

your estate matters

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Me, an Orphan?

How to Be Ready When It's Your Turn

While planning for a parent's passing is difficult, the fact remains that one day, they will no longer be with us. Failing to prepare for the inevitable can only make an already difficult situation more complicated.

However, there are steps that can be taken to help your family prepare for this transition. The first thing to do is ensure your parents have an estate plan in place. If having that conversation feels uncomfortable, approach the topic not from a financial aspect but from the perspective of maintaining family harmony. While not every parent may be able to leave a financial legacy, no parent wants their passing to negatively impact family relationships. There are other important aspects of a legacy, like family history, to leave behind.

Then, even if their estate plan is less complex, encourage your parents to discuss the details of their plan with family members and heirs so they can help work through any misunderstandings or disagreements that come up in advance.

Why is communication so important? Studies show that less than a third of people who pass away have discussed their estate plans with their loved ones, causing a significant percentage to quarrel over inheritance issues. Families who reported no disputed issues say they had advance notice of what to expect, understood the choices that were made and why, and therefore felt more prepared.

Also, your parents can help reduce conflict by including a "no contest" clause in their estate plan. This provision translates to: "If you contest this Will or Trust, you forfeit your inheritance." (Keep in mind that an heir who is completely disinherited has nothing to lose by contesting.)

The bottom line is, be sure to encourage your parents to create a plan and communicate that plan to all those involved. They will rest easier knowing the plan they've put into place will prevent unnecessary conflicts for their loved ones after they pass away—and so will you.

Travel Safely, and Leave Your Worries Behind

Make Sure Your Home Is Secure While You're Gone

A surprising number of people update their estate plans before they leave for vacation. Why? Knowing the future is planned for makes it much easier for them to relax and enjoy the trip. Before you hit the road, be sure to consult with your estate planning attorney to ensure your documents are up-to-date with any life changes and changes in the law.

You can also rest easier by making sure your home is secure before you go. Here are some tips to consider before you leave:

→ Ask a neighbor or friend to take care of mail and packages

- Have someone take care of your yard and check in on your home if you will be gone for an extended period of time
- Leave curtains and blinds the way you normally do, and use timers to turn a few lights on and off
- Unplug all electronic and kitchen devices so you don't worry about what you might have left on

And don't forget, it is always best to not share on social media that you will be out of town. You never know who might be watching, so save all those great photos, videos, and Facebook posts until after you return home to share with your friends and family!

3 Questions to Ask Before Your Parent Moves In

Look Carefully Before You Leap

Research shows that 68% of people between the ages of 40 and 59 anticipate providing care for an aging parent, and 23% of people between the ages of 45 and 64 currently provide unpaid care for a person over the age of 65.

Providing care for an aging parent may mean your parent or parents will need assistance that requires them to move in with you. But will you and your family be prepared? Here are some important questions to ask yourself.

- 1. What is the reason(s) my parent needs to move in with me?** If your parent has physical or mental limitations, home health care may be more appropriate, especially if you do not have the skills required to care for them. Carefully consider your parent's health status and the day-to-day care they may require, and whether your parent may wish to stay in their own home. Be sure to consult with their doctor or health care team. Long-term care insurance or Medicaid (or Medicare for a short period) could provide the funds required for skilled in-home care.
- 2. How will my family feel about my parent(s) moving in?** Adding a parent to your household can create a major shift in family dynamics. For example, caring for your parent may take time away from your children, or it could actually create a closer family experience. Ask everyone involved, including siblings and family members who do not live with you in order to establish what role each person will play and address any concerns they might have.
- 3. Are the right legal documents in place?** Whether your parent moves in or not, durable powers of attorney for financial and health care decisions must be in place so you can ensure the best possible care for your parent. If you do need to take care of your parent, make sure you have the legal authority to act in his or her best interests.

Caring for an aging parent can be a wonderful period in your family's life, but can also be a period of major change. Make sure you and your family carefully consider whether you are capable of handling their physical and emotional needs, and whether your parent moving in is the best option for everyone involved in the transition.

Is It Wise to Give Your Assets to Your Children?

Here is one question nearly every experienced estate planning attorney has been asked. "I want to protect my assets," a parent says. "When should I start giving them to my children?"

Since the question includes the word "give," the answer is simple: **never**. Why? Simply signing over, or "giving," a significant asset provides no protection at all. Instead, it exposes that asset to risk due to the child's possible bankruptcy, divorce, lawsuits, death or income tax problems.

The best approach is to place the assets you wish to pass on into a Trust. Depending on the nature of the Trust, those assets can then be protected from creditors, especially when the asset is overseen by a third-party Trustee using a completely discretionary standard. The assets can also be protected from your child's divorce because a separate properly drafted Trust ensures the couple's assets are not commingled. Plus, assets held in certain Trusts may not be included in your estate or your child's estate and therefore may be exempt from federal estate tax.

Of course there are other reasons to leave assets in a Trust. The child or grandchild in mind may not be of sufficient age, maturity, or financial acumen to properly manage the asset you wish to pass on. Or the child may have special needs and a Trust can be used to help ensure Medicaid eligibility.

Apart from passing on your wealth, you may also wish to pass on your ethics and beliefs. Assets held in a Trust could be made available to beneficiaries only when specific milestones or conditions are met, like the purchase of a home, to cover education expenses, or spread across a number of years. An Incentive Trust can be used to provide supporting funds for children who choose to work in a certain profession or to participate in charitable or volunteer activities.

Although, it may sound complicated due to the variety of options available, our office can outline solutions that best fit your needs and protect your assets both now and once you have passed on. With a well-thought plan in place, your children can truly enjoy the benefit of the assets as you intended for them to have, rather than losing the wealth you worked so hard to build to creditors or predators.

What's in a Legacy?

She played a young girl who was deaf, blind and mute. Then she played the dual role of a teenage girl and her “identical” cousin. In later years she won three Emmy Awards.

But that early success was ironic due to the challenges and struggles she faced later in life. Her managers isolated her from her parents and later embezzled much of her earnings. She struggled with alcoholism and bipolar disorder and attempted suicide on several occasions.

However, she overcame these challenges to find her purpose in lobbying for causes including mental health, AIDS

awareness and nuclear disarmament as the President of the Screen Actors Guild.

Patty Duke won an Oscar for playing Helen Keller (and an Emmy for playing Helen's teacher, Annie Sullivan), but she used her own life story to speak clearly and honestly about her challenges and the need to help others facing similar issues.

What will your legacy be?

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Law Offices of Roy W. Litherland, A.P.C.

The Law Offices of Roy W. Litherland are dedicated to the practice of Wills and Trusts, Probate and Trust Administration, Medi-Cal Planning, Asset Preservation, and Geriatric Care Planning. Attorney Roy W. Litherland has over 35 years of legal experience and is certified as a Legal Specialist in Estate Planning, Trust and Probate Law by the California State Bar Board of Legal Specialization. In addition to his extensive legal background, Roy was previously licensed as a certified public accountant. Roy is a Fellow of the American Academy of Estate Planning Attorneys. He is also a member of the National Academy of Elder Law Attorneys, and the California Advocates for Nursing Home Reform. For a free copy of the publication *Where There's a Will, There's Probate*, call our offices at (408) 356-9200 or (831) 476-2400. We regularly conduct estate planning seminars on a wide range of topics. For a current schedule, contact our offices or visit our estate planning website **www.attorneyoffice.com**.

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Roy W. Litherland

Law Offices of Roy W. Litherland, A.P.C.

AN ESTATE PLANNING AND ELDER LAW FIRM

3425 So. Bascom Avenue, Suite 240

Campbell, CA 95008

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