MEDICO & ASSOCIATES, LLC

FAMILY ASSET PROTECTION SURVIVAL GUIDE

How to plan your estate so you keep your money, control your assets, protect your family, become a good steward of your property and never become a burden to your children

Written and Published as an Educational Service by

ANTHONY J. MEDICO, ESQ.
Asset Protection & Estate Planning Attorney

Providing Legal Services for Businesses, Executives and Families for 23 Years.
Asset Protection ❖ Estate Planning ❖ Business Planning ❖ Charitable Giving ❖ Wealth Management

20 Costly Misconceptions About Wills and Trusts

Misconception #1: A Will avoids probate. No. A Will is the primary tool of the probate system. Your Will is like a letter to the Court telling the Court how you want your property distributed. Then you must make sure that you prove to the Court that all your property is collected and appraised, and all your bills and taxes are paid, before your property can be distributed to your heirs.

Misconception #2: A Testamentary Trust avoids probate. No. A Testamentary Trust is a Trust contained within a Will that holds property for a specific purpose. For example, one purpose would be to hold property until minor children turn 18, when they can legally own property -- or until children reach the age when you believe they are mature enough to responsibly handle the property. A Testamentary Trust is not a Revocable Living Trust. It is part of a Will and takes effect only when the Will is probated.

Misconception #3: Probate costs and the costs of administration of the estate are small. Not necessarily. Such costs can be very substantial. The real problem is, no one can tell you how much the costs will be until the probate has been completed, which often can take several years. The biggest portion of the costs are the fees charged by attorneys and personal representatives for their services for the estate, in addition to filing fees, costs of publication, fees for copies of death certificates, filing and recording fees, bond premiums, appraisal and accounting fees, and more. Often the fees of personal representatives are based on an hourly rate, and while they can tell you what their hourly rate is, they cannot tell you the number of hours their services will take, so they cannot tell you what their total fees will be. Like surgery, probate can be simple and easy, but frequently probate can have drastic and damaging results. Accordingly, like surgery, because of its uncertainty in terms of both the potential for problems and high costs and fees, probate is something best to avoid if you can.

Misconception #4: Property can be distributed according to the terms of your Will in only a few weeks. In Connecticut, the administration usually takes 12 to 15 months. During this time, the deceased person's property must be inventoried and appraised. Heirs must be notified. Estate and inheritance taxes, if any, must be paid. Contested claims, if any, must be settled. Creditors must be notified and paid. If all of this is not done before the estate is distributed to the beneficiaries of the estate, the personal representative will be personally responsible for those claims. As a result, most personal representatives won't distribute property until they are sure all claims have been settled.

Misconception #5: Your Will and your assets remain private. No. Because probate is a public legal proceeding, your estate may become a matter of public record. This means that anyone -- including nosy neighbors and salespeople -- can go to Court to find out the balance in your savings account, the value of your stocks, even the appraised value of your diamonds.

Misconception #6: A Will helps you avoid taxes. No. A simple Will does nothing to lower your taxes. A Will simply tells how you want your property distributed, and who you want to act as guardian for your minor children in case you and your spouse die in a common accident. A skilled lawyer can use a Will to plan complicated estates that require tax planning, but the cost of the complex plan will be comparable to the cost of a Revocable Living Trust plan. Plus, the Will-based plan will still have to go through probate.

Misconception #7: Your permanent family home and your vacation home can be handled through the same probate and qualification. Yes, but only if they are in the same state. If you own property in different states, a second probate, called an ancillary administration, will need to be opened, which means your estate may need to hire another attorney. This will increase the overall estate administration expense. And if you own real estate in other states, probates will need to be opened in those states as well.

Misconception #8: A Will prevents quarrels over assets. Wrong. Wills are among the most contested legal documents in the United States. Today, it is common for unhappy relatives to challenge a Will. This results in higher attorneys' fees and even more delays. Wills actually encourage challenges over assets because a petition must be filed in Court to probate them, which is like filing a lawsuit. As a result, since a lawsuit has already been filed to probate the Will, a contesting party can simply file their claim in Court without instigating their own lawsuit.

Misconception #9: Estranged family members do not need to be notified of a probate if the Will excludes them from an inheritance. In Connecticut, the Court may require that all heirs be notified of the probate even if they are excluded from the Will. Certain aspects of the probate process can be avoided and financial responsibility can be mitigated through the use of various trusts and other types of financial planning.

Misconception #10: A Will from one state is not legal in another state. Wrong. If the Will is legal in the state where it was prepared, it is legal in all 50 states. However, Wills do not travel well from state to state and should be reviewed by an attorney and very likely changed whenever you move to a new state. This is because the Will's language may not mean the same in other states as it did in the state where it was signed. In addition, many states require witnesses to the Will signing. If proper procedures are not followed, you may need to produce those witnesses in order to probate the Will.

Misconception #11: A Will helps you when you become physically or mentally incapacitated. No. A Will is totally ineffective until death, and, therefore, does nothing to help you through incapacity and disability. Your family or friends may have to go to Court to start costly guardianship or conservatorship proceedings.

Misconception #12: You must name your attorney as your personal representative. No. You may name anyone you choose.

Misconception #13: The cost of your estate plan is only the cost of drawing up the documents. No. The cost of your estate plan is both the cost of drafting the documents and the cost of distributing property to your heirs. Simple Wills are less expensive to set up, but potentially expensive when they go through probate and there is qualification on the estate and estate administration. Revocable Living Trusts may initially cost more than a simple Will, but the overall cost of settling your estate is often substantially less.

Misconception #14: Revocable Living Trusts are only for large estates. No. Revocable Living Trusts are for anyone who wants to avoid costly conservatorship and probate proceedings. In appropriate cases, people with small estates can benefit from a Revocable Living Trust. People with larger estates can benefit even more.

Misconception #15: A Revocable Living Trust is a public document. No. Your Revocable Living Trust can remain private because it does not have to be recorded or published in any way. The only people who will know about your Trust are the people you choose to tell. However, some professionals may need to review your Trust to confirm that your trustee is authorized to take a particular action. This review is for the protection of all beneficiaries of the Trust.

Misconception #16: A Revocable Living Trust cannot be changed. Wrong. You can change and even revoke your Revocable Living Trust any time you wish. The decision is entirely up to you.

Misconception #17: A Revocable Living Trust must have a separate tax return. No. As long as you are a trustee or co-trustee of your Revocable Living Trust, it does not need a tax return of its own. Your personal tax return, which uses your social security number, is sufficient for the IRS.

Misconception #18: When you set up a Revocable Living Trust, you lose control of your assets. No. When you set up your Revocable Living Trust, you simply name yourself and/or your spouse as Trust managers, called "trustees." In this way, you never give up control.

Misconception #19: The best way to transfer assets to your Revocable Living Trust is through a pour-over Will. No. A pour-over Will can be used to clean up the transfer of any miscellaneous assets to your Revocable Living Trust, but in order for that to take place, the Will must be probated for the assets to be transferred to the Revocable Living Trust. A better course of action is to transfer the assets to your Trust while you are still healthy and able. Not only will you get the peace of mind that comes from knowing the transfer was made properly, you will also get an accurate inventory of your estate.

Misconception #20: There are no costs associated with administering a Trust at the death of the original settlor of the Trust. Not true. While people commonly think that only the probate system costs money and takes time, they fail to understand that administering a Trust, distributing Trust assets to beneficiaries named in the Trust, and terminating the Trust can result in substantial fees and costs. Trustees charge fees for their service, and many trustees hire attorneys and accountants. These costs are paid by the Trust before beneficiaries receive their inheritances.

8 Potential Problems With Revocable Living Trusts

Problem #1: Choosing the wrong trustee. Many people believe that you must name your bank as your trustee, but this is not the case. I recommend you act as your own trustee (if you are married, your spouse can serve as a co-trustee) so you continue to manage and invest your assets, just as you do now. If you do not choose to serve as trustee, you may hire a professional fiduciary who is not affiliated with a bank or trust company.

Problem #2: Leaving your Trust empty. A Revocable Living Trust is like a safe deposit box. It's a good place to put your valuables, but it won't do any good if you leave it empty. It's not uncommon for people to have a lawyer draw up their Trust and then, years later, still have to go through probate. Why? Because neither they nor their attorney ever put their assets into the Trust. Your property must be put into the Trust. But don't worry. The process of retitling assets is easier than you think.

Problem #3: Initial cost. A Revocable Living Trust is more expensive to set up than a simple Will. But, in the long run, the cost will probably be much less because the Revocable Living Trust allows you to avoid probate, Court supervised estate administration, guardianships and conservatorships.

Problem #4: The potential for poor management. You could find that the person you selected to manage your affairs is not a good manager. Your choices for successor trustee(s) should be family members or friends you can trust. Corporate trustees, such as banks, are also an option. But, even if you don't put your assets into a trust, you could still have a problem with management of your assets.

Problem #5: Refinancing real estate may be inconvenient. Some mortgage companies and banks require that you take real estate out of your Trust before they will place a new mortgage on your property. Once the financing is complete, then you simply transfer the property back into your Trust.

Problem #6: Keeping a list of assets in your Trust. Some people don't like to keep track of assets they put into their Trust. Others don't mind this small amount of extra work. When you want to add something to your Trust, you simply title it in the name of the trustees and add it to your list. I assure you the benefits of having a Revocable Living Trust far outweigh these minor inconveniences.

Problem #7: Opening a new bank account. Some banks will require you to close your current bank account and open a new bank account if you transfer the account into a Trust. This is a matter of the bank being uninformed. If you have substantial direct deposits or automatic debits, it will be necessary to see that the new account is functioning properly before closing the old account.

Problem #8: Imprinting on your checks. Some banks will require that you put the name of your Trust and trustees on the checks. You can respond to this in one of three ways. (1) The name of your Trust and trustees can very closely match your own name and be abbreviated in many respects. (2) You can order checks from a printing company with anything on them that you choose. (3) You can print your own checks with very simple and inexpensive computer software packages.

11 Mistakes That Tear Families Apart and Cause Children to Suffer

Mistake #1: Relying on Connecticut's estate plan. If you do not set up an estate plan, upon your death your property will be distributed according to the laws of your last state of residence. Often, the law will require the probate judge to give your property to someone other than the person(s) you would have chosen.

Mistake #2: Relying on a Will. If your estate plan consists only of a Will, your heirs may face many costly problems, such as probate and/or conservatorship proceedings. True, a Will is the most common estate planning tool, but it may not be the best tool to use.

Mistake #3: Relying on Joint Tenancy. Almost everybody owns their bank accounts in Joint Tenancy. Yet Joint Tenancy often causes families horrible legal nightmares. You have many options that are better and safer than owning property in Joint Tenancy, and they come with much less risk.

Mistake #4: Relying on Community Property laws. Relying on the Community Property laws is a position many clients take. However, as in Joint Tenancy, your property will still have to go through probate on the death of the spouse. Also, as in Joint Tenancy, Community Property ownership requires a conservatorship if a spouse is incapacitated and the home needs a mortgage, home equity line, or to be sold. Relying on the Community Property laws is not a good estate plan.

Mistake #5: Relying on Guardianships. These Court-supervised proceedings for addressing your physical or mental incapacity are costly, time-consuming and horribly burdensome. When you set up a Living Trust and transfer your assets into it, you avoid the need for a guardianship. You also need to put into place up to date Powers of Attorney, Health Care Powers of Attorney and Directives to Physicians.

Mistake #6: Relying on the small estate affidavit procedure as your way of avoiding probate. Most people assume they have fewer assets than they actually have. The small estate exemption that avoids probate is permitted only for estates consisting of less than $40,000 of personal property.

Mistake #7: Relying on a gifting program as your way of avoiding probate. The law allows you to give away your property at a rate of $14,000 per person per year. (2015) A married couple can give $28,000 per year to anyone they choose without gift tax consequences. While this is an effective way to reduce the size of your estate, it has two downsides: First, you lose control of the assets you have given away. Second, minor beneficiaries get total control over everything that has been given to them when they turn 21, if the gift is to a uniform transfer to minors act account (UTMA Account). To avoid that problem certain Trusts would need to be established to receive gifts to minors.

Mistake #8: Relying on the Courts to take care of your child's finances. If you die intestate (with no Will) or with only a Will, and your property passes to your minor child, the Court will put your child's money into a Court-supervised guardianship involving annual accountings to the Court. Naturally, this requires CPAs to prepare accountings, lawyers to file those accountings with the Court, plus filing fees. In addition, since the Connecticut probate code imposes the most conservative investment standards, this might significantly lower the return on your child's investment. It also means that the Court determines the person who will serve as guardian of the property, who may not be the person you would have chosen.

Mistake #9: Relying on a form kit for your Will or Living Trust. One size does not fit all because no two people or families are alike. Do you know even one family whose concerns are the same as yours? From your family's needs and dynamics -- to personalities and values -- can you imagine any form kit ever being suitable for any family? If you use a form kit, you're asking for problems. The only estate plan you can rely on is one that is custom prepared by a qualified estate planning lawyer.

Mistake #10: Relying on an attorney who uses boiler-plate Living Trust documents to provide for your spouse and children. When you create your Living Trust, you and your lawyer have the opportunity to write specific instructions about how you want to provide for your surviving spouse and children. If you overlook this opportunity, your family will receive whatever care the one-size-fits-all form documents provide. That care is almost never as good as the care you would want your family to receive.

Mistake #11: Relying on the wrong attorney. Most attorneys know very little about estate planning. What's more, even estate planning attorneys often don't put much time or energy into a Minor's Trust. Responsible parents realize a Minor's Trust is the most important part of their family estate plan. That's why I urge you to choose an estate planning attorney who has the primary focus, mission and purpose to help you achieve your family's estate planning goals: putting your children first.

12 Problems That Could Cost Your Family a Fortune -- and Their Solutions

Problem #1: Probate. Probate is the Court-supervised process of passing title and ownership of a deceased person's property to his or her heirs. The process consists of assembling assets, giving notice to creditors, paying bills and taxes, and passing title to property when the judge signs the order. Probate can cost your loved ones a sizeable portion of your estate. The biggest portion of the costs are the fees charged by attorneys and personal representatives for their services for the estate, in addition to filing fees, costs of publication, fees for copies of death certificates, filing and recording fees, bond premiums, appraisal and accounting fees, and so on. Often the fees of attorneys and personal representatives are based on a hourly rate, and while they can tell you what their hourly rate is, they cannot tell you the number of hours their services will take, so they cannot tell you what their total fees will be. Like surgery, probate can be simple and easy, but frequently probate can have very drastic and damaging results. Accordingly, like surgery, because of its uncertainty in terms of both the potential for problems and high costs and fees, probate is something best to prepare for if you can. You can avoid a substantially larger probate process by having an estate planning lawyer set up and fund a Revocable Living Trust. Since the Trust actually owns your assets, no significant probate of the estate will be required, saving your family many thousands of dollars.

Problem #2: Lawsuits and Creditors. Protect the property you leave to your spouse and children from the claims of their creditors, ex-spouses, and the IRS. This can best be done with proper creditor protecttion provisions in a Revocable Living Trust.

Problem #3: Estate Taxes. For married couples, protect your assets from state and federal estate taxes by setting up and funding a tax-saving Credit Shelter Trust. Under current law, a Credit Shelter Trust will completely protect your assets from Connecticut estate taxes for estates valued over $2 million for a single person, double for a married couple. Without this type of Trust, beneficiaries who inherit an estate valued over at $2,000,000 would pay up to 12% in State estate taxes. Most couples don't realize that the value of their estate for purposes of determining estate taxes includes their life insurance death benefit proceeds. If their estate is worth over $2,000,000, including life insurance proceeds, their heirs will pay up to12% in estate taxes without proper estate planning. Now the good news: In this example, a welldesigned estate plan costing between $3,000 and $6,000 will save a $2,000,000+ estate all of the State estate taxes. Other ways you can avoid or reduce estate taxes include setting up (1) an Irrevocable Trust for your children, grandchildren or other heirs, (2) an Irrevocable Life Insurance Trust, (which detaches your life insurance benefits from your estate), (3) a Charitable Remainder Trust, and (4) Second-to-die Life Insurance so you can pay estate taxes for pennies on the dollar.

Problem #4: Income Taxes. A family can lower its overall income taxes by setting up a Family Limited Partnership to own income-producing property. A parent can do this by setting up a Family Limited Partnership and making gifts of limited partnership interests to the other limited partners, normally their children or grandchildren who pay income tax at lower tax rates. A Family Limited Partnership is an excellent tool to shift income to partners who pay taxes at lower rates. It is also an effective way to make gifts and still keep total control of the property owned by the partnership.

Problem #5: Lawsuits. Protect your assets from lawsuits by doing any or all of the following, as appropriate: (1) purchasing an umbrella liability insurance policy, (2) setting up a Family Limited Partnership, (3) setting up a program for lifetime gifting, (4) setting up a Limited Liability Company, and (5) incorporating. Further, you can protect your children from lawsuits by putting their inheritances into a Discretionary Trust. This is especially important if your children are likely to become professionals subject to potential malpractice actions or, on the other hand, are spendthrifts!

Problem #6: Inexperienced Beneficiaries. Protect your assets from being wasted by young or inexperienced family members. Most beneficiaries spend their entire inheritances in less than two years, regardless of the size of the estate or the heir's socio-economic background. Your lawyer can set up your Family Trust with protective provisions that provide guidance and safeguard your life savings.

Problem #7: Guardianships. Protect your assets from the high costs of incapacity by (1) setting up a Living Trust so you avoid the need for a guardianship, (2) drawing up an Advance Healthcare Directive, and (3) drawing up a Health Care Power of Attorney.

Problem #8: Nursing Home Care. Protect joint assets from the high costs of nursing home care. Buy insurance that covers nursing home care and provides a death benefit that returns the money spent on nursing home care to your heirs.

Problem #9: Unwanted Medical Care. Protect your assets from unwanted and costly medical care by having an Advance Healthcare Directive and Health Care Powers of Attorney that spell out your instructions, including which medical care, treatment and procedures you want -- and which you don't want.

Problem #10: Unwanted Emergency Care. Protect your assets from unwanted emergency care. If you have a terminal illness, you can draw up and sign a Pre-hospital Medical Directive that will tell emergency personnel not to resuscitate you in the event of a medical emergency. This directive is often referred to as a "Do Not Resuscitate Order".

Problem #11: Ineffective Estate Plans. Protect your assets from an ineffective estate plan. Don't depend on pre-printed "cookie cutter" form kits or document preparation services for your estate plan. Contrary to what you may have heard or read, one size does not fit all! You may think you have precisely what you need. But you will never know -- because your family members will have to clean up the mess. You see, after you die, your family members will try to use your documents to settle your estate. And if the documents weren't drafted correctly, they will cause additional expense and long delays because a probate will have to be done to convey title to your assets.

Problem #12: Unqualified Lawyers. Many attorneys are getting into estate planning because it's less stressful than other areas of law. Not surprisingly, most of these newcomers focus on the needs of senior citizens and almost never deal with issues affecting young families. If you have young children, make sure you choose an independent attorney who focuses their law practice on asset protection and estate planning for young families. This will help insure that the lawyer you choose has the knowledge, skill, experience and judgment necessary to fully protect your family and your assets, and to give you advice and counsel that is in your best interests.

8 Dangers of Owning Property in Joint Tenancy

"Joint Tenancy With Right of Survivorship" means that each person has equal access to the property. When one owner dies, that person's share immediately passes to the other owner(s) in equal shares, without going through probate. We've all been told that Joint Tenancy is a simple and inexpensive way to avoid probate, and this is sometimes true. But the tax and legal problems of Joint Tenancy ownership can be mind-boggling. The dangers of Joint Tenancy include the following:

Danger #1: Only Delays Probate. When either joint tenant dies, the survivor -- usually a spouse or a child -- immediately becomes the owner of the entire property. But when the survivor dies, the property still must go through probate. Joint Tenancy doesn't avoid probate; it simply delays it.

Danger #2: Two Probates When Joint Tenants Die Together. If both of the joint tenants die at the same time, such as in a car accident, there will be two probate administrations, one for the share of each joint tenant in the Joint Tenancy property as well as any other property they each may own.

Danger #3: Unintentional Disinheriting. When blended families are involved, with children from previous marriages, here's what could happen: the husband dies and the wife becomes the owner of the property. When the wife dies, the property goes to her children, leaving nothing for the husband's children.

Danger #4: Gift Taxes. When you place a non-spouse on your property as a joint tenant, you make a gift of property every time that joint tenant takes property out of the account. For example, when a mother retitles her $80,000 home in Joint Tenancy with her son, she makes a gift to her son every time he makes withdrawals. This may not be the most efficient use of her $14,000 annual exclusion. The main point is that the gift is unintentional and not carefully planned.

Danger #5: Right to Sell or Encumber. Joint Tenancy makes it more difficult to sell or mortgage property because it requires the agreement of both parties, which may not be easy to get.

Danger #6: Financial Problems. If either owner of Joint Tenancy property fails to pay income taxes, the IRS can place a tax lien on the property. If either owner files for bankruptcy, the trustee can sell the property even though the other joint tenant is not otherwise involved in the bankruptcy.

Danger #7: Court Judgments. If either joint tenant has a judgment entered against them, such as from a car accident or business dealings, the holder of the judgment can execute the judgment against the Joint Tenancy property.

Danger #8: Incapacity. If either joint owner becomes physically or mentally incapacitated and can no longer sign his name, the Court must give its approval before any jointly owned property can be sold or refinanced -- even if the co-owner is the spouse.

Because of the tremendous risks, I suggest: **"Consider all the possibilities of both joint tenancy and tenants in common and carefully review the possible consequences with an attorney."**

14 Costly Misconceptions About Planning for Your Senior Years

Misconception #1: Most seniors move into nursing homes as a result of minor physical ailments that make it hard for them to get around. Wrong! A large percentage of admissions to nursing homes is because of serious health, behavior, and safety issues caused by Alzheimer's disease and dementia.

Misconception #2: Nursing home costs in Connecticut average $1,500 to $2,500 per month per person. Hardly. Current nursing home charges for one resident typically run $4,000 per month, or $48,000 per year, which does not include prescription drugs -- and those costs continue to rise.

Misconception #3: Children can care for a parent with Alzheimer's disease at home, without the need for nursing home care. Not true! Many patients with Alzheimer's disease end up in nursing homes because children are simply unable to provide the level of care their parent needs. In most cases, the children want to care for their parents. But, as a practical matter, they simply can't. Moving a parent into a nursing home is an intensely personal issue and should not be labeled as a right or wrong decision. In many cases, it's the only realistic option. The rare exception is when the family has enough money to pay for skilled nursing care at home.

Misconception #4: Standard legal forms are all you need for a good estate plan. Not true. A competent estate plan begins with clearly defined goals, supported by well-drafted legal documents, and the repositioning of assets, as needed, to protect your estate from taxes, probate costs, and catastrophic nursing home costs.

Misconception #5: Your child will never move you into a nursing home. Wrong. Most children consider all options before moving a parent into a nursing home. But, sadly, children usually find they have no other alternative. As a result, parents who never expected to live in a nursing home soon discover that a nursing home is the only place with the staff and equipment to provide the care they need.

Misconception #6: As payment for nursing home care, the government will take your family home. Not true, if you plan ahead. Many people fear that the government will take their home in exchange for nursing home care, but you can avoid this with proper planning. You'll be glad to know there are some ways you can protect your home so it won't be taken.

Misconception #7: You will never end up in a nursing home. That's hard to predict. Your odds are roughly 50/50. Of Americans reaching age 65 in any year, nearly half will spend some time in a nursing home. And a surprising number will require care for longer than one year. That means every year, tens of thousands of seniors will face costs of $48,000 or more, which does not include the cost of prescription drugs.

Misconception #8: If your spouse enters a nursing home, all of your joint savings will have to be spent on his or her care. No. With proper planning you can keep half of your combined "countable" assets up to approximately $118,000. In some circumstances, you may be able to protect nearly all of your life savings. In fact, it is often possible to protect much more than the $118,000 maximum. "Countable" assets are those assets such as cash, checking accounts, savings, CDs, stocks, and bonds that the government considers available to be spent on the cost of nursing home care.

Misconception #9: Legally, you can give away only $14,000 to each of your children each year. Not true. You can give away any amount, but you have to report to the IRS gifts in excess of $14,000 per recipient per year ($28,000 if both husband and wife make a gift). However, there is no requirement that you pay any gift tax unless you have exhausted your lifetime exclusion amount, which is currently set at

$5,000,000 for an individual.

Misconception #10: You can wait to do long-term planning until your spouse or you get sick. Yes, to some degree. However, you and your spouse will be much better off if you have taken important planning steps in advance, before a crisis occurs. What stops most people from being able to effectively plan when they are in the middle of a crisis is that the ill person is unable to make decisions and sign the necessary legal documents.

Misconception #11: All General Durable Powers of Attorney are created equal. Completely false! A General Durable Power of Attorney is a highly customized legal document -- and NOT a form! Most Durable Powers of Attorney don't contain even the most basic gifting authority. Without a gifting power, your agent is usually limited to spending your money on your bills and selling your assets to generate cash to pay your bills. Some Durable Powers of Attorney contain a gifting provision, but often it is limited to $10,000 or $11,000 per year. This figure is too small for effective asset protection planning, and relates to a completely different type of federal estate and gift tax issue. Other Durable Powers of Attorney allow transfers only to certain people and do not take into account that you may want your agent, spouse, or children to receive your property.

Misconception #12: Since you are married, your spouse will be able to manage your property and make financial decisions without a general durable power of attorney. Not true. If you become incapacitated and your spouse needs to sell or mortgage the family home -- or gain access to financial accounts that are in your name only -- your spouse will need a general durable power of attorney. Without one, your spouse will have to go to Court and get the judge's permission to act on your behalf by way of a conservatorship proceeding.

Misconception #13: You can hide your assets while you become eligible for Medicaid. False! Intentional misrepresentation in a Medicaid application is a crime and can be costly. The IRS shares any information concerning your income or assets with the local Medicaid eligibility office. You -- or whoever applied for Medicaid -- may have to repay Medicaid to avoid prosecution.

Misconception #14: Medicaid rules that applied to your neighbor when he went into a nursing home will also apply to you. Maybe not. Medicaid rules change. Don't assume the law that applied to your neighbor will also apply to you. In addition, there may have been facts about your neighbor's situation that you just don't know.

5 Dangerous Holes in Your Estate Plan
That Could Hurt Your Family and Cost You a Fortune

Dangerous Hole #1: Disability Planning. You have two children who live within 30 minutes of you. Your other child lives out of state. You suffer a severe stroke and require monitoring 24 hours a day. One local child wants to move in with you and provide all of your care. The other local child thinks an assisted living facility would be safer and provide better care. And your out-of-state child wants you to use your income and savings to hire around-the-clock home health care aides so you can stay at home.

Who decides on where you should live and how to use your money? Make sure YOU decide by properly planning for any disability or incapacity.

Dangerous Hole #2: Assisted Living Care Planning. One spouse requires assisted living care and the other spouse continues to live in the family home. Neither spouse wants to think about nursing home placement. After several years of paying privately for assisted living care, they have spent almost all of their life savings. Now, how will the healthy spouse avoid total financial ruin? Proper advance planning can prevent this terrible problem.

Dangerous Hole #3: Nursing Home Care Planning. Both spouses purchase long-term care insurance policies that cover nursing home costs for two years. One spouse enters the nursing home, which triggers the start of the policy. What steps should now be taken to protect assets for the healthy spouse while the long-term care insurance pays the nursing home costs? To be able to take the necessary steps, you must do proper planning in advance.

Dangerous Hole #4: Second-to-need-care Planning. One spouse gets sick. The other spouse cares for the sick spouse in their family home. Then the caring spouse gets sick. Now, who cares for both the first and second spouse? Without proper advance planning, how can you hope to solve this problem?

Dangerous Hole #5: Who-takes-care-of-the-finances Planning. The spouse who handles the money and writes the checks dies. The surviving spouse is now left with handling the money, something he or she has never done. Now, who pays the bills? With proper advance planning, you can solve this problem.

19 Smart Ways to Protect Your Assets

Smart Way #1: Make a promise to yourself -- now. Make a personal commitment to yourself and your family that you will do everything possible to protect your family and your assets.

Smart Way #2: Identify your personal and financial goals. If you could have anything you want, personally and financially, what would it be? What are your dreams? How do you and your spouse want to spend your retirement years?

Smart Way #3: Discover which tools you can use to achieve those goals. You have many legal tools at your disposal that, when used correctly, will create exactly the plan you want for yourself and your family. Ask your estate planning attorney to explain the tools that will achieve your personal and financial goals.

Smart Way #4: Avoid probate and the Court system, as appropriate. Create a family estate plan that, upon your death, distributes your assets to your heirs without going through the Court-supervised process called probate. Most often a Revocable Living Trust is used for this purpose.

Smart Way #5: Reduce income taxes whenever possible. Create a family asset protection plan that eliminates unnecessary income and capital gains taxes and minimizes all other taxes. Without proper planning, much of your estate can be lost to various types of taxes.

Smart Way #6: Protect yourself with insurance. Lawsuits can quickly tie up your assets. And if the other party wins the lawsuit, the judgment against you could quickly deplete your funds. If you drive frequently, own rental property, or operate a business, buy an umbrella liability policy that protects your assets from lawsuits.

Smart Way #7: Provide for future health care and financial decisions. Your family estate plan should protect you and your spouse if the time comes when either of you cannot make decisions. Your estate planning attorney can make sure you have the legal documents in place so a competent, trusted person can make these important decisions according to your wishes.

Smart Way #8: Plan now to fund nursing home care. Sadly, many people think the only way they can pay for their nursing home care is by spending down their estate. But, in fact, you can fund your longterm care in ways that do not require that you spend down your estate. One common way is with long-term care insurance. Don't wait until it's too late to decide how to fund your nursing home care. Do it now, long before you need it.

Smart Way #9: Pay close attention to Alzheimer's disease and its associated costs -- even if you have no reason to worry about it. Many people who never expect Alzheimer's disease to strike have had to face its problems with no advance planning. So plan for Alzheimer's disease now, while you have time. This includes the need to address issues of backup decision-makers, assisted living, and nursing home care. If your children can care for you later in life, that's fine. If they cannot, your advance planning will pay big dividends. Plan for the worst -- and hope for the best. Then, in either case, you will have all your bases covered.

Smart Way #10: Keep all control within your family. If you don't plan properly, you could find that a friend or relative has petitioned the Court to intervene on your behalf. Once a judge gets involved, you have ongoing legal and accounting expenses, plus more problems and hassles than you would ever want to endure. The smart way to plan for your later years is to keep total control within your family.

Smart Way #11: Create your plan now, while everyone involved is competent to make decisions. Seniors often come to our office seeking help only to learn that they are too late to correct a terrible situation. We feel awful when we must tell them that the much-needed planning should have been done two, five or ten years earlier. Don't wait until you need help to create your plan. By then, it's too late.

Smart Way #12: Review your plan at least once a year. Every time your circumstances change or your goals change, you should change your estate plan. If your plan is not up to date, the unintended consequences to you and your family could be disastrous. Make an appointment at least every year to meet with your estate planning attorney. Then you can go over your plan and discuss any changes in your life circumstances.

Smart Way #13: Make proper decisions concerning your retirement benefit distributions. Make sure your estate plan maximizes income-tax-free deferrals and minimizes income and estate taxes.

Smart Way #14: Work closely with your physician about your Medicare coverage. Often skilled nursing services and home health coverage are terminated or denied with little or no input from your treating physician. Before you go without health care that could be covered by Medicare, talk with your physician about your concerns so that he or she can help you get the Medicare coverage you deserve.

Smart Way #15: Think about future housing options. Start from the perspective of where you would like to live. Then determine if you could afford this option by comparing your monthly income along with your life savings to the initial cost and the ongoing financial commitment you would have to make. Make sure you consider (1) your healthcare needs that will not be covered by insurance, (2) financial security for your surviving spouse, and (3) your desire to pass on a legacy to your children.

Smart Way #16: If you are in a second marriage, decide how you will handle the high cost of nursing home care. If you are not able to pay $5,000 per month to a nursing home and want your children from an earlier marriage to receive your property, a Marital Agreement alone will not do the trick. Medi-caid ignores these contracts and considers all of the couple's assets, whether owned jointly or individu-ally, in determining Medicaid eligibility. A better choice is to include in your Marital Agreement a provision that requires each spouse to obtain and maintain long-term care insurance. Also, you can include additional provisions that clearly state that the healthy spouse is able to take all necessary steps to protect his or her separate property from a Medicaid "spend-down."

Smart Way #17: Keep the lines of communication open within your family. If one of your children will be managing your finances, you should take specific steps to help him or her avoid conflict within your family. Insist that your child disclose to other family members what has been done on your behalf. You can do this by adding this instruction to your Trust or General Durable Power of Attorney. By doing this you accomplish two things: One, you keep everyone in the loop so feelings of distrust are eliminated. And two, you reduce the risks of financial abuse because other family members will know how your finances are being managed.

Smart Way #18: Don't let incapacity put your family at risk for criminal or social worker investigations. Many professionals are responsible for protecting frail and elderly people from predators. If your legal documents don't provide clear legal authority and guidance on how to manage your assets, the police or adult protective services could step in and question your children's actions and motives. If authorities investigate your children's actions, at worst, they could file criminal charges. At best, an investigation by adult protective services could return a "finding" of no current financial abuse. You can eliminate these risks to your children -- and avoid becoming a burden to your children -- with a competent estate plan.

Smart Way #19: Hire a competent, experienced estate planning attorney to create an estate plan. The areas of estate planning and elder law are far too complex to hire just any attorney. Often, strategies used in estate planning to minimize taxes directly conflict with strategies used in elder law planning to protect assets and achieve Medicaid eligibility for nursing home care. In situations where both goals are important, you and your family need a lawyer who has in-depth knowledge and experience with both sets of rules and strategies. Most attorneys are not qualified to provide these services. Make sure the estate planning attorney you hire has the knowledge, skill, judgment, and experience to create a competent plan for you and your family.

Two Family Asset Protection and Estate Plans: Which Plan Do You Want for Your Family?

Henry and Nancy Adrift: A Typical Estate Plan

Henry and Nancy Adrift have been married for 41 years. They have two adult children, Scott WellGrounded and Sally Flighty-and-Shiftless. Thirty years ago, when their children were young, Henry and Nancy hired Larry Lawyer to prepare simple Wills and standard Powers of Attorney.

Every so often they received a letter from Larry Lawyer suggesting that they have their estate planning documents reviewed and updated. Of course, they knew this was good advice, but they were busy and never got around to it. Over time they moved, changed investments, and bought new cars. And, not surprisingly, they forgot the instructions Larry Lawyer had given them about how to title their assets so their Will would be effective.

When Henry became ill, he could no longer manage his affairs. Immediately his family felt the burden. They wanted to follow Henry's wishes, but family members discovered that Henry left many questions unanswered. His needs increased, particularly his medical needs. But his family did not know how he wanted to be cared for, so discussions about his medical care resulted in one argument after another. They argued about whether to put Henry into a nursing home. They even argued about whether to shut off his life support. Henry could have prevented this stress and tension among family members if he had simply made his wishes clear in his estate plan.

Fortunately, Nancy could sign checks on their joint bank accounts so she continued to receive Henry's pension by direct deposit. But then a problem arose: Henry turned 70 while he was disabled, and Nancy had a hard time getting the custodian of Henry's 401(k) account to accept the 30-year-old Power of Attorney. What's worse, that Power of Attorney was all she had. Henry then passed away. Nancy and her son, Scott, met with Larry Lawyer to find out what to do next. Luckily, Larry Lawyer was still in town and still practicing law, although he was certainly older and grayer than he was 30 years earlier. This was the first time Scott met him. Also, Nancy brought Betty Bookkeeper, CPA, who is a long-time friend and advisor, to meet Larry Lawyer.

Larry Lawyer came into the conference room holding Henry and Nancy's old file. He controlled the meeting because Nancy and son Scott were confused and unsure what would happen next. Larry Lawyer talked with them about probate and the federal estate tax return that had to be filed nine months after Henry's death. He told them what information they needed to gather, what documents they needed to file with the Court, and what creditors they needed to notify. The Adrift family paid $450 per hour for this one-on-one education, at a traumatic time that made the information hard to understand and nearly impossible to remember.

Because 30 years had passed, Nancy and Henry's estate plan developed a few complications. First, when Henry and Nancy signed their Wills, they had a small estate, so Larry Lawyer did not do anything to reduce estate taxes. Now, at Henry's death, their combined estate is worth more than $2,000,000 and Henry's lopsided portion exceeds $1,000,000. (State calculation) Henry owned stock and a modest home in Indiana, which he inherited from his parents. He owned them alone, as separate property, which meant they must go through probate. The rest of Henry's assets were owned jointly with his wife, except for his life insurance and 401(k), which named Nancy as primary beneficiary. So even if Larry Lawyer had done tax planning in their Wills, that planning would not have worked.

Then followed the probate and estate administration. Nancy and her children waited 22 months for the Court to finalize the probate. One factor that delayed the probate was the need to file an "ancillary administration", a second probate, in Indiana where Henry's real estate is located.

The only big winner here was Larry Lawyer. He got paid for writing the Wills 30 years earlier. Then he got paid to meet with Nancy and her family after Henry's death. Naturally, since Larry Lawyer wrote the Wills, they hired him to take the Wills through probate and estate administration. When the estate administration finally ended, Larry Lawyer felt as though he had won the lottery because Nancy and her family had paid him $21,150 in legal fees. Plus, Nancy paid another $6,000 to the attorney in Indiana for the second probate.

Another factor that delayed things was the squabble that developed between their children, Sally Flightyand-Shiftless and Scott Well-Grounded. When Sally turned 21, Henry said that when he died, Sally could have the grandfather clock in their living room. But Henry never added this instruction to his Will. Scott thought he was entitled to the grandfather clock because Sally was supposed to inherit the expensive china service when Nancy died. The argument between Scott and Sally grew so heated that, at one point, they each threatened to hire their own lawyers. Fortunately, Nancy was able to calm them down and negotiate an agreement. But Sally and Scott were so bitter they never spoke to each other again.

Nancy's and Henry's boiler-plate Wills contained no tax planning, so all the probate and non-probate assets went directly to Nancy. At Henry's death, she was not liable for any estate taxes. But when Nancy died, just three months later, Larry Lawyer wrote a check for $400,000 to pay estate taxes.

After the remaining bills were paid, Larry Lawyer gave Sally and Scott their inheritances. But most of Sally's share went straight to the IRS to pay old tax bills. Sally was always too embarrassed to tell her parents about her financial problems. And, naturally, Henry and Nancy assumed she was financially successful because of her lifestyle. But things were not as they appeared.

Sadly, one of Henry and Nancy's life-long dreams was for their children to use their inheritances to make sure each of their grandchildren would go to college. That won't happen now.

Henry and Nancy never realized the many ways they could safeguard their assets while they were alive. Nor did they realize they could design a plan to pass their assets responsibly to their children, until they reached the age when they could handle their inheritance wisely.

Henry and Nancy didn't know the loving things they could have done for their family. Now it's too late.

Joe and Rose Kennedy: A Custom Estate Plan That Works

Joe Kennedy was a good businessman. Many would call him an outstanding businessman. Part of his knowledge and experience included knowing the best ways to protect, preserve, and transfer his wealth to his family. Here's how he did it.

Joe and Rose were concerned about four major attacks on the Kennedy wealth: lawsuits, divorce, nondescendants, and estate taxes. In addition, they wanted to keep their personal affairs private and protect the family's wealth from errors in judgment.

As a result, Joe and Rose never gave or left anything outright to their children or free from a trust. And to make their children judgment proof, they gave and left their wealth in separate share trusts. As each child reached a designated age, he or she could serve as co-trustee over his or her own respective share. When the child reached an older age, each child could choose his or her own co-trustees to serve with him or her. The minimum requirement was always at least two trustees.

Here are examples of how this asset protection plan safeguarded the Kennedy's wealth.

In 1969, Ted Kennedy was sued for the wrongful death of Mary Jo Koepechne. Ted has homes in several states -- Massachusetts, Virginia, and Florida. The homestead exemptions in Massachusetts and Virginia are very low, so the plaintiffs thought they could seize at least part of his assets. But they were wrong because Ted does not own his homes. Instead, they are owned by his Trust, which means the plaintiffs could not touch his homes. Likewise, all his wealth was protected in Spendthrift Trusts. This means the Estate of Mary Jo Koepechne could not seize any of his money. As a result, the Estate settled for his liability insurance coverage, a relatively small $300,000.

Joe and Rose set up their Asset Protection Trusts so assets held in trust could not end up in the hands of ex-sons-in-law or ex-daughters-in-law. When Ted and Joan divorced, Joan did not get any of the Kennedy wealth that was held in trust for Ted.

Joe and Rose set up their Asset Protection Trusts so assets held in trust could not go to anyone who is not a direct Kennedy descendant. Under ordinary circumstances, if a Kennedy child was the first person to die in his or her marriage, the surviving spouse would receive part of the Kennedy wealth. Then that spouse could remarry and leave the Kennedy wealth to a new spouse. By keeping the wealth in Asset Protection Trusts, they guaranteed that their money stayed in the hands of direct blood descendants. When John and Robert Kennedy died, neither of their wives received any Kennedy wealth. Instead, it stayed in trust for their children.

Joe and Rose set up their Asset Protection Trusts so they would remain private by avoiding probate. Without Living Trusts, their estates and their children's estates would go through probate, which would expose their personal finances to public scrutiny. When John and Robert died, while their deaths were public matters, their estates were completely private.

President Kennedy once said, "Good judgment comes from experience and experience comes from bad judgment." He probably learned this from his father. Joe Kennedy knew that all people make mistakes, especially young people, due to their lack of experience. So he set up Living Trusts for his children and chose experienced money managers and trustees. This reduced the possibility for financial losses due to bad judgment.

Most of us don't have the assets or money that the Kennedys have. Likewise, most of us aren't nearly as famous. But you and the Kennedys do have something in common: You can protect your assets -- preserve your estate -- transfer property to your heirs -- and maintain a high level of financial privacy using the same sophisticated methods they use. Best of all, these estate planning and asset protection tools are available to you for a small fraction of what the Kennedys paid.

Your Estate Plan Needs Maintenance

When you buy a new car, everything works perfectly. (At least, you hope it does.) But then in 3,000 miles, it's time for an oil change. Also, you must keep your eye on the level of coolant in the radiator, your transmission fluid, and your power steering fluid. You must make sure your alternator works to keep the battery charged.

What happens if you don't maintain your car? Your engine could burn up. Your transmission could fail. Your car could overheat. Your battery could go dead. All of which mean you're stuck on the side of the road trying to hitchhike to the nearest town.

Your estate plan is like your car. When you set it up, everything is current and accurate. But you need to keep your eye on your assets, insurance, Powers of Attorney, gifting program, distribution plan, successor trustees, beneficiaries, and so much more. That's why it's important that you meet with your estate planning attorney every year.

You wouldn't think of going on a long trip without making sure that your car was in tip-top shape. Yet every day, people embark on the long trip we call life. And the problem with our "life trip" is that we're never sure when that trip might end. It's a good idea to review your estate plan with your lawyer every year or two to see if changes in your family's circumstances need to be reflected in your estate plan.

For example: You should review your estate plan with your estate planning attorney any time (1) you get married, (2) you and your spouse divorce, (3) your spouse dies or becomes incapacitated, (4) your health changes, (5) you have or adopt a child, (6) your children marry or divorce, (7) a potential problem arises with a beneficiary, (8) the value of your assets changes, (9) your employment changes, (10) your business interests change, (11) you retire, (12) you acquire property in another state, (13) you move to a different state, or (14) something happens to a person named in your estate plan that could affect your relationship or the duties they are to perform on your behalf.

But wait. Is your estate plan really like your car? It's more accurate to say it's like a fire engine – ready to handle any emergency at a moment's notice. When your spouse has a heart attack, you want the paramedics – right now! You don't want to call 9-1-1 and have the dispatcher explain to you that the fire truck has a dead battery. Or a flat tire.

It would be ***ridiculous*** to buy a new fire engine, back it into the fire station where it waits for the next emergency, and then not have a mechanic check under the hood for a year. Do you know how many things can go wrong with a fire truck's engine if it goes without service for a year?

Yet that's exactly what people do with their estate plans. They invest hard-earned money to set up their plans. Then they put their plans in a drawer or safe deposit box where they gather dust for 2 years, 5 years, even 10 years -- often without updating the plan even once!

And then, when these people have an emergency, do you know what happens? They dig out their paperwork only to learn that their plan no longer works. You see, it was custom designed to fit their specific needs 5 years ago. But now their needs, and often the law, have changed -- and no one updated the plan. What a tragedy!

Your estate plan must be fully operational, ready to handle any emergency at a moment's notice. If your spouse has a heart attack and cannot make medical decisions, you don't want the nurse at the hospital to explain that the legislature changed the law and now your Powers of Attorney are no longer valid. Or, if your spouse dies, you don't want the judge to tell you that your estate must go through probate because your Revocable Living Trust has not been properly maintained and updated.

You need your estate plan to be ready for any emergency -- 24 hours a day -- because you never know when you might need it.

An out-of-date estate plan isn't worth the paper it's written on. But a ***current*** estate plan that works precisely the way it should -- protecting your family and safeguarding your assets -- is the greatest gift of love you can give to your family, your spouse, and yourself. Your custom designed estate plan, created specifically for you -- combined with yearly maintenance meetings to keep your estate plan in tip-top shape -- are the best investment you'll ever make. I guarantee it.

5 Steps to a Competent Asset Protection and Estate Plan

Step #1: Learn how to deal with your incapacity.

Court Supervision. Our system of laws allows two methods for people to care for you. One method, Court supervision, has already been chosen for you. If you make no decisions, the Court will step in and appoint a conservator to handle your financial matters and a guardian for your personal affairs. Your guardian and conservator carry out the judge's orders. It is not likely they will handle things the way you would have handled them. When the Court steps in, you and your family lose control.

Setting up a guardianship and conservatorship is like other matters involving the Court. Lawyers represent all parties, including you. Accountants manage your finances. Doctors confirm that you need some-one to care for you. The law requires periodic reports to make sure everyone is looking out for your inter-ests. What's more, all these people must be paid for their services. You bear this expense.

Private Supervision. Revocable Living Trusts do not require Court supervision. In your Trust, you decide whom you want to care for you in the event of your mental or physical incapacity. This usually includes family members or friends. When you design your plan, you control the outcome because the plan is set up exactly the way you want it. By setting up a plan that allows for private supervision -- with no Court interference -- you save a great deal of money and make sure that your wishes are carried out.

Step #2: Choose the method for dealing with your incapacity that is right for you.

Court Supervision. Advantages: If you want the Court to dictate the care you receive, dictate how to use your assets, and make decisions for you, then you should use a guardianship and conservatorship.

Disadvantages: You lose control because the judge makes decisions about your care. Long delays are common. You pay a high price because guardianships are expensive to set up and maintain. You lose your privacy because your personal and financial affairs are open to public view. The emotional strain of reporting everything to the Court takes a toll on you and your family.

Private Supervision through a Revocable Living Trust. **Advantages:** You and the people you select make all the decisions. You maintain control. You can make decisions quickly. You save money because a Revocable Living Trust is less expensive than a guardianship. You don't have to involve a variety of lawyers, doctors and accountants. You maintain your privacy because your documents are not open to the public. And you reduce stress on your family. **Disadvantages:** Generally, none.

Step #3: Learn how you can distribute property during your lifetime and after your death.

Court Supervision. The laws of all states are written so if you do nothing to plan your estate, the Court will distribute your property according to the laws of the state where you live. If you write a Will, and the Court is satisfied that the Will is valid, under the supervision of the Court your property will be distributed according to the terms of your Will. This process is called probate.

Private Supervision. You can distribute your property privately, without Court involvement. Your choices consist of the following:

Joint Tenancy With Right of Survivorship: You should own property in Joint Tenancy only in very rare circumstances. Review my "8 Dangers of Owning Property in Joint Tenancy" in this handout.

Gifts: Gifting is a good way to get property out of your estate so it avoids probate and reduces estate taxes. In 2015, the IRS limits the value of assets you can give without paying a gift tax to $14,000 per person per year. The downside of gifting is that you lose control of the asset. If you give property to your children, they might sell it against your wishes. And if you outlive your child, your gift may not be returned to you.

Revocable Living Trust: A Revocable Living Trust is a separate legal entity that holds title to property. After you set up a Trust, you put property into your Trust, called "funding the Trust." At the time of the funding, you change the title on real estate deeds to the name of the trustee and trust, such as the "John Jones, Trustee of the Jones Revocable Living Trust u/a/d July 1, 2015." When you transfer personal property and real estate into your Trust, you no longer own these assets in your own name. This means these assets don't have to go through probate.

Step #4: Choose the method for distributing your property that is right for you.

Court Supervision. Will or no estate plan: Either is easy to maintain during your lifetime, and your distribution plan is supervised by the Court through probate. In the worst-case situation, probate can cost thousands of dollars and take months or even years to complete. You lose all privacy because your file is a matter of public record. Small estates can transfer title without the need for qualification, but this method is not available to most estates.

Private Supervision. Revocable Living Trusts allow you to control your property without Court involvement. Revocable Living Trusts completely avoid probate if properly funded before death. They avoid the dangers of Joint Tenancy. They keep your affairs private. Upon your death, subject to payment of debts and taxes, your estate is able to transfer to your heirs within a few days. Plus, your Revocable Living Trust eliminates the need for a guardianship or conservatorship.

Step #5: Act now, while you are competent to make your own decisions.

None of us likes to think that we may become incapacitated or die. Yet it happens every day. We all have friends who have been injured in car accidents. We all know people who have had heart attacks, even when they were in "excellent health."

If you want to see how dramatically people's lives change every day, just watch the news. You'll see car accidents, plane crashes, shootings, heart attacks, drownings...the list seems endless. And yet every one of those people thought their day would end just as safely as it began. Will you be next? The greatest gift you can give your spouse and your children is an asset protection, elder law, and estate plan -- a plan that you have designed to carry out your wishes when something happens to you. This is how you can insure that you won't become a burden to your children.

I sincerely hope you live a long, happy life in excellent health. I also hope you have your asset protection, elder law, and estate plan ready to protect your family from probate and the other problems we all face every day.

Right Now, After Reading This Guide, You Know More About Estate Planning Than Most Lawyers

This is because law has become specialized, much like medicine. When you need a doctor, you can find specialists in foot care, eye care, and everything in between. Law is much the same. You can find lawyers who practice corporate law, family law, criminal law and every other kind of law. And because they work in other areas of law, most of these lawyers don't know the first thing about estate planning.

If you hear a lawyer say: "Probate isn't bad. Just come to me and I'll write a new Will for you." This lawyer has not educated you about your options and probably earns a good part of his living from conducting probates. No doubt, he will write your Will and then keep it in his or her safe for you. But will you have the right documents that meet your needs?

If you hear a lawyer say: "It's easy to avoid probate. Just put all of your property into Joint Tenancy." This lawyer doesn't know the many financial dangers of owning property in Joint Tenancy With Right of Survivorship. Fortunately, after reading this guide, you do.

If you hear a lawyer say: "I'll introduce you to the lawyers in our estate planning department. They will create an estate plan for you for only $30,000." You can bet that this lawyer works at a large law firm that charges fees higher than you can imagine -- higher than anyone should pay.

If you hear a lawyer say: "Just go to a bookstore and buy a Living Trust form kit. You can create your own trust for $29.95 and it's perfectly legal." Any lawyer who recommends that you prepare your own estate plan should not be practicing law.

How to Choose a Qualified Lawyer

Tip #1: Choose an attorney who specializes in estate planning. Other attorneys simply don't have the knowledge, skill, judgment or experience to plan your estate properly.

Tip #2: Choose an attorney you trust. Nothing is more important in a lawyer/client relationship than having a lawyer you trust.

Tip #3: Choose an attorney who creates your estate plan himself. If the attorney has an assistant create your estate plan, then why hire the attorney? Note, it's not uncommon for lawyers in solo practice to ask a funding coordinator to transfer property into your trust. Even so, funding is a fairly routine function and you are well protected as long as the lawyer supervises the process.

Tip #4: Choose an attorney who provides excellent service. Anything less is not acceptable.

Tip #5: Choose an attorney who welcomes your questions -- and structures meetings by allowing enough time to answer questions. High-volume practices have short appointments so they can move clients quickly through the process. I don't know about you, but this is not the level of service I expect when I hire a lawyer.

Tip #6: Choose an attorney who will return your phone calls quickly. You should never hire a lawyer who won't respond promptly to your needs.

Tip #7: Choose an attorney who has roots in the community. This attorney cares about his reputation and is more likely to be available in the future when you need help.

Tip #8: Choose an attorney who is a respected source of information -- one who has dedicated his practice to helping people understand their estate planning alternatives.

Tip #9: Choose an attorney who charges fair fees. At best, you get what you pay for. Most people do not shop for the cheapest doctor. Instead, they focus on the doctor's qualifications and experience. You should apply the same principle when selecting an estate planning attorney. If the fee is too low, the lawyer may be leaving something out. Make sure the fee you pay and the services you receive are of equal value.

Tip #10: Choose an attorney who will answer your questions. Ask specific questions about your estate and your objectives, such as: "How do I protect my children from abusive relatives if something happens to me?" "Can I keep my kids from controlling their entire inheritance at age 18?" "Can I protect my children's money from creditors?" "How can I leave money for my child's education?"

12 Tough Questions to Ask a Lawyer Before You Write a Check

1. What's your opinion of the probate process?
2. Under what conditions do you recommend a Living Trust?
3. How do I protect my children from abusive relatives if something happens to me?
4. Can I keep my kids from controlling their entire inheritance at 18?
5. How can I protect my children's money from creditors?
6. How can I leave money for my child's education?
7. How long will it take to set up my Trust?
8. How many times do I meet with you during the process of preparing my Trust?
9. What do you charge to set up my Living Trust and what does that fee include?
10. What do I need to bring with me to our first conference?
11. If I have more questions after you set up my Trust, may I call you?
12. Can you send me information about Wills, Living Trusts and probate?

3 Important Reasons Clients Ask Medico & Associates to Protect Their Assets -- and

Why We Hope You Will, Too!

Reason #1: Exclusively Asset Protection and Estate Planning. Anthony represents clients in all matters relating to Estate Planning, Asset Protection, Asset Purchases, Business Planning and Acquisitions, Real Estate, Charitable Giving, Tax Planning & Wealth Management, and Litigation.

Reason #2: Extensive Legal Experience. Anthony held positions at these prestigious law firms:
- Partner: Flood Donohue Johnston & McShane, P.C., (New York, NY) 1997 to 2002.
- Associate Attorney: Wilson, Elser, Moskowitz, Edelman & Dicker, (Manhattan, NY) 1996-1997.
- Associate Attorney: Smith Barney/Travelers (Colligan & Delgross), (New York, NY) 1994 to 1996.

Reason #3: Discriminating, High Profile Clients. Anthony represented select institutional and corporate clients including the Town of Greenwich, The Travelers, Wachovia Bank, Bank of New York, Bank of America, Connecticut Community Bank, People's Bank, Chase Bank and First Republic Bank.

20 Red Flags That Signal When Your Will or Living Trust is Out of Date

We offer clients the opportunity to sit down with us and review their estate plans at least once each year. However, this doesn't mean you should wait until your next review if your circumstances change. This **Estate Planning Checklist** identifies events that could make a significant impact on your estate. If any of these events occurs, please call us. For your protection, we may need to amend or revise one or more of your estate planning documents.

Changes Involving You or Your Spouse

1. You get married.
2. You and your spouse divorce.
3. Your spouse dies or becomes incapacitated.
4. Your health changes.

Changes Involving Your Children, Grandchildren or Other Beneficiaries

5. You have a newborn child.
6. You adopt a child.
7. Your child marries.
8. Your child divorces.
9. Your child becomes ill.
10. One of your beneficiaries experiences an economic change, good or bad.
11. One of your beneficiaries proves to be financially irresponsible.
12. One of your beneficiaries has a change in attitude toward you.

Changes in Your Economic Condition

13. The value of your assets increases or decreases.
14. Your insurability for life insurance changes.
15. Your employment changes.
16. Your business interests change, such as becoming involved in a new partnership or corporation.
17. You retire from your business or profession.
18. You acquire property in a different state.
19. You move to a different state.

Changes to a Person Named in Your Estate Plan

20. Something happens to a person named in your estate plan, such as the death or incapacity of your personal representative, executor, trustee, guardian or conservator.

You're Invited to Call or E-mail.

"If you have experienced a change in circumstances, including any of the above, please call me at (203) 661-8151 -- or send an e-mail to Amedico@medicoandassociates.com. For your protection, we may need to amend or revise one or more of your estate planning documents. Thanks." -- *Anthony*

MEET ANTHONY J. MEDICO, ESQ.

Anthony J. Medico is a respected estate planning, asset protection, and wealth management attorney based in Greenwich, Connecticut. He has practiced law for 23 years and has extensive experience working with families and businesses. When Anthony practiced trial law in Manhattan, he oversaw matters with a total financial exposure exceeding $500,000,000.

Practice Areas: Anthony represents clients in all matters relating to Estate Planning, Asset Protection, Business Planning & Acquisitions, Asset Purchases, Real Estate (Residential & Commercial in New York & Connecticut), Charitable Giving, Tax Planning & Wealth Management, Litigation and Business formations & acquisitions.

Education: In 1987, Anthony graduated from Iona College (New Rochelle, NY), where he earned a Bachelor of Arts Degree in Criminal Justice. In 1991, he graduated from the University of Toledo (Ohio) College of Law, where he earned his Juris Doctor Degree.

Judicial appointments: In 2012, Anthony was appointed to the Connecticut Superior Court, Judicial District of Stamford as an Attorney Trial Referee, where he presides over non-jury trials, and as an Arbitrator/Factfinder in the same District. He is also a hearing officer for the Town of Greenwich, presiding over municipal appeals and parking hearings.

Court Admissions and Bar Memberships: Anthony is admitted to practice in all State Courts in Connecticut (1993), New York (1994), and the District of Columbia (1993). In addition, he is admitted to the United States District Court of New York, Southern and Eastern Districts (1994), the United States District Court of Connecticut (1994). The United States Supreme Court (2011). Anthony is a member of the Connecticut and New York State Bar Associations.

Legal Experience: Anthony held positions at these prestigious law firms:
- Founder: Medico & Associates, LLC (formerly, The Law Offices of Anthony J. Medico, LLC), (Greenwich, CT) 2002 to present.
- Partner: Flood Donohue Johnston & McShane, P.C., (New York, NY) 1997 to 2002.
- Associate Attorney: Wilson, Elser, Moskowitz, Edelman & Dicker, (Manhattan, NY) 1996-1997.
- Associate Attorney: Smith Barney/Travelers (Colligan & Delgross), (New York, NY) 1994 to 1996.
- Law Clerk: Depanfilis & Vallerie, (Norwalk, CT) 1992 to 1994.

Representative Institutional and Corporate Clients:
- Transportation Association of Greenwich (TAG)-Board of Directors.
- Town of Greenwich.
- The Travelers.
- Wachovia Bank, Bank of New York, Bank of America
- Connecticut Community Bank, People's Bank, Chase Bank, First Republic Bank
- Lead counsel in preparation of contracts for parties involved in book and television deal regarding the Martha Moxley murder, and conviction of Michael Skakel.

Community Service: Anthony is a member of the Board of Directors of the Transportation Association of Greenwich (TAG), a subchapter of the United Way that provides transportation for elderly senior citizens at Nursing Homes. In addition, Anthony has been a volunteer firefighter for over 30 years in Greenwich.

You're Invited to Call or E-mail.

"If you have questions about asset protection, estate planning, business planning, charitable giving or wealth management, please don't hesitate to call. I'll be happy to help you in every way." -- *Anthony*

ANTHONY J. MEDICO, ESQ.
Asset Protection & Estate Planning Attorney

Medico & Associates, LLC
75 Holly Hill Lane ❖ Greenwich, Connecticut 06830
Telephone (203) 661-8151 ❖ Facsimile (203) 661-0357
Amedico@medicoandassociates.com ❖ www.medicoandassociates.com

"Anthony does outstanding work! I recommend him without question."
"Anthony does outstanding work. I have used him on several occasions and will use him in the future. His trust work was very good. And he handled litigation for me as well. Anthony is well rounded. When I approached him with a real estate problem, he handled it well. Anthony has worked with me over a long period of time. And, of course, I would absolutely refer people to him, without question."

Theo Constantine; Greenwich, Connecticut

"Anthony is smart, friendly and nice to be around. He takes his work seriously."
"Anthony is a good guy. I've known him for many the years, since college. Plus, he's smart. Anthony has provided legal services for my wife and me and we've been very happy with what he has done. Anthony is friendly, takes his work seriously, and is nice to be around. I keep in touch with Anthony on many levels and I certainly recommend his services."

Pasquale Martello; New York, New York

"Anthony cares about his clients. He's punctual and comprehensive, a true professional!"
"I like to develop friendships with the people I do business with. Anthony is a really nice man and cares about his clients. I worked with Anthony in different fields of law, both with business and personal matters. He was punctual and comprehensive in everything he did, a true professional! I think he's great!"

Behzad Farahani; Greenwich, Connecticut