Surprenant & Beneski, P.C.
Estate, Tax, Medicaid and Special Needs Planning

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September, 2011

Elder Law Today

Will or Trust - Which is Better?

We often get asked about the differences between a Will and a Trust. "Which one is better?". The answer is "it depends". The chart below summarizes the differences between them. The chart on the next pages summarizes my opinion on which document should be used when. I hope you find it helpful!

IT DEPENDS on what is important to you. If it is...	With a **Will** Here's what happens	With a **Trust** Here's what happens
Privacy	No privacy. All documents and proceedings after death are public.	Totally private, unless court intervention is required, usually due to improper drafting, lack of funding or loss of trustee.
Disability Planning	No provisions for mental or physical disability. The disabled person is subject to the court process for guardianship. Need a power of attorney. A power of attorney can provide that disability be determined privately by family members and friends.	Handles assets upon disability without court intervention. Need a power of attorney for non-trust assets. A trust can provide that disability be determined privately by family members and friends.
Creditor/Predator Protection	None while alive. Creditors have only a specified amount of time to present claims or they are forever barred. Testamentary trusts can give protection.	None while alive. No creditor claim "shutoff" period, and most trusts provide that valid debts be paid. Trusts which become irrevocable at death can give protection.
Effort Required	Less effort now unless you require tax planning and asset protection for your heirs, but a great deal of work for your heirs after disability or death.	More effort now to properly design the trust to accomplish all of your goals upon disability and after death, but far less work for your heirs after disability or death.
Cost Now	Less	More
Costs to Amend	Similar	Similar
Cost Later	Probate fees.	Minimal probate fees if the trust has been fully funded and properly maintained

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Planning Issue	Will	Trust
Large life insurance policy (s)		X
Large qualified retirement plan (s) [IRA, 401k, 403b, etc.]		X
Simple, outright disposition of assets at death	X	X
More sophisticated disposition of assets at death		X
Privacy issues		X
Possible or probable mental disability		X
Desire to make everything as easy and inexpensive as possible for heirs		X
Out-of-state real estate or timeshares		X
Out-of-state executors, trustees or guardians		X
Tax planning	X	X
Protection of inheritance for spouse, children and grandchildren	X	X
Planning for couples on second or subsequent marriage		X
Planning for beneficiaries with "special needs"		X

Attorney Michelle Beneski, P.C is honored to be speaking at the Massachusetts/New Hampshire Chapter of the Alzheimer's Association Legal/Financial Program on:

Monday, September 19th, 4:00pm to 5:30pm at the Plymouth Library

For more information, contact Pam McCormack, Regional Manager, at 508-880-0055 or Pam.McCormack@alz.org

Elder Law Today is produced by Robert L. Surprenant, of counsel, Daniel M. Surprenant & Michelle D. Beneski, Attorneys at Law. This newsletter is published as a service of Surprenant & Beneski, P.C.
New Bedford • Brockton • Hyannis

Mark Your Calendars For These Upcoming Events in September!

Estate Planning 101 presentations! Call 1-800-929-0491 to reserve your seat! You can also register by going on-line to: www.myfamilyestateplanning.com

Is it Time to get your Ducks in a Row?

Tuesday, September 13th (code: Cape) 1:30pm-3:00pm
Cape Cod Realtors Assoc., 22 Mid Tech Drive, W. Yarmouth Ma 02673

Wednesday, September 14th (code: Brockton) 6:30pm-8:00pm
Holiday Inn Taunton, 700 Myles Standish Blvd, Taunton, Ma 02780

Thursday, September 15th (code: Atria) 6:30pm–8:00pm
Atria Assisted Living, 391 Alden Road, Fairhaven MA, 02719

Thursday, September 22nd (code: Kimwell) 6:30pm-8:00pm)
Kimwell, 495 New Boston Road, Fall River, MA 02720

Here's What You'll Learn...

- How living trusts avoid probate, why wills don't and what good trust planning costs.
- How your Healthcare Proxy, Living Will and the new HIPAA release must work together.
- How to avoid death taxes, guarantee IRA stretch outs and plan for disabled kids or grandkids.
- How to "bulletproof" your children's and grandchildren's inheritances from their divorces, debts, lawsuits, medical expenses, irresponsible life styles and transfers out of your bloodline.
- How to protect your home and savings from $8,300/month nursing home bills and Medicaid without buying long-term care insurance – even if you or a loved one is in a nursing home now.
- How qualified veterans and their spouses can get up to $1949/month for at-home health care or assisted living costs from a little-known VA benefit for non-service connected disabilities.

SouthCoast Senior Resource Association
presents
"Alzheimer's/Dementia Issues and Behavioral Management"
Featured Speaker
Ricardo Barrera, Ph.D.
Dr. Barrera is the Director of Neurobehavioral Services at New Bedford Rehabilitation Hospital
Guest Speaker: **Peter W. Ham, M.A., L.M.H.C.**

- **When:** Monday, October 17, 2011
- **Where:** Atria Assisted Living of Fairhaven
  391 Alden Road
  Fairhaven, MA 02719
- **Time:** 5:00 – 6:30 PM (Registration at 4:30 PM)

Call **508-994-9238** to Pre-register

****Light Refreshment Served****
*****Great Raffle Prizes*******

Thank YOU
for recognizing our efforts by sending your friends & family!

Alexandria Britto
Atty. David Reservitz
Atty. Michael Harrington
Atty. Andrew Garcia
Atty. David French
Atty. Henry Arruda
Atty. Mike Harrington
Atty. Peter Smola

Donna Daylor
Gentiva Health Care
George Howe
Gertrude Bellavance
Jeannine Ottavianelli
John & Jan Naples
John Pimental
Linda Poyant
Trudy Santos

Lucille Rose
Marie Cashman
Peter Ham
Regina McDonald
Roger Oliveira
Ronald Carando
Therese Menard
Tina Lahey

We invest 100% of our time & energy to delivering first-class service to our clients.
As a result, our valued clients, partners, & friends refer their family, clients, friends & associates to us.
We build strong, lifelong relationships, one person at a time!