

Observed each year on June 15, World Elder Abuse Awareness Day (WEAAD) calls attention to the widespread issue of elder abuse, neglect, and financial exploitation. In the U.S. and around the globe, WEAAD raises awareness about the millions of older adults affected—an estimated 1 in 10 each year—while reminding us that only a fraction of cases (1 in 14) are ever reported. Older adults are valued members of our communities, and their mistreatment affects us all. WEAAD serves as a call to action, reminding us of our collective responsibility to uphold elder justice.

<https://eldermistreatment.usc.edu/weaad-home/>

Visit this link to learn more about how you can get involved with this annual event.

Estate planning is a vital tool in preventing elder abuse, particularly financial exploitation. By clearly outlining a person's wishes for assets, healthcare, and decision-making authority, estate planning reduces confusion, limits opportunities for manipulation, and empowers trusted individuals to act on the elder's behalf. Having legal protections in place helps safeguard elders' autonomy and prevents abuse before it occurs.



# Estate Planning Workshop



## Alaska Commission On Aging

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Aging With Dignity And Independence

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# Before We Begin

THIS IS NOT LEGAL ADVICE.

Results of any trust, estate, business and/or tax planning cannot be guaranteed. The materials presented in this workshop are intended to be used for informational purposes only. None of the topics discussed, hypothetical examples presented, contents of the materials and handouts provided, or advice given are intended to be construed as legal advice, tax advice, or to create an attorney-client relationship or attorney client-privilege. It is not reasonable to rely on these materials, and neither the presenter nor Foley & Pearson, P.C. shall be liable for any damages incurred from reliance on these materials. If you have not signed an engagement agreement with Foley & Pearson, P.C., you should you should assume you are not a client of Foley & Pearson, P.C.

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# What Will We Cover

1. The Definition of Estate Planning
2. The Problem of Title
3. Incapacity Planning (POA/AHCD)
4. The Probate Process
5. Wills
6. Q&A



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Aging With Dignity And Independence



# What is Estate Planning?

- Estate planning is not just for large and complicated estates or for estate tax planning.
- Estate planning includes any decision or arrangement you make during your lifetime about how and to whom property will pass upon death or incapacity, including:
  - Beneficiary Designations
  - Pay on Death (POD) or Transfer on Death (TOD) Designations
  - Joint Titling

# What is Estate Planning?

Estate planning is concerned with controlling the costs associated with transferring property at the time of incapacity or death, including:

1. Administrative Expenses
2. Legal Fees
3. Accounting Fees
4. Appraisal Fees
5. Taxes



The Problem of Title:

# Who Controls Upon Death or Incapacity?

- When you die or become incapacitated, someone needs to be given authority to manage, control and convey your property.
- The legal process that confers authority to manage, control and transfer property depends upon the type of property and how it is titled.

# Examples of How Property Might be Controlled at Death or Incapacity

Property Type	Upon Death	Incapacity
Bank Account	Probate	Power of Attorney
Real Estate	Probate	Power of Attorney
Joint Property	Operation of Law	Operation of Law
Life Insurance	Beneficiary Designation	Power of Attorney
IRA	Beneficiary Designation	Power of Attorney



# Estate Planning Tools For Incapacity: Power of Attorney

- Durable Power of Attorney in Effect Now and at Incapacity
- Springing Power of Attorney Comes Into Effect at Time of Incapacity
- Special or Limited Power of Attorney for Specific Tasks
- Considerable Power With Limited Oversight
- Becomes Ineffective at Death
- Without a Power of Attorney, a Guardianship or Conservatorship may be Necessary
- Alaska Legal Services provides a free version of the form online:  
<https://alaskalawhelp.org/resource/power-of-attorney-form>

Estate Planning Tools For Incapacity:

# Guardianship vs. Conservatorship

- Necessary if someone lacks POA or AHCD and becomes incapacitated.
- Court-supervised process to appoint decision-makers.
- Time-consuming, expensive, and potentially avoidable with proper planning.
- Contrast with POA/advance directives



## Estate Planning Tools For Incapacity:

# Advance Health Care Directive

- Appoints agent(s) to make health care decisions when you are not able to make the decisions.
- Allows you to give directions regarding end-of-life care.
- Alaska Legal Services provides a free version of the form online:  
<https://alaskalawhelp.org/issues/life-planning/powers-of-attorneyadvance-directives>

# Estate Planning Tools Upon Death: Intestacy (Dying Without a Will)

- State Law Will Provide a Plan for You
- Does Not Avoid Probate
- No Tax Planning
- No Planning for Your Incapacity
- No Provision to Manage or Protect Inheritance for Heirs



# Estate Planning Tools Upon Death: What Does Your Will Do?

- Transfers Property Solely in Your Name
  - Specific Distributions
  - Residual Bequest
- Names Personal Representative
- Names Guardians for Minor Children
- Can Create a Testamentary Trust for Children
- Your Estate can be the Beneficiary of Life Insurance and Retirement Accounts

# Estate Planning Tools Upon Death: What Your Will Won't Do

- Avoid Probate, i.e., Court Involvement
- Avoid Potential Court-Related Time Delays
- Avoid Public Process
- Avoid Probate in Multiple States
- Control the Transfer of Property NOT Solely Titled in the Name of the Decedent
  - Joint Title, Beneficiary Designations, Pay on Death Arrangements Supersede Directions in a Will



# Estate Planning Tools Upon Death: A Note on Holographic Wills

- Alaska will recognize a Holographic (self-written) Will, as long as:
  - It is entirely (or at least the “material” portions are) in the testator’s handwriting;
  - It specifies that it is the testator’s Last Will and Testament;
  - It is signed and dated.
- If a Will is typed instead of handwritten, it must be signed and dated by the Testator, and signed and dated by 2 witnesses.
- Notarization is not required if you have 2 witnesses, but it does make the Will “self-proving,” which makes it easier to probate.

Estate Planning Tools Upon Death:

# Potential Problems with Holographic Wills

- Might be difficult to read (bad handwriting or confusing language);
- May leave out key provisions, such as naming a Personal Representative or including a residue distribution;
- May fail to name Successor Personal Representatives;
- May include impractical, confusing, or unenforceable instructions; and
- May need to be interpreted by the Court during probate, requiring additional time and expense.
- NOTE: a holographic will MAY NOT be written on an electronic device, even if it is written by hand with a stylus; Alaska does not recognize e-Wills.



# The Probate Process Timeline\*



## START

File opening probate documents.



## 1 – 6 Weeks

Court appoints Personal Representative by issuing Letters Testamentary or Letters of Administration.



## 6 Months – 2 Years

Personal Representative gathers estate assets, distributes personal property, sells real estate, and publishes notice to creditors.

Prepare and file the Final Accounting and Notice of Proposed Distribution.



## 30 Days from Filing Final Accounting

Estate is distributed to heirs and devisees.

Personal Representative files a Sworn Statement, saying the estate is ready to be closed.



## 1 Year from Filing Sworn Statement

Estate is officially closed by the court and the Personal Representative is discharged.

Case closed.

\*Approximate. The actual timeline for the administration of a probate estate may vary depending on a number of factors.

# Estate Planning Tools For Incapacity: Revocable Living Trusts

- Avoids probate (unlike wills).
- Useful for privacy and managing out-of-state property.
- Can include instructions for incapacity.
- Still requires funding (retitling assets into trust).
- Think of it like a “bucket.”



# Estate Planning Tools Upon Death: Joint Tenancy with Rights of Survivorship

- Property Passes Automatically at Death to the Joint Tenant.
  - Potential Unintended Heirs
  - Subject to Claims by Creditors of Co-Owner(s)
  - May Defeat Tax or Asset Protection Provisions of the Will

# Estate Planning Tools Upon Death: Beneficiary Designations

- Named Beneficiaries May Not Be Consistent with Terms of the Will
- Property Often Passes Outright to Beneficiaries Without Available Protections:
  - No Estate Tax Planning Protections
  - No Asset Protections
  - No Provision to Manage Inheritance for Heirs
- Options: Individuals, Your Estate, Trusts for Loved Ones



A brief mention:

# Digital Assets

- Things that are electronic by have financial value: blog content, online accounts, NFTs, digital artwork, etc.
- Even court-ordered access is limited unless your estate planning documents specifically grant full access to your agent(s) or Personal Representative/Trustee.
- Alaska has enacted the Revised Fiduciary Access to Digital Assets Act (RUFADAA).

# Resources for legal support in Alaska

- Alaska Legal Services Corporation
  - <https://www.alsc-law.org/> 907-272-9431
- Disability Law Center of Alaska
  - <https://www.dlcak.org/> 800-478-1234
- Alaska Bar Association's Community Resources
  - <https://alaskabar.org/for-our-community/> 907-272-7469
- Alaska Tribal Justice Resource Center
  - <https://www.atjrc.org/> 907-891-2047
- Alaska State Commission for Human Rights (discrimination cases)
  - <https://humanrights.alaska.gov/> 907-274-4692



# Thank You For Attending

## Any Questions?



Visit Alaska Commission on Aging online at [aging.alaska.gov](http://aging.alaska.gov)

Contact staff at: [doh.acoa.info@alaska.gov](mailto:doh.acoa.info@alaska.gov)

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