PLANNING FOR END OF LIFE

1. Preliminary steps
2. Incapacity during life
3. Distributing property at death
4. Planning for family members
5. Death and dying
PRELIMINARY STEPS

1. Gather factual information
2. Think about your goals
3. Identify those you trust
4. Choose professional advisers
PRELIMINARY STEPS

1. GATHER FACTUAL INFORMATION
   a. Family
   b. Property
   c. Income
PRELIMINARY STEPS

1. GATHER FACTUAL INFORMATION
   a. Family
      • Name
      • Address
      • Relationship
      • Age/date of birth
      • Social Security #
      • Education
      • Employment
      • Special needs
PRELIMINARY STEPS

1. GATHER FACTUAL INFORMATION
   a. Family
   b. Property
      • Description
      • Location
      • Owner(s)
      • How/when acquired
      • Cost
      • Current fair market value
      • Balance owed
PRELIMINARY STEPS

1. GATHER FACTUAL INFORMATION
   a. Family
   b. Property
   c. Income
      • Salary/employee benefits
      • Business & partnership interests
      • Investments
      • Social Security
      • Retirement plans
      • Other benefits
      • Miscellaneous income
PRELIMINARY STEPS

1. GATHER FACTUAL INFORMATION

2. THINK ABOUT YOUR GOALS
   a. Now
   b. During retirement
   c. During disability
   d. At death
PRELIMINARY STEPS

1. GATHER FACTUAL INFORMATION

2. THINK ABOUT YOUR GOALS
   a. Now
   b. During retirement
   c. During disability
   d. At death

Transfer taxes no longer drive planning, but income taxes may.
PRELIMINARY STEPS

1. GATHER FACTUAL INFORMATION
2. THINK ABOUT YOUR GOALS
3. IDENTIFY THOSE YOU TRUST
   a. To care for you or your children
   b. To make health care decisions
   c. To manage your money
   d. To administer your estate
PRELIMINARY STEPS

1. GATHER FACTUAL INFORMATION
2. THINK ABOUT YOUR GOALS
3. IDENTIFY THOSE YOU TRUST
4. CHOOSE PROFESSIONAL ADVISERS (as needed)
   a. Attorney
   b. CPA
   c. Financial planner
   d. Trust officer
INCAPACITY DURING LIFE

1. Managing financial affairs
2. Making health care decisions
3. Long-term care
4. Financing long-term care
INCAPACITY DURING LIFE

1. MANAGING FINANCIAL AFFAIRS
   a. Conservator of estate
   b. Custodian
   c. Representative payee
   d. Durable power of attorney
   e. Trustee
INCAPACITY DURING LIFE

1. MANAGING FINANCIAL AFFAIRS
   a. Conservator of estate
   b. Custodian
   c. Representative payee
   d. Durable power of attorney
   e. Trustee

TRUST = an arrangement under which one party (the “trustee”) holds LEGAL title to property and manages it for the benefit of designated persons (the “beneficiaries”), who are considered to own the EQUITABLE interest in the property.
INCAPACITY DURING LIFE

1. MANAGING FINANCIAL AFFAIRS
2. MAKING HEALTH CARE DECISIONS
   a. Hospice
   b. Guardian of person
   c. Surrogate decision maker
   d. Advance medical directive
      • “Key Conversations” guide
      • Health care instructions
      • Health care representative
      • Mental health directive
      • Proper execution
INCAPACITY DURING LIFE

1. MANAGING FINANCIAL AFFAIRS
2. MAKING HEALTH CARE DECISIONS
3. LONG-TERM CARE
   a. At home
   b. Assisted living facility
   c. Adult foster home
   d. Residential care facility
   e. Nursing home
   f. Continuing care facility
INCAPACITY DURING LIFE

1. MANAGING FINANCIAL AFFAIRS
2. MAKING HEALTH CARE DECISIONS
3. LONG-TERM CARE
4. FINANCING LONG-TERM CARE
   a. Few government benefits!!!
   b. Long-term care insurance
   c. Private-pay
DISTRIBUTING PROPERTY AT DEATH

1. NONPROBATE PROPERTY ("will substitutes")
2. PROBATE PROPERTY
WILL SUBSTITUTES

Give everything away during life  
Create will substitutes  
Keep everything in sole name until death
WILL SUBSTITUTES

Give everything away during life

Create will substitutes

Keep everything in sole name until death

1. Retain control during life
2. Get property → beneficiaries at death without probate
NONPROBATE PROPERTY

automatic

successors
WILL SUBSTITUTES

1. Living trust
2. Life insurance
3. Retirement plan
4. Pay-on-death (POD) account
5. Transfer-on-death (TOD) deeds and securities
6. Survivorship ownership
*WILL SUBSTITUTE*

1. Living trust
2. Life insurance
3. Retirement plan
4. Pay-on-death (POD) account
5. Transfer-on-death (TOD) deeds and securities
6. Survivorship ownership

*DO NOT ESCAPE TAXATION!!!*
REVOCABLE LIVING TRUST

The most effective way to:

1. Plan for incapacity
2. Avoid probate
3. Get property to right people
REVOCABLE LIVING TRUST

1. Put all (or most) assets in the trust.
2. Attach a list of trust assets.
3. Transfer titles to the trustee!
4. Understand trust distributions.
5. Follow proper trust procedures.
WILL SUBSTITUTE

1. Living trust
2. Life insurance *
3. Retirement plan *
4. Pay-on-death (POD) account
5. Transfer-on-death (TOD) deeds and securities
6. Survivorship ownership

* PROPER BENEFICIARY DESIGNATIONS ARE CRITICAL!!!
WILL SUBSTITUTES

1. Living trust
2. Life insurance
3. Retirement plans
4. Pay-on-death (POD) accounts
5. *Transfer-on-death (TOD) deeds and securities
6. Survivorship ownership

* MUST BE TO NAMED PERSON(S), NOT TO A CLASS (such as “my children”)!!!
DRAWBACKS TO JOINT TENANCY

1. Gift tax consequences
2. Child can unilaterally sever
3. Child shares income
4. Child must consent to sale
   (and gets share of $)
5. Child’s creditors may make claims
6. Child may die first
7. Child is ungrateful/greedy
8. Litigation
NONPROBATE PROPERTY

successors

NO NEED FOR A WILL OR COURT PROCESS!
NONPROBATE PROPERTY

successors

NO NEED FOR A WILL OR COURT PROCESS!
WILL HAS NO EFFECT ON THIS PROPERTY!
successors

1. Title doesn’t matter
2. Statutory affidavit
   a. Specific type of asset
   b. Small estate
NONPROBATE PROPERTY

- automatic
- successors

PROBATE PROPERTY

- informal shortcut
- will
- will Bs

successors

1. Title doesn’t matter
2. Statutory affidavit
   a. Specific type of asset
   b. Small estate
1. Title doesn’t matter
2. Statutory affidavit
   a. Specific type of asset
   b. Small estate
PLANNING FOR FAMILY

1. Surviving spouse
2. Minor children
3. Disabled family members
PLANNING FOR FAMILY

1. SURVIVING SPOUSE
   a. Rights as heir
   b. Elective share rights
   c. Rights under retirement plans
   d. Pre- and post-nuptial agreements
   e. Divorce
PLANNING FOR FAMILY

1. SURVIVING SPOUSE

2. MINOR CHILDREN
   a. Guardian of person
   b. Conservator of estate
   c. Custodianship
   d. Contingent trust for minors
PLANNING FOR FAMILY

1. SURVIVING SPOUSE
2. MINOR CHILDREN
3. DISABLED FAMILY MEMBERS
   a. Guardian of person
   b. Conservator of estate
   c. Trusts
   d. Government benefits
DEATH AND DYING

1. Physician Orders for Life-Sustaining Treatment (POLST)
2. Physician-assisted death
3. Organ donation
4. Funeral and burial
DEATH AND DYING

1. Physician Orders for Life-Sustaining Treatment (POLST)
   - CPR
   - Medical interventions
     - Comfort measures only
     - Limited additional interventions
     - Full treatment
   - Artificially administered nutrition
   - Oregon POLST Registry
DEATH AND DYING

1. Physician Orders for Life-Sustaining Treatment (POLST)
2. PHYSICIAN-ASSISTED DEATH
DEATH AND DYING

1. Physician Orders for Life-Sustaining Treatment (POLST)
2. PHYSICIAN-ASSISTED DEATH
3. ORGAN DONATION
   - Document expressing choices
   - Delegation of authority
   - Registry
DEATH AND DYING

1. Physician Orders for Life-Sustaining Treatment (POLST)
2. PHYSICIAN-ASSISTED DEATH DONATION
3. ORGAN DONATION
4. FUNERAL AND BURIAL
   • Advance arrangements
   • Document expressing choices
   • Delegation of authority