

# Protecting Yourself and Your Assets

I am not an attorney and I have never attended law school. However, I certainly realize that life is not predictable but if one plans ahead often the outcomes will be better. Sudden illnesses, car accidents, an unexpected death, family relationship changes, financial adjustments and the progression of some age related diseases such as dementia may have negative legal consequences if adequate planning is not done.

Many people do not have a will or trust nor do they have legal documents such as powers of attorney that provide for someone to make health and/or financial decisions for them. Some of the most common excuses people express for not having legal papers are:

- I don't have an "estate", just a home and a few things that my children can decide how to split
- It's too expensive
- I don't trust lawyers
- I'm too young to think about dying
- I'm healthy
- I'd rather have my children make decisions than a lawyer that hardly knows me

A majority of elderly persons expect to rely on their children, other family members or good friends when the time comes that they will need help. Unfortunately, this may be an unrealistic expectation. Also dependence upon family members or caregivers may make you more vulnerable to financial exploitation or abuse or it could create problems between your children. No one can accurately predict the future but we can take responsibility to make our personal legal arrangements.

Step one is to identify and then consult with an Elder Attorney. In addition to their expertise in law they also have knowledge about the senior population and are aware of the physical and mental complications that often are a part of the aging processes. Some of the most common legal issues Elder Attorneys can address include:

- Will and/or Trust preparation
- Health and personal care planning including long term care, nursing home claims, public benefits such as Medicaid and Veteran's benefits
- Asset protection, estate planning, gift tax matters and other financial (fiduciary) representation
- Powers of Attorney
- Employment and retirement matters; age or disability discrimination and grandparent rights
- Guardianship and conservatorship

Essentially an Elder Attorney will create for you a legal structure that will shelter both you and your assets. Specialized documents likely will include:

1. Durable Power of Attorney – you appoint a person to act in your place for financial purposes when and if you ever become incapacitated
2. Medical Directive (varies from State to State) – document that specifies your wishes for health care if you are injured/too ill to speak for yourself. You name a trusted person to carry out your declared medical choices.
3. Will or Trust – A will is only effective after you die whereas a living trust can start benefiting you while you are still living (it is revocable so you can make changes during your lifetime). You

should discuss with an attorney which is best for you. If you do not have a will or trust, state law at the time of your death will control the distribution of your assets.

	<b>Will</b>	<b>Living Trust</b>
<b>Probate</b>	<ul style="list-style-type: none"> <li>-Subject to probate/court proceedings</li> <li>-Out-of-state property requires probate in other state as well</li> <li>-Becomes public record at time of your death</li> <li>-Probate can take weeks or months</li> </ul>	<ul style="list-style-type: none"> <li>-Avoids probate/court proceedings</li> <li>-Avoids the cost of a second-state probate where the out-of-state property is located</li> <li>-Remains private</li> <li>-Assets generally distributed quicker</li> </ul>
<b>Asset Management</b>	<ul style="list-style-type: none"> <li>-In addition to the Will, must use a Power of Attorney or Conservatorship to manage assets</li> </ul>	<ul style="list-style-type: none"> <li>-Allows you to manage the Trust assets as long as you are willing and able</li> <li>-Makes provisions for a successor trustee to take over in your place</li> <li>-If married, you may be able to take advantage of federal estate tax savings</li> </ul>
<b>Costs</b>	<ul style="list-style-type: none"> <li>-Generally a Will costs less than a trust to prepare</li> <li>-Cost to probate a Will can be substantial</li> </ul>	<ul style="list-style-type: none"> <li>-More expensive to prepare</li> <li>-Avoids probate costs if all assets were held by the Trust</li> </ul>

According to a survey conducted a few years ago by AARP, 57% of all adults do not have a Will or Trust. Aging smart includes planning smart! Advance planning assures that your assets will go to the people you want, in the way you want and when you want. If you are not sure how to protect your assets or you have questions about Wills, Trusts, Powers of Attorney, etc. you are encouraged to attend a FREE seminar Thursday, September 15<sup>th</sup> at either 10:00 am or 5:00 pm that will be sponsored by the Delta College 50+...*Just Like Gold Program* and held at the Delta College Planetarium in downtown Bay City. Seminar Leader will be Elder Attorney Carol Thomas. Seating is limited so you must call for reservations (toll free 1-888-615-7592). This is a great opportunity for you to learn how to protect what you have earned.

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