

# ESTATE PLANNING, PROBATE, AND LONG-TERM CARE PLANNING

Presented by:

Bryana Cross Bean, Attorney at Law

# WHAT IS ESTATE PLANNING?

- Estate Planning is the process of planning for death or incapacity through legal documents such as Wills, Durable Powers of Attorney, and Advanced Directives (Living Wills).

# ESSENTIAL DOCUMENTS

- Will – Property transfer at death
- Durable Powers of Attorney – Allows for another person (Agent) to make medical and financial decisions for you when you are unable
  - No longer valid at death
- Health Care Directive (Living Will) – End of life document that allows you to instruct documents about final medical treatments (or lack thereof)

# OTHER ESTATE PLANNING TOOLS

- POLSTs (Physician Order of Life-Sustaining Treatment) – bright green form that your doctor signs; applies to paramedics
- Community Property Agreements – allows married couples to avoid probate after first spouse passes; can result in Medicaid ineligibility
- Disposition of Remains – tells funeral home what you want done with your body when you pass away
- Guardianships – last resort, if you do not have a Durable Power of Attorney; court process

# TRUSTS

- Two Main Categories:
  - Testamentary – Within a Will and only goes into effect at death
  - Nontestamentary – Stand-alone document that can go into effect before death

# TESTAMENTARY TRUSTS

- Special Needs Trust – Can preserve public benefit eligibility of surviving spouse, especially regarding long-term care
- Educational Trust – Helps pay for education of children/grandchildren
- Spendthrift Trust – Keeps financially irresponsible child from spending inheritance all at once

# NONTESTAMENTARY TRUSTS

- Revocable Living Trust – Helps avoid probate
- Irrevocable Trust – Assist with Medicaid eligibility IF done 5+ years in advance of needing Medicaid
- Credit Shelter Trust – Helps avoid estate tax
  - ~\$2 million estate value for WA and ~\$5 million for federal

# CONSEQUENCES OF NO PLANNING

- Not having Estate Planning documents means that someone else could make decisions for you that you don't want.
- Increases likelihood of needing Guardianship, because of how strict banks are
- Hierarchy of inheritance and health care decision-making:
  - 1) Spouse
  - 2) Children
  - 3) Parents
  - 4) Siblings



# DIY ESTATE PLANNING

- Every state has different rules, but online and store-bought documents often don't distinguish between states
- Estate Planning documents might not be accepted by banks or hospitals
- Brand new Durable Power of Attorney statute instituted lots of new changes (RCW 11.125)
- Attorney provides piece of mind and more comprehensive planning

# WHAT IS PROBATE?

- Probate is the legal process of distributing a person's assets and paying off debts after that person passes away.

# WA PROBATE

- 4-6 month process (one of the shortest in the country)
- Very little court involvement
- Main ways to avoid probate:
  - Estate worth less than \$100,000
  - Community Property Agreement
  - Revocable Living Trust

# LONG-TERM CARE FACTS

- Includes:
  - Assisted Living
  - Nursing Home Care
  - Home Care
  - Home Health Care
- 70% of all adults will need LTC
- Average monthly cost: \$5,000
- Monthly cost range: \$1,500 - \$14,000
- 1-4 year private pay requirement at most facilities
- Ways to pay:
  - Private pay
  - Long-term care insurance
  - Medicaid/COPES

# MEDICARE VS. MEDICAID

- Medicare – traditional-type health insurance for adults 65 and older
  - Covers very little nursing home care (about 30 days max)
- Medicaid – 2 types:
  - 1<sup>st</sup> type – traditional insurance for low income individuals
  - 2<sup>nd</sup> type – pays for nursing home and other long-term care, if applicant meets medical and strict financial requirements

# MEDICAID BASICS

- Medicaid: a government program that pay for long-term care
- 2 types:
  - Medicaid for nursing home care
  - COPES (Community Options Program Entry System) for assistance with Activities of Daily Living
- 5 year look-back period – ANY GIFTING WITHIN 5 YEARS PRIOR TO APPLYING CAN RESULT IN INELIGIBILITY
- Must meet medical and financial eligibility requirements
  - 2 components of financial eligibility: Income and Resources

# MEDICAID BASICS

- Medical eligibility: Need medical care that long-term care facilities provide
- Financial eligibility: Must meet both resource and income requirements
  - No greater than \$2,000 in nonexempt *resources*.
  - Single person: All income, except about \$60 must be used to pay for part of the services.
  - Married couple: Well-spouse may keep ~\$56,000 in resources and unlimited income.

# EXEMPT RESOURCES

- Resources not counted in \$2,000 resource limit:
  - Home (worth less than \$552,000)
  - Household goods & personal effects
  - Car (one car of unlimited value and used for transportation)
  - Life insurance with cash-surrender value (value if policy is canceled) of less than \$1,500
  - Most burial plots and prepaid burial plans
  - Items used for self-support, especially durable medical equipment



# QUESTIONS?

Bryana Cross Bean, Attorney at Law

1201 Pacific Ave, Suite 600

Tacoma, WA 98402

(253)203-3352

[attorneybean@outlook.com](mailto:attorneybean@outlook.com)

[www.crossbeanlegal.com](http://www.crossbeanlegal.com)

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