

# INTEGRATING YOUR ESTATE PLAN WITH LONG-TERM CARE PLANNING

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Thank you  
for having  
us!



# THE GOAL OF ESTATE PLANNING

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- To transfer your money and property upon your death to your beneficiaries in the most efficient and tax-effective manner.
- Wills and Trusts don't guarantee that you will have an estate. You also need a plan to protect your assets during your lifetime.





# THE GOALS OF LONG-TERM CARE PLANNING

- To assure that you have access to the care that you need, if and when you need it.
- To protect your assets and income against the ruinous costs of long-term care.
- To assure that you will have an estate.

# WILLS & TRUSTS: THE DIFFERENCES

## Last Will and Testament

Only the assets that remain in your individual name when you die are subject to your Will.

Your Will cannot be enforced without a probate proceeding in Surrogate's Court.

A Will cannot protect your assets or facilitate eligibility for benefits such as Medicaid.

## Trust

Your Trust controls the assets/income that it owns during lifetime and after death.

Trusts are private, managed by a Trustee without probate or other Court proceedings.

A Revocable ("Living") Trust remains in your complete control during lifetime.

An Irrevocable Trust protects your assets, and facilitates eligibility for benefits such as Medicaid.

# LAST WILL AND TESTAMENT

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Your Will provides your instructions for the distribution of the assets that remain in your name upon your death.

The Will names the beneficiaries of your money and property, and the person you nominate to be in charge of administering your estate (the Executor).

Your Will may also provide other instructions, for example, regarding the care of minor children or pets.

Every Will must be submitted for probate in the Surrogate's Court, and cannot be enforced until the Court authorizes the Executor to proceed by issuing "Letters Testamentary."





# PROBATE

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The Will itself does not empower anyone to act

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A probate proceeding is required – and it can take months or even years!

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Distributees must receive notice, and be given an opportunity to object / contest

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Is the Will the “Last” one?

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Did the decedent have testamentary capacity, and was the Will properly executed?

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Was the Will subject to undue influence or fraud?

# ASSETS NOT SUBJECT TO YOUR WILL (NON-PROBATE ASSETS)

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Assets owned by a trust

Jointly-owned property (*except* “Tenants in Common”), including real estate, co-ops, securities, bank accounts

Property with designated beneficiaries

- Life Insurance
- Annuities
- Bank or investment accounts
- Retirement Accounts





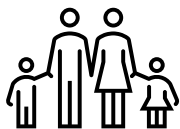
# WHAT IF THERE IS NO WILL?



- When a person dies without a Will (“intestate”), the estate is handled in a court proceeding called “Administration.” It is similar to probate.
- The laws of intestate succession govern the estate administration, and who will benefit from the estate.
- Estate administration can be simpler or more complex than a probate proceeding, depending on the circumstances.

# NEW YORK STATE LAW OF INTESTACY

## EPTL § 4-1.1



If the Decedent has...	then
a spouse (husband or wife) and no children	the spouse inherits everything
children* but no spouse	children inherit everything
spouse and children*	the spouse inherits the first \$50,000 plus half of the balance. The children* inherit everything else.
parents but no spouse and no children*	the parents inherit everything
siblings (brothers or sisters) but no spouse, children*, or parents	the siblings inherit everything
* If a child dies before the Decedent and had children of their own, then the Decedent would have grandchildren. Those grandchildren would step into the Decedent's child's place and inherit in place of the child.	

# REVOCAABLE (“LIVING”) TRUST

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Creating a revocable trust, also called a “living trust,” is a strategy that is frequently used for estate planning.



It is often appealing because during the Grantor’s lifetime, he or she can be the Trustee, and retain full control over the assets in the trust.



Once the Grantor passes away, any assets that remain in the revocable trust are distributed under the terms of the trust, and are not subject to probate or administration in court.



A revocable trust can be revoked or amended at the option of the Grantor, who retains control over the assets and income, and has the ability to withdraw any or all of the assets or income at any time.

# TWO IMPORTANT AND RELATED QUESTIONS:

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*Wills and Trusts  
are great, but will  
you have an  
estate?*

*Do you have a  
plan for long-term  
care?*

## THE RISK

**7 of 10** people will need long-term care of some kind at some point in their lives.

**4 of 10** people will need nursing home care.



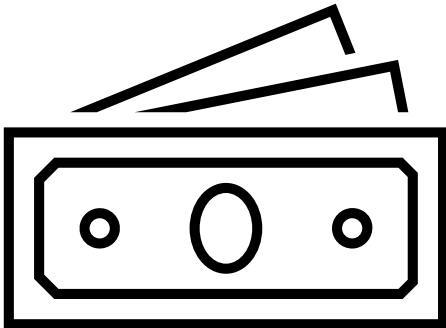


## THE COST

Home Care,  
Assisted Living,  
& Nursing  
Home, are all  
ruinously  
expensive.

# WHO PAYS FOR LONG-TERM CARE?

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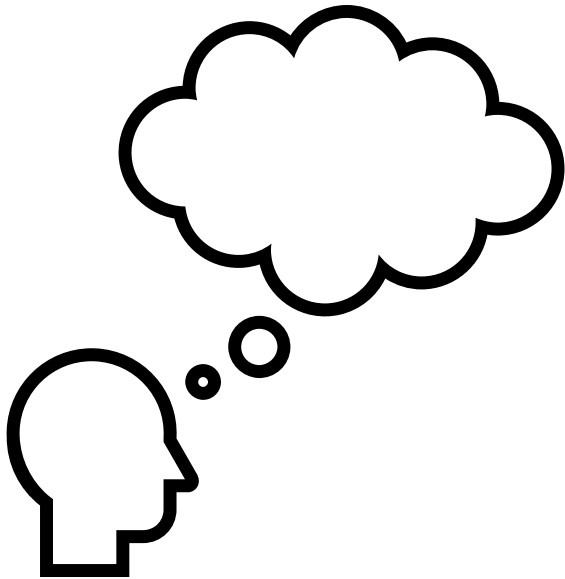


Private Pay (you / your children)

Long-Term Care Insurance

Medicaid

NOT Medicare



How can I plan for long-term care, and can my plan be integrated with my estate plan?

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GOOD QUESTION!  
GLAD YOU ASKED.





# LONG-TERM CARE INSURANCE

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Is it available to you? (age, health)

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How much insurance do you need?

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What is your income in retirement?

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Can you afford the premium?

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# NEW YORK'S MEDICAID PROGRAM

- Medicaid is a federal / state partnership, administered by the states under state law.
- New York's program is the best in the U.S., by far.
- Medicaid covers home care, adult day care, assisted living care, nursing home care, medical care, plus many special programs.
- There is no such thing as a "Medicaid facility" – virtually all providers are privately owned, and they are required to provide the same care to all.

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# IRREVOCABLE ASSET PROTECTION TRUST

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Your assets are protected during your lifetime

You can have Long-Term Care Insurance, or you can access Medicaid benefits, or both

No probate proceeding, no court involvement

Your assets are distributed according to your wishes, privately and without delay or expense

Your beneficiaries avoid capital gains tax on unrealized gains that accrued during your lifetime



# YOUR INTEGRATED PLAN

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If you can afford, and are willing, to pay for your own care or if you have adequate long-term care insurance, you are all set. You can have a Will or a Revocable Trust without concern for the risk and cost of long-term care.

Otherwise, you can create an Irrevocable Trust, and plan to access Medicaid if needed. Your trust will serve you well as both your estate plan and your long-term care plan.

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