

Practical Life & Estate Planning Issues for Service Members & Retirees

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**Helping Your Clients Avoid the Minefields**



Charles Beasley Esq. & William S&P  
Attorneys & Commissioners of Law

**Overview of Life & Estate Planning**

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- Life Planning
  - Durable Powers of Attorney/Rev Living Trusts
  - Advance Medical Directives
  - Do Not Resuscitate Orders (DNRs)
  - Medical Orders for Scope of Treatment

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**Overview of Life & Estate Planning**

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- Estate Planning
  - Wills/Revocable Living Trusts
  - Estate Planning Issues
    - Estate Tax Planning
    - Beneficiary Designation Issues
    - Planning for Families with Disabilities

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**Life Planning Options**

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- Durable Power of Attorney
  - Springing vs Immediately Effective
  - Naming Multiple Agents (Attorneys-in-Fact)
  - Gifting Powers
  - Multi-state Issues (witness provisions)

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**Life Planning Options**

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- DPOA vs. DPOA +Revocable Living Trust
  - Avoidance of Courts in Multiple States
    - Guardianship/Conservatorship
    - DPOA may be revoked upon guardian appt
  - Avoidance of Delays in Asset Management
  - Privacy

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**Life Planning Options**

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- Advance Medical Directives
  - Living Will
  - Health Care Power of Attorney (HCPOA)
  - State Forms vs Custom
  - When activated?
  - Conflicts btw Health Care Agent & AIF under DPOA

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## Estate Planning Issues

### ➤ Will vs Pour-Over Will + Rev Living Trusts

- Will alone
  - Simpler, cheaper
  - Testamentary Special Needs Trust for Surviving Spouse
  - Downside: Probate, Need to Update When Moving

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## Estate Planning Issues

### ➤ Will vs Pour-Over Will + Rev Living Trusts

- Will + Rev Living Trust Positives
  - Avoids Probate & Ancillary Probate (other states)
  - No Delay in Administration if Co-Trustee
  - Privacy
  - Less updating (when moving to new state)

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## Estate Planning Issues

### ➤ Will vs Pour-Over Will + Rev Living Trusts

- Will + Rev Living Trust Negatives
  - Must fund trust to avoid probate
  - Less understood by clients
  - Cashing checks at grocery store
  - Overhyped, sold as means to get financial info by fly-by-night "financial advisers"

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## Typical Trusts in Wills & RLTs

- Holdback Trusts
- Special Needs Trusts
  - Spousal (must be under Will, not RLT)
  - Special Needs Trust for Children
- Credit Shelter (A/B) Trusts Tax Planning

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## Typical Trusts in Wills & RLTs

- Spendthrift Trusts
- Planning with Retirement Benefits
  - Leaving IRA Outright
  - Conduit Trusts
  - Accumulation Trusts

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## Payback Special Needs Trusts

- Under Age-65 Payback SNT
  - 42 U.S.C. §1396p(d)(4)(A)
- Pooled Charity-Managed SNT's
  - 42 U.S.C. §1396p(d)(4)(C)
  - Life Plan Trust, Inc. (one example)
- Income Cap or Miller Trusts (not an option in NC)

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## Developing Issues in NC Estate Planning and Fiduciary Law

- Acceptance of Out-Of-State Attestations
- Digital Assets (What happens to your Facebook, Pay Pal Accounts?)
- Probate & Real Property Issues

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## Finding an Estate Planning Attorney

- NC Bar Elder Law & Estate Planning Sections
  - [www.ncbar.org](http://www.ncbar.org)
- Elder Law Attorneys
  - [www.naela.com](http://www.naela.com)
- Bailey Liipfert
  - [www.craigebrawley.com](http://www.craigebrawley.com)
  - 1.336.917.3236

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## Finding a Special Needs Planning Attorney

- Special Needs Alliance
  - Network of disability and public benefits planning attorneys
  - [www.specialneedsalliance.org](http://www.specialneedsalliance.org)
  - 1.877.572.8472
- Bailey Liipfert
  - [www.craigebrawley.com](http://www.craigebrawley.com)
  - 1.336.917.3236

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