

your estate matters

When the Time Comes, How Do You Want to Go? And Just as Importantly, Have You Discussed It?

Sometimes the best people to ask are the people who truly know. As an example, take end-of-life decisions. According to a Pew Research Center study, 57% of Americans want their doctors to stop treatment and let them die if they have an incurable disease and are suffering a great deal of pain.

By contrast, a study conducted by Stanford University indicates nearly 90% of physicians want to forgo resuscitation and aggressive treatment if they face a terminal illness. As one of the doctors said, “I knew that it very likely was not going to be successful... It just seemed a terrible way to end someone’s life.”

How aggressive you wish to be with potential treatment is an important decision. Just as important is communicating that decision. The Pew study found that only 17% of seniors over 75 years of age had talked to their families about their end-of-life wishes. And only 1 in 10 doctors report talking with their patients about death.

Talking to your loved ones about the way you wish to die—and putting the right advanced directive documents in place, like a Living Will, a HIPAA Release, and a Healthcare Power of Attorney will ensure your wishes are carried out and reduce stress on your family. Without a plan in place, a loved one may be forced to endure the distress of making incredibly difficult decisions on your behalf.

As with other aspects of estate planning, the key is to communicate early and often. See our office to put your plan in place, and then talk about those plans with your family. Someday, they will be very glad you did.

Caring From a Distance

How to Take Great Care of a Loved One From Afar

Long-distance caregiving is a growing phenomenon. A recent **Caregiving.com** poll shows that close to one-third of all caregivers do not live with or near their loved ones. If you ever find yourself in a similar position, here are ways to make it work.

First, don’t focus solely on the practical aspects of care. Call just to chat. Use video chat to make the miles between you disappear. Taking time to connect emotionally is just as important as ensuring all the “i’s” are dotted and “t’s” are crossed.

When you are able to visit in person take the time to check up on the practical aspects of your loved one’s care. Look both for problems and for ways to make the situation even better. Talk to the people providing on-site care, both to understand your loved one’s needs and to show those individuals you care... and are paying attention.

Handling practical considerations provides peace of mind, but so does staying connected emotionally. When you’re caring for a loved one, each is incredibly important—for both of you.

Planning for Disability

How a Bad Situation Can Get Even Worse

Nearly 20 million Americans of working age are classified as disabled. In fact, today's 20 year-olds have a 1 in 4 chance of becoming disabled before they retire. Disability insurance can certainly ease the financial burden... but what if the illness or injury is severe?

Most Americans are better prepared, legally and financially, to die than to become disabled. Even if your Will covers all possible eventualities, like asset and divorce protection, a Will is not effective until death occurs. In other words, a Will only plans for death, not disability.

A Revocable Living Trust is a great planning tool for disability, allowing someone you trust to step in and make decisions on your behalf if it becomes necessary to do so. Even if you have Powers of Attorney in place to allow an agent to deal with financial or property issues, a Revocable Living Trust

can make the process even simpler. Financial institutions typically encounter a greater number of cases of fraud with Powers of Attorney than with Trusts. Often the "trigger" that defines disability is the judgment of one or two physicians. Once that determination is made, financial institutions allow the successor trustee to step in.

With a Revocable Living Trust, you get to define "disabled" as well as determine what decisions can and cannot be made. The successor trustee then can carry out those wishes and act in your best interest. And, of course, you can change your successor trustee anytime, as long as you have the capacity.

A Revocable Living Trust allows you to maintain control over your assets while ensuring that a trusted loved one or friend can step in if you are unable to make important decisions.

Remarriage

And the Impact on Your Estate Plan

While divorce and remarriage is hardly unusual, the financial and estate planning issues created by a second marriage certainly can be. In second marriages, the complications and challenges created by blended families multiply.

For example, if you and your new spouse commingle your assets and income, those funds may be at risk. Many remarried couples set up joint accounts to pay for expenses like mortgages, utilities and groceries, and use individual accounts to pay other bills since keeping money separate could be important if one is financially entangled with a former spouse.

Another concern involves the children of blended families. If one spouse dies, leaving assets to the surviving spouse, that spouse could decide to leave all assets to their own children, and not to step-children. Alternatively, a Family Trust can ensure assets are protected and distributed the way you both wish them to be. By leaving assets to a Family Trust, they may be available for your spouse's use under the terms you've specified. If you so decided, your spouse might be able to have the income from the assets and have principal distributions for their needs or the needs of your children. That way, they could continue to pay the routine household expenses such as the mortgage, car payment, and the expenses of your children. Your surviving spouse or someone else could be the trustee to manage the assets. But, at your spouse's death, the assets would be distributed as you specified. In other words, your surviving spouse could not cut out your children and leave all the assets to their own children.

The same is true for remarriage protection. If your spouse remarries after your death, assets can become commingled. A Family Trust can protect assets for your children, regardless of what may take place after you are gone. By leaving the assets to a Family Trust rather than leaving assets outright to your surviving spouse, you can protect your assets from entanglement upon your surviving spouse's remarriage and subsequent death or divorce from their new spouse. Also, if your surviving spouse has additional children after your death, you can make sure your assets are used only for your surviving spouse and your children, not for the new children. At the death of your surviving spouse, you can ensure your assets go to your children.

If you set up your estate plan prior to remarriage, be sure to revise that plan with your new family in mind. Legal and financial planning regarding remarriage can be incredibly complicated; our office can help you plan for and avoid unforeseen minefields.

What's in a Legacy?

He was an Oscar-nominated and Emmy-winning actor, writer, producer and director, starring in several iconic films that appear on many "all-time best" movie lists.

Even so, the organization he formed in 1991 following his wife's death may be his most lasting contribution. Gilda's Club and similar organizations offer emotional and social assistance to complement the medical care given to patients with cancer and serve as a support group for patients' families and friends. His Congressional testimony also resulted in \$30 million being allo-

cated to federal ovarian cancer research. He is widely credited with ushering in "a new era of openness in conversations around cancer."

Many people will never see Willy Wonka and the Chocolate Factory or Blazing Saddles. Many people will never see Gilda Radner's performances on Saturday Night Live. Even so, Gene Wilder's love for Gilda and the philanthropy and advocacy it inspired will positively impact cancer patients and their families for generations to come. What will your legacy be?

Compliments of

Lawrence W. Smith, Attorney at Law

Your Estate Matters is brought to you compliments of Lawrence W. Smith who has practiced law in Palm Beach County, Florida, since 1983. Mr. Smith dedicates his practice to estate planning, elder law, business matters and real estate law. He is a member of the American Academy of Estate Planning Attorneys, a national organization committed to providing consumers with the information they need to make educated choices in matters involving wills, trusts, powers of attorney, probate and trust administration, Medicaid and other benefit planning. Mr. Smith is AV Rated, the highest possible rating established by Martindale-Hubbell, the independent rating agency for attorneys.

You may contact Larry Smith or arrange for a free consultation or private seminar by calling (561) 844-3700, or you may visit Mr. Smith's website at www.florida-estateplan.com.



Lawrence W. Smith, Attorney at Law
Gary, Dytrych & Ryan, P.A.

701 U.S. Highway One, Suite 402
North Palm Beach, FL 33408

561-844-3700

www.florida-estateplan.com