

# **LEGAL ASPECTS OF END OF LIFE**

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# **PLANNING FOR END OF LIFE**

- 1. Preliminary steps**
- 2. Incapacity during life**
- 3. Distributing property at death**
- 4. Planning for family members**
- 5. Death and dying**

# PRELIMINARY STEPS

- 1. Gather factual information**
- 2. Think about your goals**
- 3. Identify those you trust**
- 4. Choose professional advisers**

# PRELIMINARY STEPS

## 1. GATHER FACTUAL INFORMATION

- a. Family
- b. Property
- c. Income

1.

# PRELIMINARY STEPS

## 1. GATHER FACTUAL INFORMATION

a. Family

b. Property

- Description
- Location
- Owner(s)
- How/when acquired
- Cost
- Current fair market value
- Balance owed

# **1. GATHER FACTUAL INFORMATION**

**a. Family**

**b. Property**

# PRELIMINARY STEPS

**1. GATHER FACTUAL INFORMATION**

**2. THINK ABOUT YOUR GOALS**

- a. Now
- b. During retirement
- c. During disability
- d. At death



# PRELIMINARY STEPS

**1. GATHER FACTUAL INFORMATION**

**2. THINK ABOUT YOUR GOALS**

- a. Now
- b. During retirement
- c. During disability
- d. At death

**Transfer taxes no longer drive planning,  
but income taxes may.**

- 1. GATHER FACTUAL INFORMATION**
- 2. THINK ABOUT YOUR GOALS**
- 3. IDENTIFY THOSE YOU TRUST**

- 1. GATHER FACTUAL INFORMATION**
- 2. THINK ABOUT YOUR GOALS**
- 3. IDENTIFY THOSE YOU TRUST**
- 4. CHOOSE PROFESSIONAL ADVISERS**

- 1. Managing financial affairs**
- 2. Making health care decisions**
- 3.**

# INCAPACITY DURING LIFE

## 1. **MANAGING FINANCIAL AFFAIRS**

- a. Conservator of estate
- b. Custodian
- c. Representative payee
- d. Durable power of attorney
- e. Trustee

# INCAPACITY DURING LIFE

## 1. MANAGING FINANCIAL AFFAIRS

- a. Conservator of estate
- b. Custodian
- c. Representative payee
- d. Durable power of attorney
- e. Trustee

**TRUST = an arrangement under which one party (the “trustee”) holds **LEGAL** title to property and manages it for the benefit of designated persons (the “beneficiaries”), who are considered to own the**

# INCAPACITY DURING LIFE

## 1. MANAGING FINANCIAL AFFAIRS

## 2. MAKING HEALTH CARE DECISIONS

a. Hospice

b. Guardian of person

c. Surrogate decision maker

d. Advance medical directive

- “Key Conversations” guide
- Health care instructions
- Health care representative
- Mental health directive
- Proper execution

- 1. MANAGING FINANCIAL AFFAIRS**
- 2. MAKING HEALTH CARE DECISIONS**
- 3. LONG-TERM CARE**
  - a. At home**



# INCAPACITY DURING LIFE

1. MANAGING FINANCIAL AFFAIRS
2. MAKING HEALTH CARE DECISIONS
3. LONG-TERM CARE
4. **FINANCING LONG-TERM CARE**
  - a. Few government benefits!!!
  - b. Long-term care insurance
  - c. Private-pay

# **DISTRIBUTING PROPERTY AT DEATH**

- 1. NONPROBATE PROPERTY**  
**(“will substitutes”)**
- 2. PROBATE PROPERTY**

# WILL SUBSTITUTES

**Give everything  
away during life**

**Create will  
substitutes**

**Keep everything in  
sole name until death**



**Give everything  
away during life**

**Create will  
substitutes**

**Keep everything in  
sole name until death**



- 1. Retain control during life**
- 2. Get property**

**NONPROBATE  
PROPERTY**

**automatic**

**successors**

# **WILL SUBSTITUTES**

- 1. Living trust**
- 2. Life insurance**
- 3. Retirement plan**
- 4. Pay-on-death (POD) account**
- 5. Transfer-on-death (TOD) deeds  
and securities**
- 6. Survivorship ownership**

# **\*WILL SUBSTITUTES**

- 1. Living trust**
- 2. Life insurance**
- 3. Retirement plan**
- 4. Pay-on-death (POD) account**
- 5. Transfer-on-death (TOD) deeds and securities**
- 6. Survivorship ownership**

**\*DO NOT ESCAPE TAXATION!!!**

# **REVOCAABLE LIVING TRUST**

**The most effective way to:**

- 1. Plan for incapacity**
- 2. Avoid probate**
- 3. Get property to right people**



# REVOCABLE LIVING TRUST

1. Put all (or most) assets in the trust.
2. Attach a list of trust assets.
3. Transfer titles to the trustee!

# WILL SUBSTITUTES

1. Living trust
2. Life insurance \*
3. Retirement plan \*
4. Pay-on-death (POD) account
5. Transfer-on-death (TOD) deeds and securities
6. Survivorship ownership

**\* PROPER BENEFICIARY DESIGNATIONS  
ARE CRITICAL!!!**

# WILL SUBSTITUTES

1. Living trust
  2. Life insurance
  3. Retirement plans
  4. Pay-on-death (POD) accounts
  5. \*Transfer-on-death (TOD) deeds and securities
  6. Survivorship ownership
- \* MUST BE TO NAMED PERSON(S), NOT TO A CLASS (such as “my children”)

# **DRAWBACKS TO JOINT TENANCY**

**NONPROBATE  
PROPERTY**

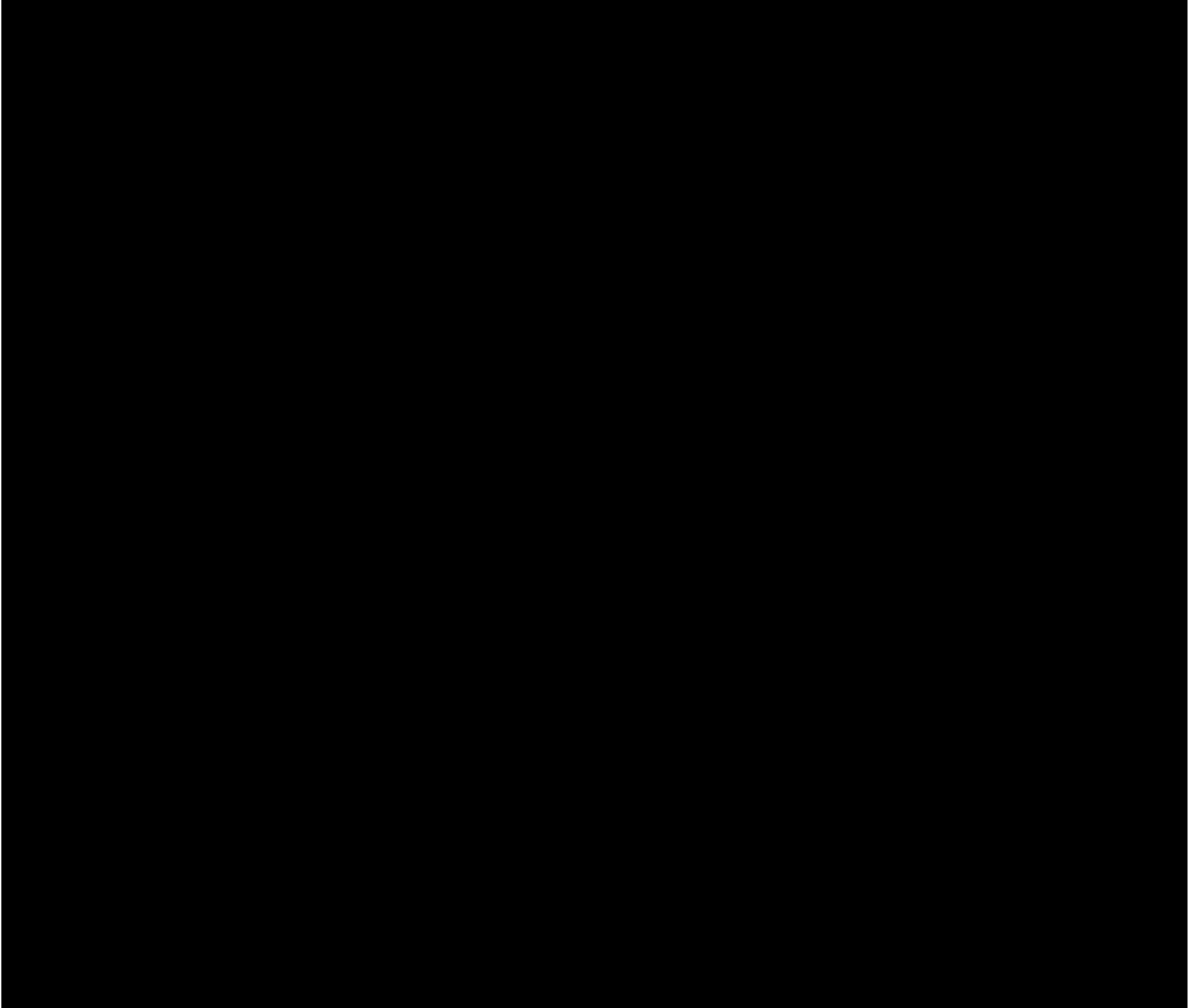
**automatic**



**successors**

**NO NEED FOR A WILL OR COURT  
PROCESS!**











# PLANNING FOR FAMILY

- 1. Surviving spouse**
- 2. Minor children**
- 3. Disabled family members**

# PLANNING FOR FAMILY

## 1. SURVIVING SPOUSE

- a. Rights as heir
- b. Elective share rights
- c. Rights under retirement plans
- d. Pre- and post-nuptial agreements
- e. Divorce

# PLANNING FOR FAMILY

## 1. SURVIVING SPOUSE

## 2. MINOR CHILDREN

- a. Guardian of person
- b. Conservator of estate
- c. Custodianship
- d. Contingent trust for minors

# PLANNING FOR FAMILY

1. SURVIVING SPOUSE
2. MINOR CHILDREN
3. **DISABLED FAMILY MEMBERS**
  - a. Guardian of person
  - b. Conservator of estate
  - c. Trusts
  - d. Government benefits

# DEATH AND DYING

- 1. Physician Orders for Life-Sustaining Treatment (POLST)**
- 2. Physician-assisted death**
- 3. Organ donation**
- 4. Funeral and burial**

# DEATH AND DYING

## 1. Physician Orders for Life-Sustaining Treatment (POLST)

- CPR
- Medical interventions
  - Comfort measures only
  - Limited additional interventions
  - Full treatment
- Artificially administered nutrition
- Oregon POLST Registry

# DEATH AND DYING

1. **Physician Orders for Life-Sustaining Treatment (POLST)**
2. **PHYSICIAN-ASSISTED DEATH**



# DEATH AND DYING

1. **Physician Orders for Life-Sustaining Treatment (POLST)**
2. **PHYSICIAN-ASSISTED DEATH**
3. **ORGAN DONATION**
  - **Document expressing choices**
  - **Delegation of authority**
  - **Registry**

# DEATH AND DYING

1. **Physician Orders for Life-Sustaining Treatment (POLST)**
2. **PHYSICIAN-ASSISTED DEATH**
3. **ORGAN DONATION**
4. **FUNERAL AND BURIAL**
  - **Advance arrangements**
  - **Document expressing choices**
  - **Delegation of authority**

