



IT'S YOUR MONEY IT'S YOUR ESTATE WORKSHOP

- POWER OF ATTORNEY – FINANCIAL MATTERS
- ADVANCED HEALTH CARE DIRECTIVE
- CONSERVATORSHIPS

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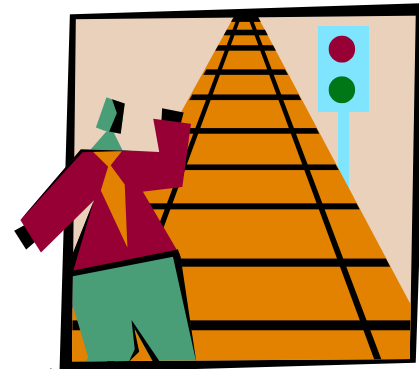


Outline of Remarks

- Two rails of Estate Planning
- Capacity
- Power of Attorney Finance
- Advance Health Care Directives
- Conservatorships
- Private Fiduciaries



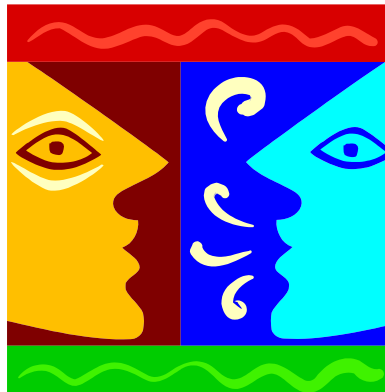
The two rails of Estate Planning



Incapacity or Death

Capacity

- The Legislature declares that:
 - Capacity is presumed
 - May still be able to make decisions
 - Determination based on evidence rather than on diagnosis.



Mental Deficits

- Alertness and attention
- Information Processing
 - Thought Processes



Other ways to determine Incapacity

- Mini-Mental Test
- Evaluation by Psychologist/Psychiatrist
 - Attorney is not willing to prepare documents



POWER OF ATTORNEY

Financial Matters

- What is it
- What does it do
- Who is involved
- When does it end



Is it legal?



- A power is sufficient if:
 - Principal has capacity
 - Date of execution
 - Signed by the Principal or by another in the Principal's presence and at P's direction.
 - Acknowledged or witnessed
 - Tip: Have it notarized

Duties

- Act as a fiduciary
- Tip: Have the agent sign accepting the fiduciary duty



Advance Directive

- Also known as Advance Health Care Directive
- Means either an individual health care instruction or a power of attorney for health care



Reasons for Advance

Directives

- Right to control health care decisions
- Right to have life-sustaining treatment withheld or withdrawn
- Right to avoid artificial prolongation of life
- Remove issue from courts

Health Care Decisions

- What are health care decisions
- What are not health care decisions





Statutory Form (PC 4701)

- Can view online
- Tip: Review form to consider your own choices.
- Tip: Make your wishes known in writing.
- Tip: Consult your attorney



Picking a someone to act

- Designation of Agent
- Successors
- Tip: Pick several and authorize signature by one of them.



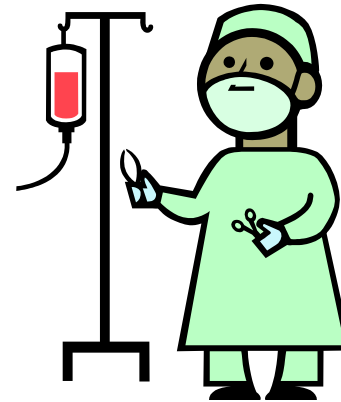
Agents or Surrogates

- Attorney-in-Fact
- Agent
- Surrogate



Make your wishes known

- End of Life Decisions
- Tip: Exclude Pain medication from extraordinary measures





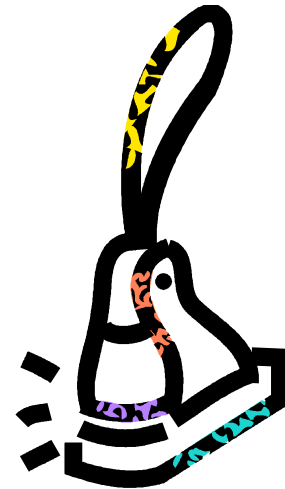
Organ Donation

- Yes or No
- Any Organs
- Specific Organs
- Uses
- Tip: As your doctor



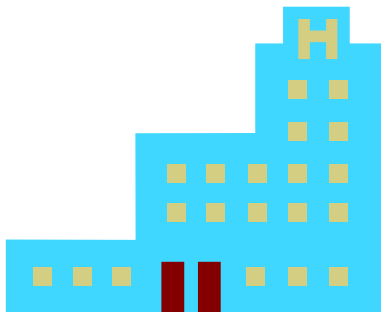
Is it Legal

- Copies
- Signature (Acknowledgment)
- Signatures (Witnesses)
- Nursing Home
- Domestic Partners



Duty to Comply

- Duty to Comply
- Duties upon declining



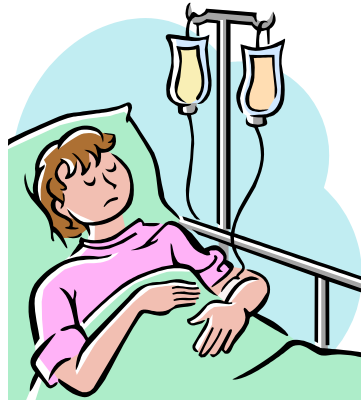
Conservatorships

- Guardianship vs. Conservatorship
- Types
 - General Probate (including temporary)
 - Limited – Developmentally Disabled
 - LPS – Gravely Disabled



General Probate Conservatorship of the Person

- Persons



General Probate Conservatorship of the Estate

- Estate





Termination

- A conservatorship terminates upon the death of the conservatee.
- A conservatorship can terminate upon restoration of the conservatee's capacity and competence.
- The court retains jurisdiction until the final accounting is approved.

Private Professional Fiduciaries

- California Professional Fiduciaries Bureau
- A new state agency created to license and regulate private fiduciaries, including specified conservators, guardians, trustees, and agents under durable power of attorney for healthcare and finances.

