



WILLS, LIVING TRUSTS & ESTATE PLANNING

FOR NYS OASAS

PRESENTED BY:

LOUIS W. PIERRO, ESQ., FOUNDING PARTNER

CAROLYN M. GLYNN, ESQ., COUNSEL



WELCOME - HOUSEKEEPING

- We are sharing our webcam; please note your lines are muted
- Type questions in the Q&A pod at the bottom of your screen
- Presentation can be found here under “Estate Planning”
<https://www.pierrolaw.com/resources/>
- Fill out survey



Employee Assistance Program

This program is brought to you by the OASAS Downstate EAP Program.

The Downstate EAP Coordinator:

Desiree Aaron 646-728-4696

Daaron.EAP@oasas.ny.gov

EAP Chairperson: Sharon Robinson

THE LEGAL PROJECT

- Introduction by LaVonda S. Collins, Esq.
- Private, independent, not-for-profit organization
- Provides civil legal services and supports for vulnerable community members
- Over 300 pro bono attorneys and staff across 11 counties in NYS
- Offers legal clinics and workshops including “Legally Speaking”
- Contact 518-435-1770 or www.legalproject.org

AGENDA

- The Importance of Estate Planning
- The “Core Four” Documents Everyone Needs
- Living Trusts and Trust Planning
- Asset Protection for Long Term Care
- Putting your Plan into Action





Our Team Of Attorneys



Louis Pierro



Aaron Connor



Peter Strauss



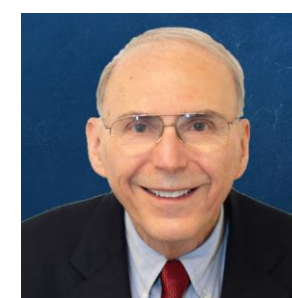
Caryn Keppler



Ingrid Johnson



Carolyn Glynn



Richard Rothberg



Theresa Skaine



Jacob Verchereau



Kristen Peck



Frank Hemming, III



Bethany Van Pelt



Robert Bosman

GOALS



Appoint the Right Individuals to handle various management functions for you during life and after death

Protect and Preserve Assets from nursing homes, creditors, taxes and probate

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

Failing to Plan = COURT

Ensure your family won't "inherit" a legal mess

- Guardianship – Supreme Court
- Probate – Surrogate's Court
 - Expensive
 - Time consuming
 - Public
 - Who wins?



CORE FOUR – THE FOUNDATION

THE CORE
ESTATE
PLANNING
DOCUMENTS

POWER OF ATTORNEY (POA)

HEALTH CARE PROXY (HCP)

DISPOSITION OF REMAINS
APPOINTMENT (DORA)

LAST WILL AND TESTAMENT

POWER OF ATTORNEY



Appoints an individual to conduct your business and financial matters on your behalf

- Who Do You Choose?
 - Co-agents, Joint or Separate
 - Alternates
 - Agents must sign an oath
- Durable, Springing
- Invalid POA = Court
 - Allow further estate planning
- Comprehensive Powers Including Gifting - Key

HEALTH CARE PROXY / LIVING WILL



- Designates an agent to act if you are incapacitated
- Expresses your wishes regarding end-of-life decisions – incorporate in a single document
- DNR, MOLST
- Download our Health Care Decision Making Guide at:
www.pierrolaw.com/resources/

DISPOSITION OF REMAINS APPOINTMENT (DORA)

-
- Appoints a person as your Agent to carry out your burial or cremation wishes
 - Includes special instructions on the form – as detailed as you wish
 - Gives comfort and guidance at a difficult time

WILL

- Directs distribution of your property at death
- Establishes “testamentary” trusts to protect your beneficiaries, reduce or eliminate estate taxes and provide for your heirs
- Designates Executors and Trustees to administer your assets after your death
- Appoints a Guardian to care for your minor children

**CAUTION: Every Will Requires Probate
(Court)**



WILL

Cons:

- ✗ Probate required = cost + delays
- ✗ Only takes effect after death
- ✗ No provision for incapacity
- ✗ No privacy – court papers filed in probate are public record
- ✗ Extra costly safeguards if any beneficiary is a minor or disabled person

VS.

TRUST

Pros:

- ✓ No probate required
- ✓ Manages assets during life and after death; provides long term protection
- ✓ Provides for Successor Trustee upon death or incapacity - continuity
- ✓ Financial affairs remain private
- ✓ Must be 'funded' to be effective

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

TYPES OF TRUSTS

Living vs. Testamentary
Revocable vs. Irrevocable
Asset Protection Trusts
Life Insurance Trusts
Retirement Plan Trusts
Special Needs Trusts
Beneficiary Controlled Trust



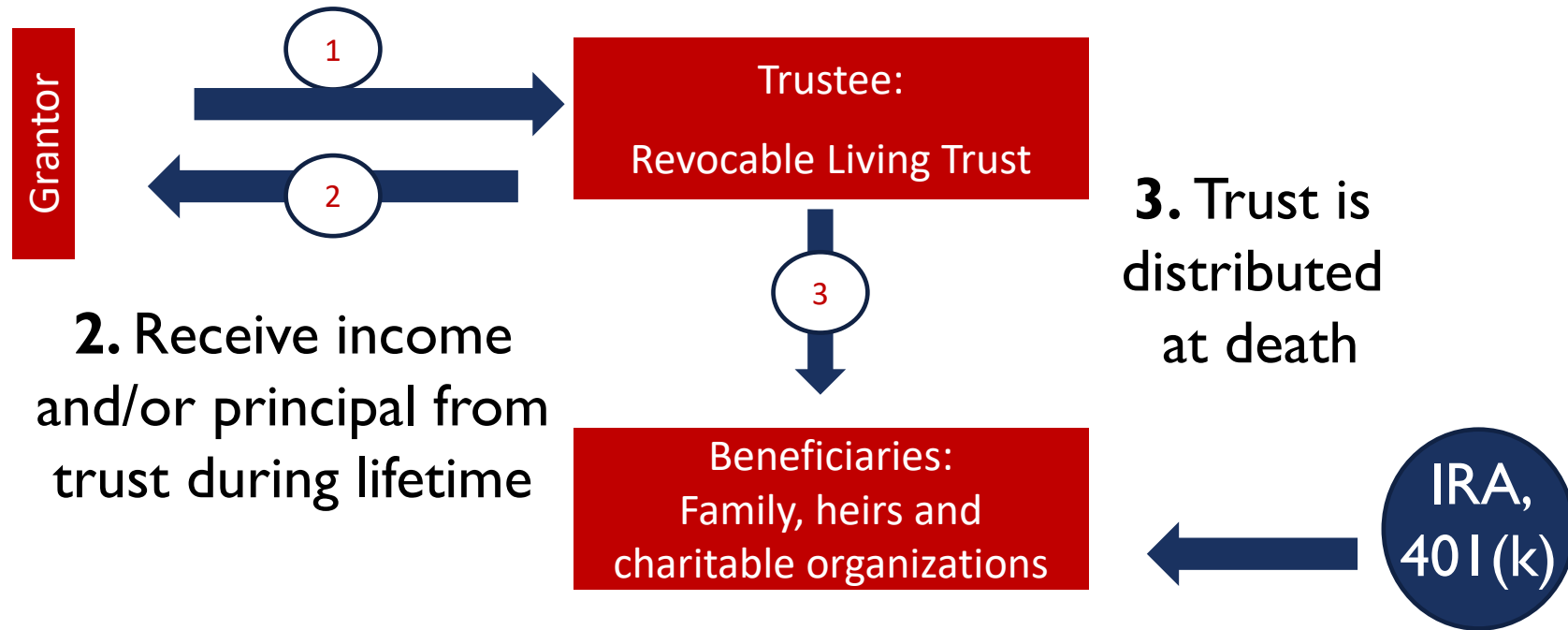
REVOCABLE LIVING TRUST



- Organizes your assets
- Provides for management and use of assets should you become incapacitated
- Secures all beneficiaries
- Create 'downstream' trusts outside of the Court's reach
- Avoids probate
- **Caution:** Not Medicaid protected – Assets Are Available to Medicaid

REVOCABLE TRUST WITH FUNDING

1. Place all assets in trust (except IRA's, 401(k)'s, etc.)



You can be the Grantor, Trustee and Beneficiary!

ENHANCED ESTATE PLANNING – NEXT GEN

Issue:

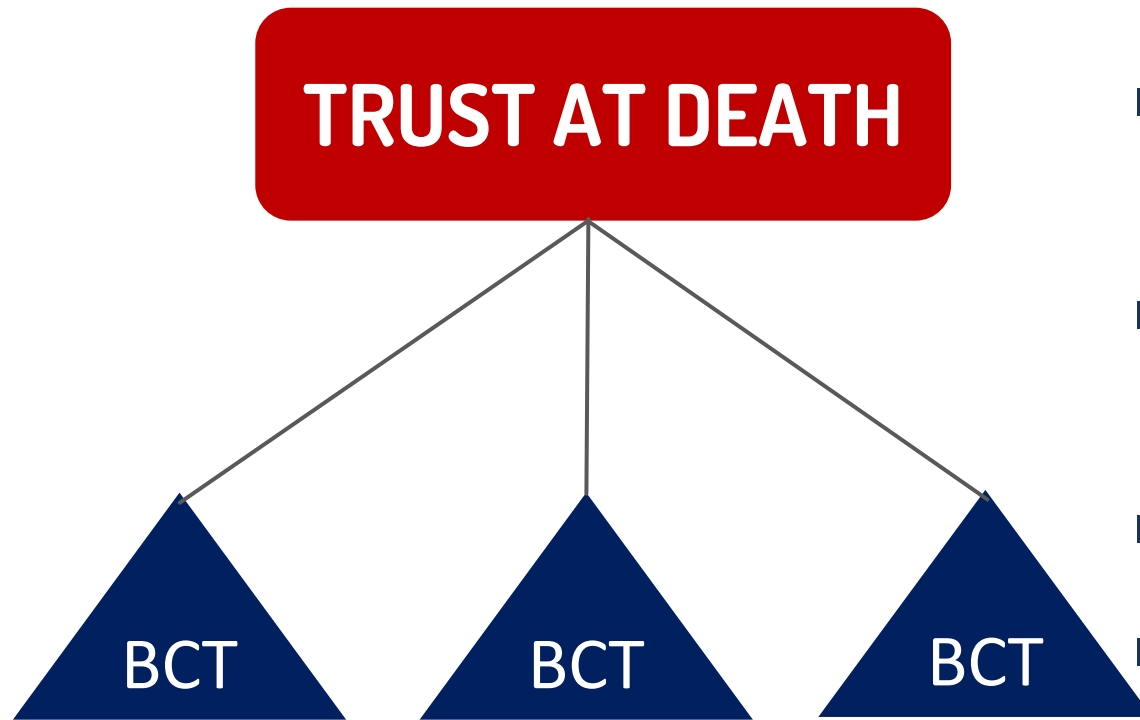
We worked and saved, and when we die, we want our family's wealth protected from divorcing spouses, lawsuits, bankruptcy and Medicaid.

Solution:

Beneficiary Controlled Trusts-
a/k/a “Bloodline Trusts”



BENEFICIARY CONTROLLED TRUSTS



**Trusts for Children and
Grandchildren**

- Child can be trustee = Control of Assets
- Can use assets for themselves and their families
- Outside the reach of creditors
- Guarantees the family's legacy - assets stay in the bloodline

PLAN FOR THE COST OF LONG-TERM CARE

#1 Risk to Your Retirement:

- Nursing Home Costs
- Home Care Costs



Americans age 65 and older will need long-term care services and support at some point in their lifetime

MEDICARE VS. MEDICAID

Medicare does
not cover long-
term care



Medicaid is the only
government program
that pays for LTC

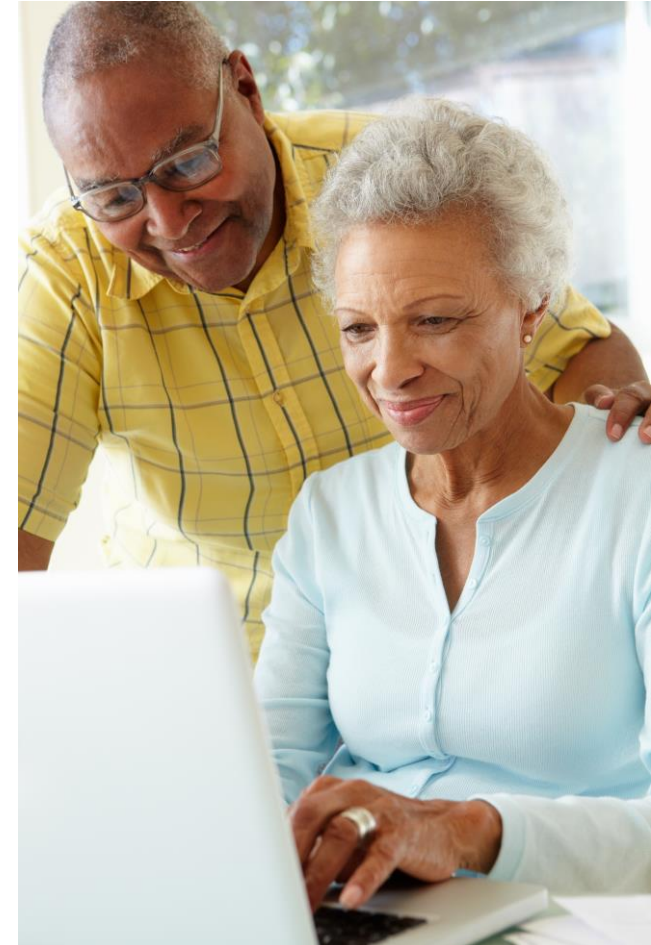
KEY QUESTIONS ON PAYING FOR LTC

1. Where would you want to live?
2. Who would take care of you?
3. How would you pay for it - \$200K+/yr!

Self-
Insuring

Private LTC
Insurance
+ Life
Products

Medicaid



HOME? ...OR THE NURSING HOME?



Chronic Care Medicaid

- **Nursing home care**
- 5-year lookback
- Transfer penalties = # of mos.



Community Medicaid

- **Home health care**
- Assisted living facility
- Medicaid managed long-term care
- Adult day care
- No lookback under current rules

GOOD NEWS: MEDICAID INCOME & ASSET LIMITS INCREASED IN 2023

Landmark Medicaid Increases Passed in NYS Budget:

- Same income limit will be used for younger people under Affordable Care Act and for Age 65+, blind & disabled

| INCOME / MONTH | | | ASSET LIMIT | |
|---------------------------------|----------------|----------------|------------------|------------------|
| YEAR | SINGLES | COUPLES | SINGLES | COUPLES |
| 2023 | \$1,677 + \$20 | \$2,268 + \$20 | \$30,182 | \$40,821 |
| Difference over 2022 | +\$763 | +901 | +\$13,382 | +\$16,821 |

EXAMPLE: PLANNING FOR LONG-TERM CARE

- Jerry – Administrator, New York Presbyterian Hospital, 58
- Patricia – HR Director, Addiction Counselor, NYS OASAS, 60
- Live in Brooklyn
- Two adult children, Gretchen age 30 and Thomas age 28; 1 grandchild, Patrick age 3
- **No** LTC Insurance Coverage



THEIR ESTATE PLANNING GOALS

1. Create Advance Directives: The Core Four
2. Retire comfortably – Soc. Sec., IRA, Pension, insurance
3. Protect their home and life-savings from Long-Term Care costs
4. Leave a legacy for children and grandchildren
5. Age in their own home and receive care when needed

ASSETS – JERRY AND PATTY

Jerry:

- Roth IRA \$425,000
- Stock \$375,000

Patty:

- NYS 403(b) \$350,000
- State Pension \$250,000
- CDs \$150,000

Joint:

- Savings & Checking \$ 95,000
- Brooklyn Brownstone \$745,000



MEDICAID ASSET PROTECTION TRUST

**Jerry and Patty
(Grantors)**

- Co-Trustees: Gretchen and Thomas manage trust assets
- Beneficiaries:
 - Jerry and Patty will have income and rights to use real and personal property for life
 - Upon death, Beneficiary-Controlled Trusts will be created for their heirs
 - Heirs: Gretchen, Thomas and their descendants

TRUST FUNDING- IRREVOCABLE TRUST

Home

\$50K from Cash Accounts

Jerry's Stock Portfolio

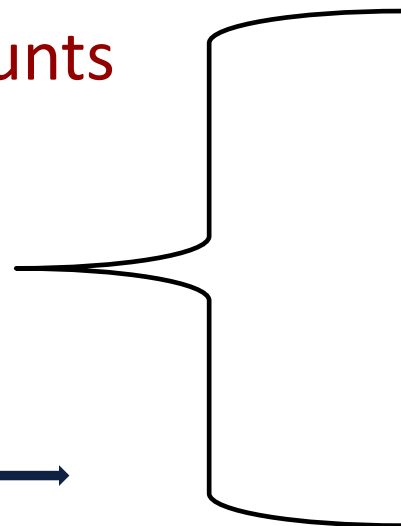
Patty's CDs

Add'l options

Life Insurance

Business

Real Estate



MAPT

- Income can be paid or accumulated
- Principal can NOT be given back to the Grantors (Jerry and Patty) directly
- Principal can be paid to children or others (who can use it for any purpose)

PROTECTING ASSETS WITH SECURITY

KEEP OUT

95K Cash

Patty's 403(b)

Jerry's Roth IRA

Security Features

- Power to change Trustees
- Power to change beneficiaries
- Can revoke under NY Law with consent of beneficiaries

MEDICAID LOOKBACK



Once assets are transferred into the Trust, is there is a waiting period to qualify for Medicaid?

| | |
|-------------------|----------|
| Home care | 0 years* |
| Nursing Home care | 5 years |

*2.5 years expected NYSDOH implementation in 2024

MEDICAID ASSET PROTECTION TRUST

RESULTS:



Jerry and Patty's Plan Completed:

- Wishes upon death will be followed
- No probate or court involvement
- Home is protected
- Assets are preserved
- Legacy is secure
- Long Term Care costs will be covered when Medicaid eligible

PEACE OF MIND

Results If You Plan Now:

- Your home and assets are protected during life
- Long-Term Care costs are covered
- Wishes upon death will be followed without court interference
- Legacy is secure



HOW CAN YOU TAKE ACTION?

- Legal Services Plan; or
- Find an attorney near you; or
- Complete the questionnaire provided, and
- Schedule a complimentary consultation



PIERRO, CONNOR & STRAUSS



- Consultations in person, virtually or by phone

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THANK YOU!

Louis W. Pierro

Carolyn M. Glynn

info@pierrolaw.com

518-459-2100

www.pierrolaw.com

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