure every issue is addressed. It can provide complete protection for your family by controlling all of your assets both during your life and after your death.

When set up correctly, your Legacy Wealth Plan will avoid:

- ▶ Living probate
- ▶ Humiliating court proceedings
- ▶ Time delays Expenses (court fees, attorney fees, accounting fees)
- ▶ Loss of assets to nursing home and long-term care expenses
- ▶ Loss of an inheritance due to children’s divorce or creditor issues
- ▶ Loss of your children’s inheritance if your surviving spouse remarries
- ▶ Death probate
- ▶ Loss of control

LEGACY WEALTH PLAN SOLUTIONS

We've looked at a lot of areas to help you choose the protection you need in your Legacy Wealth Plan. You will likely find several important issues that haven't been looked after in your current estate plan, if you have one. You'll want to get those concerns taken care of.

Complete Legacy Planning covers all the same financial concerns that a traditional estate planning approach addresses, but it also looks after other concerns and non-financial assets that traditional planning does not address in a number of unique ways. The cornerstone of a Legacy Wealth Plan is a Family Wealth Trust which provides protection for you and your family both while you are alive and after your death.

Family Wealth Trust

With a Family Wealth Trust, there's no need for "help" from the probate court or probate lawyers. Your Trust will completely eliminate these unnecessary costs. Moreover, your estate can be distributed instantly at your death. All assets transferred to a Family Wealth Trust completely avoid the probate process, both during your life and after your death. You can amend the Trust or even revoke it whenever you like.

A Family Wealth Trust does more than just hand your loved ones a pile of cash, it passes on your legacy.

Protection: While You're Alive

INCAPACITY PLAN

Your incapacity plan allows you to authorize someone you know and trust—like your spouse, an adult child, or a close friend—to make important financial and health care decisions for you in case you become incapacitated. An incapacity plan is made up of these basic documents:

In some states the Durable Power of Attorney for Health Care and the Living Will is combined into one document called an Advance Health Care Directive.

Durable Power of Attorney

With a Durable Power of Attorney, you choose a trusted friend or loved one to serve as your "agent." This person has the authority to manage your financial and legal affairs according to instructions and limits you provide.

Durable Power of Attorney for Healthcare

A Durable Power of Attorney for Health Care allows you to select someone you trust to communicate with your doctors and make medical decisions on your behalf, in case you are unable to make these decisions on your own.

Living Will

This is the document you use to let your doctors and your loved ones know which life prolonging treatments you would and would not like, such as feeding tubes, CPR, and your wishes regarding end-of-life decisions.

MEDICAID PRE-PLANNING

The goal of Medicaid pre-planning is to put a plan in place before you need long-term care and to work within the Medicaid guidelines for nursing home care, should you need to qualify for Medicaid benefits in the future. With enough time, your attorney can help you gift and reposition assets without impoverishing you. They can also help you avoid recovery of your assets (paying back Medicaid funds you used) by your state Medicaid agency, preserving those assets so they can be passed on to your children after you and your spouse are gone.

While a Family Wealth Trust provides the majority of the protection your family will need, it doesn't help when you apply for Medicaid benefits. The assets in the trust are countable assets, meaning they will be calculated into an applicant's or their spouse's asset cap for Medicaid qualification purposes.

They immediately jump in to prevent qualification for government benefits and demand that assets in that trust be used to pay for long-term care expenses. Not a good result... and all the great planning you put in place goes down the drain.

Unlike the Family Wealth Trust, which is revocable, the Medicaid Protection Trust is irrevocable, and once in place it can't be changed. In addition, although you have the right to the income from the trust, you can't reach in and spend the principal. With these safeguards in place, Medicaid doesn't count these assets when determining whether you qualify for Medicaid benefits. After the 60 month look-back period, all assets in the Medicaid Protection Trust are safe and can be passed on to your family after death. You don't even have to wait for the full 60 months to get protection. After the plan is in place, the Medicaid rules allow a certain dollar amount to be protected every month until 60 months pass and then 100% is protected.

There are many variations of the Medicaid Protection Trust that we use for different family circumstances. If you decide you want this kind of planning to protect your estate from long-term care expenses, we can show you the strategies that best suit your needs and demonstrate just how much of your estate is at risk and how much can be saved.

Medicaid Protection Trust

This is an often recommended planning strategy which protects your assets and home from long-term care expenses. In order to be effective for Medicaid purposes, the Trust must conform to strict rules, specific for each state. It is important to work closely with an experienced estate planning and elder law attorney to make sure the Trust you put in place meets your state's Medicaid guidelines.

Protection: After Death

FUNERAL TRUST

A Funeral Trust enables you to set aside funds for your funeral ahead of time. This Trust is funded by life insurance, which earns interest, and can be used at any funeral home in the country. A Funeral Trust is an insurance policy, where the benefit pays out the next business day to a funeral home that the family chooses. It is also protected from probate and can be a useful tool in Medicaid planning.

ADMINISTRATION OF YOUR ESTATE

Trust Administration is a vitally important and often ignored aspect of any estate plan that includes a Trust. The administration of the Trust allows for the complete and orderly settling of the decedent's legal and financial affairs, including the disbursement of assets to the Trust beneficiaries. While having an estate plan that includes Trusts relieves many of the problems inherent in using a simple Will, or not planning at all, there is a need for administration. You can simplify the administration process for your Successor Trustee by being prepared and well informed.

Taxes

Eliminating or reducing taxes is a primary goal of estate planning. Trusts allow for a flexible approach to taxes. Income taxes can be slashed by transferring income-producing assets to a recipient in a lower tax bracket.

No Death Probate

At death, bypass the probate court and all attorneys and court fees.

DISTRIBUTIONS

Holding assets in Trust instead of making outright distributions ensures that your children's inheritance is handled fairly and distributed in accordance with your wishes. As mentioned earlier, the problem with outright distributions is once it's done, it's done. It's like squeezing all of the toothpaste out of the tube.

Once the estate is distributed outright to someone, you cannot put the estate back into the plan to protect it. It's best to keep the toothpaste (assets) inside the tube and give the tube (trust) to the beneficiaries. There are different levels of protection for distributions in a Family Wealth Trust: a Family Access Trust, Family Sentry Trust and a Family Incentive Trust.

Family Access Trust

A Family Access Trust provides divorce protection for your child by keeping their inheritance separate from his or her other assets. By leaving your assets to them in a Family Access Trust, your heirs can access the assets at any time. In most states, while the assets remain in the Trust, it keeps your child's future ex-spouse from taking your child's inheritance, or your surviving spouse's new spouse from passing your inheritance down to his or her children, not yours.

Family Sentry Trust

A Family Sentry Trust is a discretionary Trust for the benefit of your children, where distributions would be made by the Trustee, the person you appoint to make decisions for the Trust. Your child could direct investments but could not act to make distributions. A Family Sentry Trust could also protect your child from their creditors and/or lawsuits, depending upon the state.

Family Incentive Trust

Family Incentive Trusts are designed to create monetary incentives to promote or encourage certain behaviors or achievements. Basically, it gives conditional access to the Trust.

Special Needs Trust

Many families may think that they have a plan in place that will provide for their loved one with a disability, but if that plan does not include a Special Needs Trust, it may not provide the protection they want. Without proper planning, those who receive government and other restricted benefits and services may lose those benefits if they receive an inheritance. The Special Needs Trust is developed to manage resources while maintaining the individual's eligibility for public assistance benefits.

YOUR NON-FINANCIAL LEGACY

Your legacy is not only the money and assets you are going to leave to your family, but your life story, your goals, your experiences, and your values. You have more to share with your family than the things which you have accumulated during life. Legacy Planning recognizes that your most valuable possessions may be the values and life lessons you have to share. With the *My Legacy Workbook*, you can document your stories, wisdom and values and pass them down to future generations to cherish and learn from for years to come.

“Only put off until tomorrow what you are willing to die having left undone.”—Pablo Picasso

DISCOVER THE BEST STRATEGIES FOR YOU AND YOUR FAMILY

To help you determine which estate planning goals are most important to you, please take a moment and complete this questionnaire about priorities for yourself and your family. *We don't expect you to show us your answers, although we will be glad to review them with you, if you so desire.*

If You Do Not Have an Estate Plan

Check the Areas You are Most Concerned About

(Bring these to your FREE consultation)

- ▶ Marriage or remarriage
- ▶ Divorce
- ▶ Intentions or goals
- ▶ Receiving an inheritance
- ▶ Assets or net worth
- ▶ Guardianship
- ▶ Funeral planning
- ▶ Probate expenses
- ▶ Long-term care expenses
- ▶ Pet protection
- ▶ Birth or adoption of children
- ▶ Tax / non-tax laws
- ▶ Special needs planning
- ▶ Illness, injury or disability
- ▶ Other

If You Already Have an Estate Plan in Place

Once you have your estate plan established, you should have peace of mind knowing that your loved ones are protected. But what if things change? Changes in the law or your family can affect the validity of your plan. Your plan must be reviewed on a regular basis to ensure that these changes are taken into consideration and your estate plan updated accordingly.

Check the Areas that Have Changed Since You Established Your Estate Plan

- ▶ Marriage or remarriage
- ▶ Divorce
- ▶ Illness, injury or disability
- ▶ Received an inheritance
- ▶ Assets or net worth
- ▶ Residence
- ▶ Birth or adoption of children
- ▶ Tax / non-tax laws
- ▶ In need of nursing home care
- ▶ Designate guardian for child
- ▶ Death of executor/ guardian
- ▶ Intentions or goals

If you checked any of these boxes and would like to schedule a Free Estate Planning Review Consultation, please contact our office at **443-554-9944** or visit us online at **www.RaymondBrownLaw.com**.

THE NEXT STEP

Remember at the beginning we talked about your Defining Moments; your wedding day, the birth of your children, the deaths of your loved ones. What about the impact of *your* death on *your* loved ones? How will you be remembered by your family? Sometimes the entire memory of a loved one can be one of disappointment because the mess they left their family to clean up after their death. In many respects, one of your defining moments is how you plan for after you're gone. Our law firm provides an easy and effective system to set up a plan that addresses all of your concerns, both now and into the future, and leaves behind a lasting legacy for your loved ones.

Advantages of Working with Our Firm

One of the biggest benefits for our clients is that we are proud members of the prestigious **American Academy of Estate Planning Attorneys**. We offer you access to a nationwide network of qualified estate planning attorneys, ready and able assist you with out-of-state transfers of title, or provide help if you move to another state. We also offer:

FREE one hour consult when a loved one has died. We guide you through what you need to do to administer the trust.

FREE Family Wealth Trust ID cards. These wallet-sized laminated cards with our office address and phone number on one side, and the name and date of your trust on the other, serve as an on-the-spot reference whenever you buy new investments, open a new account or conduct a transaction for your trust.

FREE regular estate planning checkups with more frequent reviews available.

FREE regular client seminars and presentations on other prevalent estate planning topics.

FREE subscription to *Your Estate Matters*, our quarterly newsletter where you can Learn about estate planning topics, and other informative subjects relevant to you, and your family's needs.

FREE phone support. Answers to your estate planning questions are never more than a phone call away. Whether you need specific help with your own trust or want information on other estate planning strategies, call our helpful staff.

FREE eAlerts with news and announcements delivered monthly.

ABOUT THE AMERICAN ACADEMY OF ESTATE PLANNING ATTORNEYS

Why Academy Members Are Unique

Focus on estate planning. Members of the Academy concentrate their law practices in the area of estate planning and reinforce their expertise daily by dedicating their efforts to clients concerned with preserving what they have accumulated for future generations.

Professional legal training. Academy members receive on-going training specific to the field of estate planning to ensure that their legal knowledge and techniques are based on the latest information and resources.

Nationwide membership. Members of the Academy are available throughout the U.S.

Superior client care. Most Academy members offer expanded client care services such as in-home consultations, in order to meet the needs of each particular client.

Have your estate plan and your financial plans coordinated. Academy members recognize the importance in coordinating both your estate planning and financial goals. Members can work as a team with your existing financial advisors.

Attend seminars on estate planning topics. As educators in the field of estate planning, most Academy members regularly conduct seminars in their local areas to inform and educate consumers and other professionals in their area on estate planning issues.

Receive special reports on late-breaking estate planning news. Regularly published consumer alerts provide timely, accurate hot topics in estate planning such as the latest changes to our estate tax laws.

GLOSSARY

“BARE BONES” LIVING TRUST:

Set up to avoid Probate but does not protect families from disability planning.

DURABLE POWER OF ATTORNEY FOR HEALTH CARE, HEALTH DIRECTIVE, AND LIVING WILL:

These documents may also be called Advance Health Care Directive. The documents authorize termination of life support if you are terminally ill and authorize the person of your choice to make health-care decisions for you if you become incapacitated.

FAMILY ACCESS TRUST:

Provides divorce protection by keeping beneficiary’s inheritance separate from his or her other assets, while still maintaining access to the assets. Because the assets remain in the trust, it protects from divorcing spouses and, in most states, keeps future ex-spouses from taking your child’s inheritance.

FAMILY INCENTIVE TRUST:

Designed to create monetary incentives to promote or punish certain kinds of behavior or achievements, giving conditional access to the Trust.

FAMILY SENTRY TRUST:

A discretionary Trust whereby the person you appoint, the Trustee, would make decisions for the Trust and make distributions to a child. The child could control investments, but could not control distributions. A Family Sentry Trust protects your child from most of their creditors, lawsuits and bankruptcies, depending upon the state.

FAMILY WEALTH TRUST:

Avoids Living Probate, Death Probate and reduces or eliminates federal estate taxes for married couples.

FUNERAL TRUST:

An insurance policy, where the benefit pays for funeral expenses. It is protected from Probate and can be a useful tool in Medicaid planning.

GENERAL DURABLE POWER OF ATTORNEY:

Authorizes someone to manage your non-trust property if you become incapacitated.

JOINT TENANCY:

Interest owned by any two or more people in which the survivor acquires the entire interest upon the death of the other joint tenants.

MEDICAID PROTECTION TRUST:

Protects your assets and home from long-term care expenses. Trusts can be an effective Medicaid planning tool; however, in order to be effective for Medicaid purposes, a Trust must conform to strict rules.

MEDICAID RECOVERY:

Process where the state seeks recovery from the estates of certain deceased beneficiaries who have received benefits from a state Medicaid program.

PROBATE:

Process by which the probate court takes over at death to make sure assets are distributed to heirs, debts are paid, and any loose ends are taken care of.

TRUST ADMINISTRATION:

Process to distribute the estate after the surviving spouse passes away.

WILL:

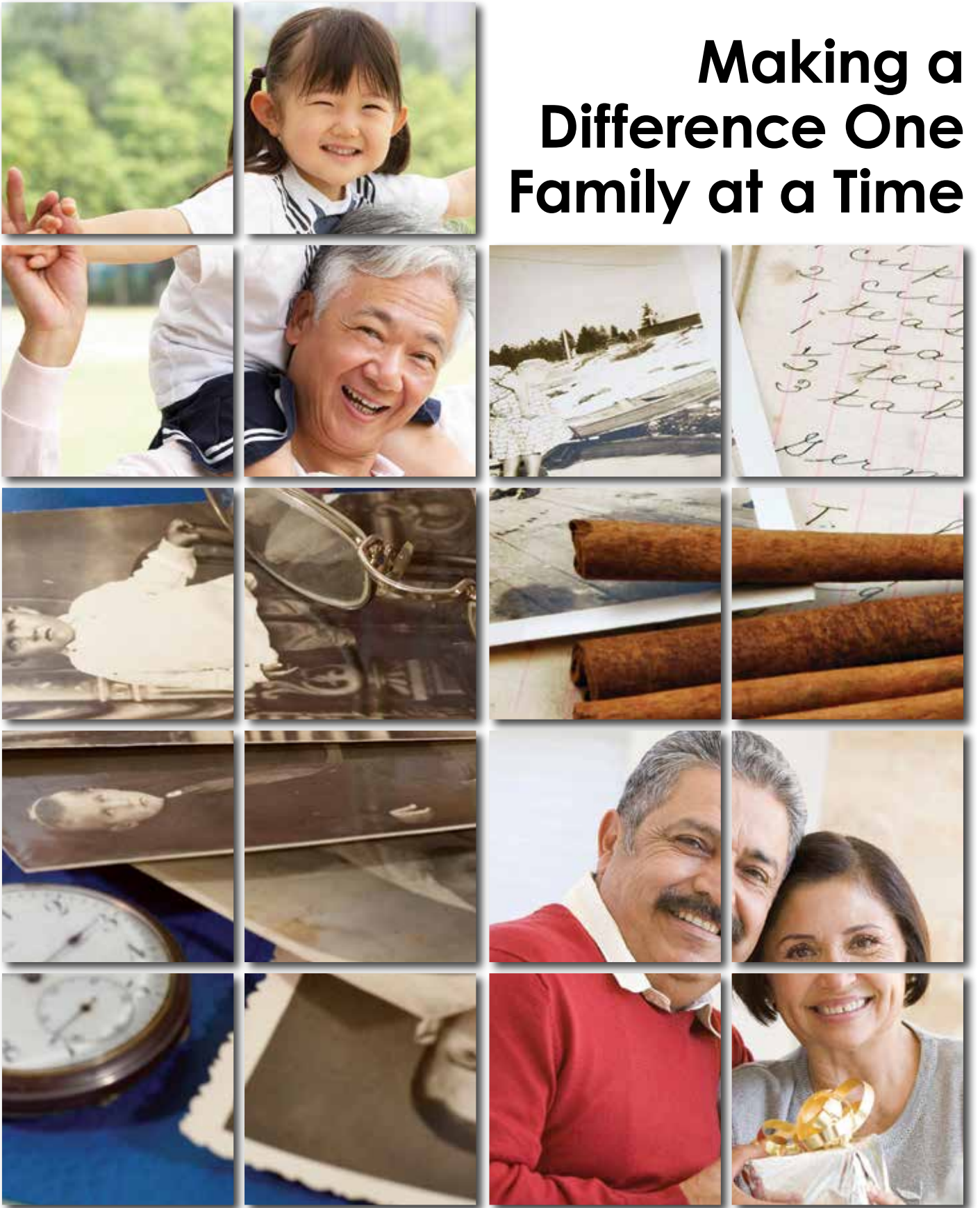
Legal document that describes how to distribute assets at death. It also names the guardians of your children. A Will *guarantees* Death Probate.

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Making a Difference One Family at a Time



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