

STARTING SOON:

“The Core Four”

Presented by

Louis W. Pierro, Esq.

Peter J. Strauss, Esq.



WELCOME - HOUSEKEEPING

- We are sharing our webcam; please note your lines are muted
- Type questions for our speakers in the Q&A pod on the bottom of your screen
- Presentation is posted at this web page under the heading, “Estate and Trust Planning”
www.pierrolaw.com/resources
- Please fill out the survey that will appear in your browser following the program or in a follow-up email



THE CORE FOUR

APRIL 29, 2021

PRESENTED BY: LOUIS W. PIERRO, FOUNDING PARTNER &
PETER J. STRAUSS, ESQ., SENIOR PARTNER
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Our Attorneys



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AGENDA



- Estate Planning
 - Pandemic impact
- The “Core Four”
- Putting your Plan into Action

PANDEMIC IMPACT: VIRTUAL PLANNING

- “Essential Services” = Legal Representation
- Documents can be executed remotely with audio and video
- Meetings by phone, (Zoom, MS Teams, GoTo Meetings) video conference or in person with safety measures



WHY NOW?

- Who will make decisions on my behalf if I am unable?
 - Legal
 - Financial
 - Health care
- What happens to my assets when I die?



GOALS OF ESTATE PLANNING



Appoint individuals to handle various management functions during life and after death

Protect and preserve assets from creditors, taxes and probate



Provide a legacy to secure your family's future by preserving wealth

Ensure that legacy goes to the people you choose, not under the laws of intestacy

FAILING TO PLAN = COURT

“I resolve to keep me and my family out of court”

- Guardianship
- Probate



GUARDIANSHIP

- Court process to appoint someone to handle the affairs of a person who is incapacitated or incapable of administering his/her property or personal needs
- Need typically arises through accident or illness
- Court process is public & highly intrusive
- Loss of autonomy and control
- Not just for the elderly
- Litigation / Costly

PROBATE

- Every will must go through court approval
- If you die without a will, your estate will be distributed under the law of intestacy
- Formal, public process
- Opportunity for challenges and litigation

THE CORE FOUR – YOUR FOUNDATION

**THE CORE
ESTATE
PLANNING
DOCUMENTS**

POWER OF ATTORNEY (POA)

HEALTH CARE PROXY (HCP)

**DISPOSITION OF REMAINS
APPOINTMENT (DORA)**

WILL

POWER OF ATTORNEY



Appoint an individual to transact business and financial matters in your name

- Co-agents + alternates – Who?
 - Agent must sign - Oath
 - Gifting Authority – Key
 - Statutory Gift Rider
 - New law as of June 13, 2021
- Durable, Springing
- Wrong POA = Court

HEALTH CARE PROXY / LIVING WILL



- Allows a person to designate a surrogate - the health care agent - by executing a health care proxy
- The health care agent's authority to act begins when the attending physician determines that the patient lacks capacity to make health care decisions
- Living will provides direction to health care agent
- Ensuring compliance with patient wishes

CAN A PERSON WITH DIMINISHED CAPACITY ENGAGE IN ADVANCE PLANNING?

- Traditionally, physicians have tended to construe capacity as either present or absent
- Today, physicians use a Capacity test to determine a person's understanding of a specific decision or task
 - Can manage health care decisions
 - Understands choices for fiduciaries
 - Can articulate need to establish legal documents



HEALTH CARE PROXY AND LIVING WILL (HEALTH CARE DECLARATION)



- A document which expresses a person's wishes about the type of care and treatment she or he would want or refuse
- Declaration must be honored by the health care agent and health care providers, but compliance is spotty
- Pierro, Connor & Strauss has designed language to ensure compliance

DISPOSITION OF REMAINS APPOINTMENT (DORA)

-
- Allows you to appoint a person, known as your Agent, to be responsible for **carrying out your burial or cremation wishes**
 - You can **limit the powers given to your Agent** by including special instructions on the form
 - Families have universally said that having a loved one's directions in their own words gave **comfort and guidance at a difficult time**

WILL



- Direct the distribution of your property
- Establish trusts to preserve assets, reduce or eliminate estate taxes and protect your family
- Designate an Executor and Trustee
- Appoint a Guardian for your minor children
- Create testamentary trusts for family members with special needs

TRUST

VS.

WILL

- ✓ No Probate
- ✓ Manages Assets During Life and provides long term protection
- ✓ Provides for Successor Trustee upon death or incapacity
- ✓ Financial affairs remain private
- ✓ Must be 'funded' to be effective

- ✗ Probate: cost & delays
- ✗ Takes effect after death
- ✗ No provision for incapacity
- ✗ May need a guardian or other planning
- ✗ No privacy – court papers filed in probate are public record
- ✗ Extra costs and delays if any beneficiary is a minor or a person with a disability

Major problem with ONLY having a Will: Probate can take several months to several years!!!!

THE IMPORTANCE OF PLANNING EARLY

Allows you to develop a plan with your team of professionals

Ensures that all options are available

Provides greater protection of resources

Gives peace of mind that wishes are being followed



TRUSTS: THE SWISS ARMY KNIFE OF ESTATE PLANNING



- Tuesday, May 11, 2021
- 12:00-12:30PM
- 30 minutes!
- Register: www.pierrolaw.com/events





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