



How to Make Your Money Last As Long as You Do

HOOK
LAW CENTER



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+ What are your concerns?



- Avoiding Running out of Money
- Protecting your Spouse and Family
- Obtaining and Paying for Long-Term Care
- Avoiding the Loss of Independence and Autonomy due to Incapacity
- Leaving a Legacy to your Children
- Frequent Change
 - Legal
 - Inflation
 - Tax
 - Personal



Failing to Plan is Planning to Fail



- Planning should be comprehensive
- Legal Planning
 - Planning for the management of your affairs during a period of incapacity.
 - Planning for the disposition of your estate at death.
- Financial Planning:
 - Planning to pay your expenses during retirement
 - Planning to pay your expenses during a period of incapacity
 - Private Payment for Long Term Care
 - Life and LTC Insurance
 - Public Benefits
 - Veteran's Benefits
 - Medicaid/PACE

+ Legal Planning



- Legal Planning more than “death planning.”
- Legal Planning is a comprehensive plan to address your preferences (personal and financial) and who will be authorized to implement these preferences when you are no longer able.
- Legal Planning is more than just drafting of documents; it is group of tools used to create a tailored plan.

+ Can You or Your Loved One Still Plan?

- Presumption of capacity
- Assessed outside of the presence of family and agent
- “Nature and Consequences”
- Document capacity by use of witnesses and memorandum
- Obtain physician’s opinion when in doubt

+ Default for Medical Decisions

- Order of Default Decision Makers
 - Medical POA
 - Guardian
 - Spouse
 - Child
 - Parent
 - Sibling
 - Other blood relative
 - Any other adult exhibiting care and concern and familiar with patient's religious beliefs, basic values, and preferences
 - Does not include ability to withdraw life-prolonging measures\
- Use of default decision makers frequently results in controversy and delay.
 - Terri Schiavo case



Grant of Authority - Medical

Advance Medical Directive

- Written Instrument
 - Living Will
 - Medical Power of Attorney

Guardian of Person

- Court Order
- Covers: Residence, Medical, Education, Employment
- Reporting Requirements

+ Grant of Authority - Financial

Power of Attorney

- Capacity required
- Written instrument
- Fiduciary relationship between principle and agent
- No Bond, Accountings may be Waived
- Terms:
 - General v. Specific
 - Immediate v. Springing
- Other state recognition

Conservator of Estate

- Incapacitated
- Court order
- Fiduciary relationship between guardian and ward
- Accountings and Bond Required
- Terms:
 - Limited v. General
 - Immediate v. Standby
- Other state recognition



Federal Benefits/Fiduciary

- Your Power of Attorney or Guardian will not be able to represent you concerning federal benefits such as Social Security, Civil Service Retirement payments, Military Retirement payments and Veterans Benefits.
- Each federal agency will have its own process to address who will assist an incapacitated person concerning these benefits.
 - For example, the Social Security Administration has the representative payee procedure.

+ Joint Ownership

- Management of Financial Assets
- With or Without Right of Survivorship
- Principal and Agent
 - Owner acts as Principal for their own assets
 - Joint Owner acts as Agent for the other's assets
- Fiduciary Relationship
- Consequences:
 - Avoidance of Probate
 - Does not Coincide with Plan – Could Lead to Disinheritance

+ Disposition of Assets

Trusts

Trusts are a tool utilized for multiple reasons including asset management during periods of incapacity and probate avoidance

Multiple types of trusts including irrevocable and revocable trusts

Trusts are frequently used for public benefits planning.

Wills

A Will only disposes of probate assets

It does not control jointly owned assets or assets with a designation of beneficiary

Designation of Beneficiary

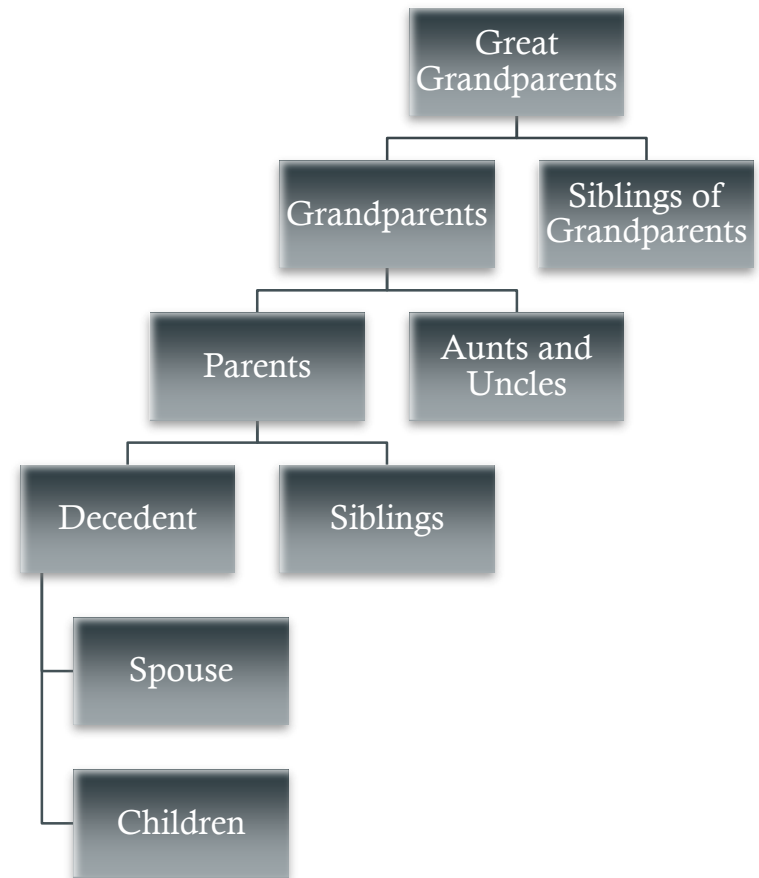
Life insurance

Annuities

IRA's and 401K's

+ Intestate Succession

- Surviving Spouse
 - 100% v 1/3
- Children
- Parents
- Siblings
- ½ to Paternal Kindred,
½ to Maternal Kindred
 - Grandparents
 - Aunts and Uncles
 - Great Grandparents
 - Siblings of Great Grandparents
 - Will fall to other side if no lineal ancestors
- Commonwealth of Virginia



+ Financial Planning

- Financial Planning is critical to prepare for retirement and to maximize finances during retirement
- Tools include Budget, Investment Policy Statement and tax planning.
- Largest threat to a financial plan is LTC expenses
 - For a couple turning age 65, there is a 70% chance that one of them will need long-term care.
 - 60% of people over age 75 need long-term care, many stay in facilities for about 3 years.
 - For an individual age 80, there is a 50% chance that the individual will require care in a long-term care facility.
- Cost of Care
 - Assisted Living Facility: \$53,000/year
 - Nursing Home Facility: \$78,000/year
 - Home health aid for one shift per day: \$44,000/year

+ Long-Term Care Planning

- Planning for Periods of Chronic Illness
- Long-Term Care Insurance
 - TRICARE, Medicare, and other tradition insurances are for acute care
- Asset Protection Planning
 - Public Benefits
 - Medicaid – 5-year look-back period
 - Veteran’s Affairs – No current look-back period
- Authority to Plan?

+ Cost of Waiting

- No one knows when the need for long-term care services will arise.
- It may be smart to implement a plan prior to needing long term care services.
- You will have more options when you plan in advance.

+ Private Payment

- Self-Pay
 - Accrued resources from retirement savings can be leveraged to pay for long-term care.
 - Social Security
 - Sale of non-critical assets (vacation home, collectibles, etc.)
- Family Pay
 - 78% of elderly receive care from family members
 - Relatives may be willing or required (filial responsibility) to assist in provision or payment of LTC expenses.
 - Payments need to be carefully performed in order to achieve the greatest tax benefit for family members.



Problems with Private Pay

- Certain Resources Unavailable
 - Need to have liquid resources available to pay.
 - Conversion of assets to liquid cash may be difficult or cause a tax burden.
- Additional Costs
 - The living expenses of the community spouse remain constant and the spouse in nursing facility creates unanticipated budget item.
- Risk of running out of assets for spouse
 - LTC can exceed even conservative estimates and may impoverish spouse.
 - Increased withdrawal rate due to LTC expense may cause need for tighter budget later.
- Family disagreements concerning how and what to pay for.

+ Long-Term Care Insurance

- A long-term care insurance policy may be an important component of your overall plan for retirement.
 - Pays a portion of your long-term care expenses
 - Helps protect your retirement assets
 - Allows you to spend your retirement the way you planned
- A long-term care insurance policy provides benefits for services in the setting that's right for you:
 - Your home
 - Adult day care
 - Assisted living facility
 - Nursing home
- Due to pre-existing conditions 50% of applications for LTCI are denied.

+ Policy Terms are Complex

- Benefit amounts- \$50 - \$400 a day
- Benefit periods- 2 years to 6 years
- Elimination period/deductible- 30 to 365 days
- Age and Gender- Cost of Waiting
- Home care
- Inflation- 3% to 5%; Compounding or Simple
- How claims are paid- Reimbursement or Indemnity

+ Pension Benefits offered by the Department of Veterans Affairs

- 33% of all Seniors age 65 and older could qualify for a VA pension and healthcare benefits.
- Veteran or Widow(er) of Veteran who:
 - --Served at least ONE DAY during War-Time Period
 - --Served 90 Consecutive Days on Active Duty
 - --Received a Discharge other than Dishonorable
 - --Limited Income and Assets
 - --Permanent and Total Disability
 - --Disability caused without Willful Misconduct
 - --Submits a Signed Application
 - --Non-service Connected Benefit

+ Aid & Attendance Requirements

- Claimant meets one of the following:
 - --Blind
 - --Lives in a Nursing Home
 - --Unable to:
 - -- dress/undress or keep self clean and presentable
 - -- attend the wants of nature without assistance
 - -- has a physical or mental incapacity that requires assistance on a regular basis to protect claimant from daily environmental hazards
- Rates:
 - Veteran with zero Dependents \$1,731/month
 - Veteran with one Dependent \$2,053/month
 - Widow(er) \$1,112/month
- Income Test: Income less Medical Expenses
- Asset Test: Sufficient Means to Self-Pay
 - Sufficient Means: Hook Law Center can assist with helping individuals fall within acceptable levels; asset requirements vary; however there are a wide range of strategies
 - Age Analysis: Age vs. Asset Test



Medicaid

- Medicaid pays for 50% of nursing home expenses
 - The middle class must frequently rely on Medicaid.
- Medicaid pays for a limited amount of in home care for a person who would otherwise require nursing home care.
- Medicaid has limited assistance for assisted living facility care.
- Medicaid has strict asset and income rules.
 - Medicaid has rules to prevent the impoverishment of community spouses.
 - Planning is frequently required to meet asset and income requirements.
 - Some transfers will result in periods of ineligibility
 - Due to complexity, expert assist assistance is advisable to assist with planning and application preparation.

+ Medicaid Planning



- Prior Planning
 - Children's Trusts to protect the family home and assets

- Crisis Planning
 - Authorized transfers including caretaker child and payments for care provided
 - Purchase non countable assets
 - Purchase annuity for community spouse
 - Increase amount of Community Spouse Resource Allowance

+ Conclusion

- The Failure to Plan is Planning to Fail
- Our experienced staff will help you develop, implement, and maintain a comprehensive estate, asset protection, and financial plan.
- Fixed Fees for most Engagements
- Two Convenient Locations



Legal Power for Seniors

Attorneys and Counselors at Law

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Estate Planning
Asset Protection Planning
Long-term Care Planning
Life Care Planning
Veterans Benefits
Financial Planning & Advice regarding
Investments, Insurance, Annuities &
Reverse Mortgages

Tax Planning
Guardianships & Conservatorships
Estate & Trust Administration
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