



Estate Planning – The Taboo Conversation Between Parents and their Children

By: Attorney Charlene L. Usher

Many of our parents are part of the “Baby Boomer” generation born from 1946-1964. They are either approaching retirement or are already enjoying their golden years. They have worked hard, made sacrifices, raised kids, contributed to their community, and perhaps even buried their own parents. However, the topic of their own Estate Planning can still be a sensitive subject. They know they need to address their end of life decisions and plan for the inevitable, but procrastination is the order of the day.

You and I know that as their adult child, they will rely on you if they have a stroke or other debilitating illness or condition. They will expect you to deal with the doctor on their behalf and make sure their bills are paid if they have to spend time rehabilitating. Ultimately, they will expect you to bury them in the dignified manner they so deserve.

Planning for Incapacity

As an Estate Planning attorney, I have met many people who come to me after their parent has had a situation that now requires their help. Just by executing a simple Financial Power of Attorney and Advanced Health Care Directive (“AHCD”), the parent could have saved the family thousands of dollars and the delay of waiting for a court to approve a Conservatorship. The parent will be subject to an examination by a strange doctor and the court will appoint an investigator to produce a report about whether or not you are appropriate. All of this takes time and costs money. In the meantime, everything is on hold.

These are reasons to raise the issue with your parents. Ask them if they have something in place, like an AHCD, and a Power of Attorney that will allow you to help them if they cannot help themselves?

Avoiding Probate

If your parents own a home or income property, they can be at risk for lawsuits by anyone who might be hurt on their property or have the property go into Probate if they pass away without a will or Living Trust. In California, estates of more than \$150,000 in total value have to go through Probate even if there was a will. This is why a Living Trust is usually the better option.

Establishing a living trust can help them control their assets while they are alive! Decide who gets what and when, and keep their bequests private while helping them avoid unnecessary estate taxes. The alternative is a drawn out court process (think 2 years for a basic estate) and expensive (minimum 4% fees, not including taxes, on the entire estate).

Burial Expenses

It may be uncomfortable to raise the issue of burial plans with your parents, but if you don't discuss it with them, you may never know whether or not they have a plot purchased or are paying for a burial insurance policy to help with expenses. If they have not done anything, encourage them to inquire with local mortuaries to find out what the basic cost would be and begin to make decisions about what they would want.

The last thing you need to deal with while facing the emotional rollercoaster of losing the person who raised you is the headache of figuring out how to pay for their services. Many families resort to seeking help from their church, friends & family, sometimes resorting to chicken dinner fundraisers just to bury a parent.

One thing you may consider doing is purchasing an insurance policy on your parent's life for an amount you find sufficient to cover the expenses you anticipate.

By paying premiums, you are likely to pay much less than the actual policy will pay you when your parents pass. This is a good solution if your parents cannot afford to plan at this stage in life.

The bottom is line is that your parents will need your help, but do not want to be any more of a burden than they have to be. If you know of someone who lost a parent or your parent has a friend who has passed, this is a way to broach the subject. Another good time is if they are facing a health challenge or pending surgery.

Ask yourself whether it would be easier to handle things with a plan in place, a plan that expresses their wishes and not the decision of the Probate Court.

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