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# **Sandwich Generation Issues: Avoiding Heartache & Creating a Lasting Legacy**

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# Agenda:

- What is the Sandwich Generation?
- The Purpose of an Estate Plan
- A Comprehensive Estate Plan
- Probate
- Who Needs an Estate Plan?
- Where to Start

# What is the Sandwich Generation?

## DEFINITION

- People who care for multiple generations of family members, usually between an older and younger generation.



# What is the Sandwich Generation?

- 19% of adults provide support to an older family member
- 21% of adults provide support to a child over the age 18

*(Financial Planning, February 13, 2019)*

- 15% of adults (ages 40 to 59) provide financial support to an aging parent (65 years or older), while also raising a young child or financially supporting an adult child

*(Pew Research)*

# The Purpose of an Estate Plan

- Appoint a guardian to care for children, if incapacitated or after death
- Appoint a person to make medical decisions for you, if incapacitated
- Appoint a person to make financial decisions for you, if incapacitated
- Plan for distributions of assets after death
- Minimize costs and taxes

# A Comprehensive Estate Plan

- Trust
- Wills
- Durable Power of Attorney
- Advanced Health Care Directive
- HIPAA Waiver
- Nomination of Guardian
- Other Customized Documents

# A Comprehensive Estate Plan

## TRUST

- A legal entity created to hold titles to assets
- Manages and distributes assets according to specific terms and conditions

# A Comprehensive Estate Plan

## WILLS

- Two Types
  - I. “Pour-Over” Will:
    - Works specifically with a trust
    - Ensures all assets are transferred to a trust if not already there
  - II. Stand Alone Will
    - Distributes estates
    - Subject to probate in California



# Comprehensive Estate Plan

## DURABLE POWER OF ATTORNEY

- Legal document
- Appoints a person (attorney-in-fact) to make financial decision on your behalf

# Comprehensive Estate Plan

## ADVANCED HEALTHCARE DIRECTIVE

- Appoints a Healthcare Agent if Incapacitated
- Provides Direction to Healthcare Agent
- Limits Agent Power

# Comprehensive Estate Plan

## HIPPA WAIVER

- Grants Healthcare Agent and designated family members access to medical records
- Enables Healthcare Agent to make informed decisions regarding care

# Comprehensive Estate Plan

## NOMINATION OF GUARDIAN

- Name a legal guardian for child/children if you are incapacitated or deceased

# Probate

- State court process
- Identifies value of assets and distributes assets following death
- If there is no will, assets are distributed according to state law
- If there is a will, probate will supervise the execution the will's instructions

# Who Needs an Estate Plan?

## Parents of Sandwich Generation

- Do the parents have an incapacity plan?
- Do the parents have a power of attorney?
- Do the parents have an estate plan in place to avoid probate of assets?

# What is the plan to pay for care?

## Parents of Sandwich Generation

- Medicare
- Long Term Care Insurance
- Savings / Equity (Ex: Reverse Mortgage)
- Medi-Cal/Medicaid

# Who Needs an Estate Plan?

## Sandwich Generation

- Are parents provided for in estate plan?
- Have they named an agent to administer their estate plan? Do they have a power of attorney?
- Have they named a guardian for their children?
- How do they want to distribute their assets?
- Do they need to provide for special needs children?



# Who Needs an Estate Plan?

## Children of Sandwich Generation

- Minor Children
  - Do any children have special needs?
  - Do they need a special trust or conservatorship when they turn 18?
- Adult Children
  - All adult children should execute an incapacity package when they turn 18
  - Do they have a power of attorney, advanced healthcare directive, HIPPA waiver?

# Where to Start

- Do your parents have an estate plan? Talk to them!!!!
  - Review with an attorney
  - Make sure documents are up to date and customized to current and future situations
- Do you have an estate plan?
  - Review with an attorney
  - Make sure documents are up to date and customized to current and future situations
  - Have you provided for your children? Have you provided for your parents?
- Does your adult child have an incapacity package?

# DON'T DIY

- California does have a statutory will, durable power of attorney and advanced health care directive that you can download and complete yourself at no cost.
- HOWEVER, there is no ability to customize the document and there is no attorney review.
- Form banks like Legal Zoom or Nolo Press, may have attorneys who review the documents to make sure they comply with state laws, but they are not customized to YOU.
  - MISTAKES ARE MORE EXPENSIVE THAN PAYING AN ATTORNEY FOR AN ESTATE PLAN

# Questions? Comments?

## Thank You!

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