

# Long Term Care Planning:

Protecting Yourself and  
The People You Love

Franchelle C. Millender



**MILLENDER ELDER LAW LLC**

1441 Main Street, Suite 725

Columbia, SC 29201

803.733.3433

Millender@millenderelderlaw.com

# Planning For your Own Future Disability

- ❖ Durable Power of Attorney  
for Financial Matters
- ❖ Health Care Power of Attorney



# **Durable Power of Attorney for Financial Matters**

This document allows you to choose the person you want to handle your finances if you become incapacitated and allows you to define what authority that person will have.



# Durable Power of Attorney for Financial Matters

- ❖ Durable
- ❖ Immediate or Springing
- ❖ Agents
- ❖ Authority
- ❖ Support
- ❖ Gifts



# Conservatorship

If you become incapacitated and have not executed a durable power of attorney, the court will have to appoint a person to act on your behalf. This person is called a conservator.



# Conservatorship

- ❖ Court Action Required
- ❖ Ongoing court supervision
- ❖ Limited authority



# Health Care Power of Attorney

This document allows you to choose the person you want to make health care decisions for you if you become incapacitated. You may also state your wishes about organ donation, life support, and feeding tubes.



# Health Care Power of Attorney

If you become incapacitated and have not executed a health care power of attorney, state law defines a priority of persons who can make decisions for you under the Adult Health Care Consent Act.

If there is a disagreement between two people of equal priority, the court will have to appoint a Guardian.





# Guardianship

- ❖ Court Action Required
- ❖ Ongoing court supervision



# Other Advance Directives

Living Will: a statement of your wishes regarding end of life care

EMS-DNR: a statement that a person who is terminally ill does not want to be resuscitated by EMS

POST (Physicians orders for Scope of Treatment): signed by patient and physician when patient has a serious illness



# Talk About It

Executing the documents is just the first step

Discuss your wishes with

Your Family

Your Friends

Your Doctor

Your Professional Advisors



# Long Term Care

## How Do You Pay For It

- ❖ Health Insurance
- ❖ Medicare
- ❖ Long Term Care Insurance
- ❖ VA Benefits
- ❖ Medicaid



# Health Insurance

- ❖ Covers hospital bills, doctors bills, and some care in a skilled nursing facility
- ❖ Seldom covers extended care needs in a nursing home or at home



# Medicare

- ❖ Covers hospital bills and doctors bills
- ❖ Up to 20 days in a skilled nursing facility
- ❖ Up to an additional 80 days with a co-payment requirement



# Long Term Care Insurance

- ❖ Purchase in advance to help cover costs of extended care
- ❖ Price is based on amount of coverage
  - Daily benefit amount
  - Length of coverage
  - Extras: Home Care Option
    - Inflation Protection
    - Shorter elimination period



# Private Pay

At an average cost of over \$8000 per month, few people can afford a lengthy stay in a nursing home





# **VA Pension Aid and Attendance**

For many veterans and widows or widowers of veterans, these benefits may be available to help with the cost of medical care.

Cash payment up to \$1936 per month for a veteran, \$2295 per month for a couple, or \$1244 per month for the widowed spouse.

# Medicaid

MAO – Medical Assistance Only  
nursing home

HCBW – Home and Community Based Waiver  
in home assistance for people who meet  
nursing home level of care requirement



# Eligibility

## For MAO and HCBW

### Medical

must meet institutional level of care requirements

### Financial

#### Individual or Spouse Needing Care

Countable assets                      under \$2,000

Income                                  under \$2,382 per month

#### Well Spouse

Countable Assets                      under \$66,480

unlimited



# Exempt Assets

- ❖ Home
- ❖ Household goods
- ❖ Personal effects
- ❖ One car
- ❖ Irrevocable preneed burial contract
- ❖ Burial spaces
- ❖ IRAs or qualified retirement plans belonging to the well spouse
- ❖ Life insurance with no cash value

# Income Trust

If the income of the person needing care exceeds \$2,382 an income trust can be used to qualify for Medicaid



# Transfers

If countable assets exceed the limits  
excess amounts can be:

- ❖ Spent
- ❖ Used to purchase exempt assets
- ❖ Converted from countable assets to income
- ❖ Given away



# Exempt Transfers

All transfers between spouses are exempt

## Exempt transfers of the home

- To a child under 21

- To an adult disabled child

- To a caregiver child

- To a sibling who is a co-owner

## Exempt transfers of other assets

- To a disabled child

- To a trust for the sole benefit of a disabled person



# Non-Exempt Transfers

## Look-Back Period

60 months

Penalty begins when in a nursing home, apply for Medicaid, and meet all other eligibility requirements.

## Penalty Period

\$8,104.52 = 1 Month



# PLANNING FOR DEATH

Presentation for

**FIRST PRESBYTERIAN CHURCH**

May 21, 2021

**Catherine H. Kennedy**  
**Certified Specialist in Estate Planning and Probate Law**  
[ckennedy@turnerpadget.com](mailto:ckennedy@turnerpadget.com)

# Estate Planning Options to Consider

## ❖ Trust

Living (Inter Vivos)-separate agreement

Testamentary-created in Last Will & Testament

## ❖ Will

## ❖ Beneficiary Designations

## ❖ Joint Ownership with Survivorship

# Documents to Consider

## ❖ Trust

- Names Trustee to manage assets
- For Beneficiaries
- Under terms set forth in trust document
  
- Transfer assets to Trustee
  - During life
  - At death
  - Both

# Documents to Consider

## Will

- ❖ 18 or Over or Married
- ❖ Sound Mind
- ❖ Writing
- ❖ Signed
- ❖ Two Witnesses

# Will Advantages

- ❖ Name the Personal Representative (Executor)
- ❖ Dispose of Assets
- ❖ Nominate a Guardian/Conservator
- ❖ Address Special Situations
- ❖ Minimize Taxes

# Will Advantages

## ❖ Name the Personal Representative (Executor)

- Bond

  - Not Required for Named PR

- Fee

  - 5% of Personal Property

  - 5% of Real Estate Sales Proceeds

- Powers

  - No sale of Real Estate Without Court Order

  - No sale of Personal Property Valued Over \$10,000

# Will Advantages

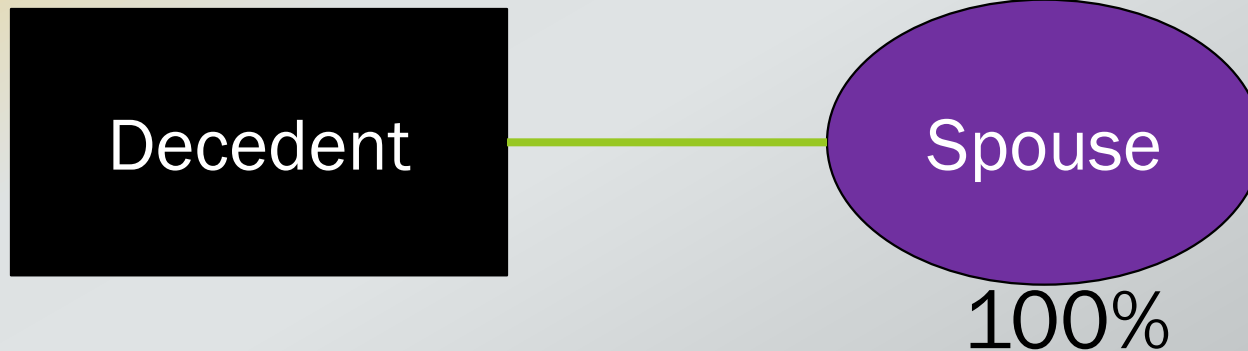
## ❖ Dispose of Assets

- Intestacy (Disposition defined by State Law)

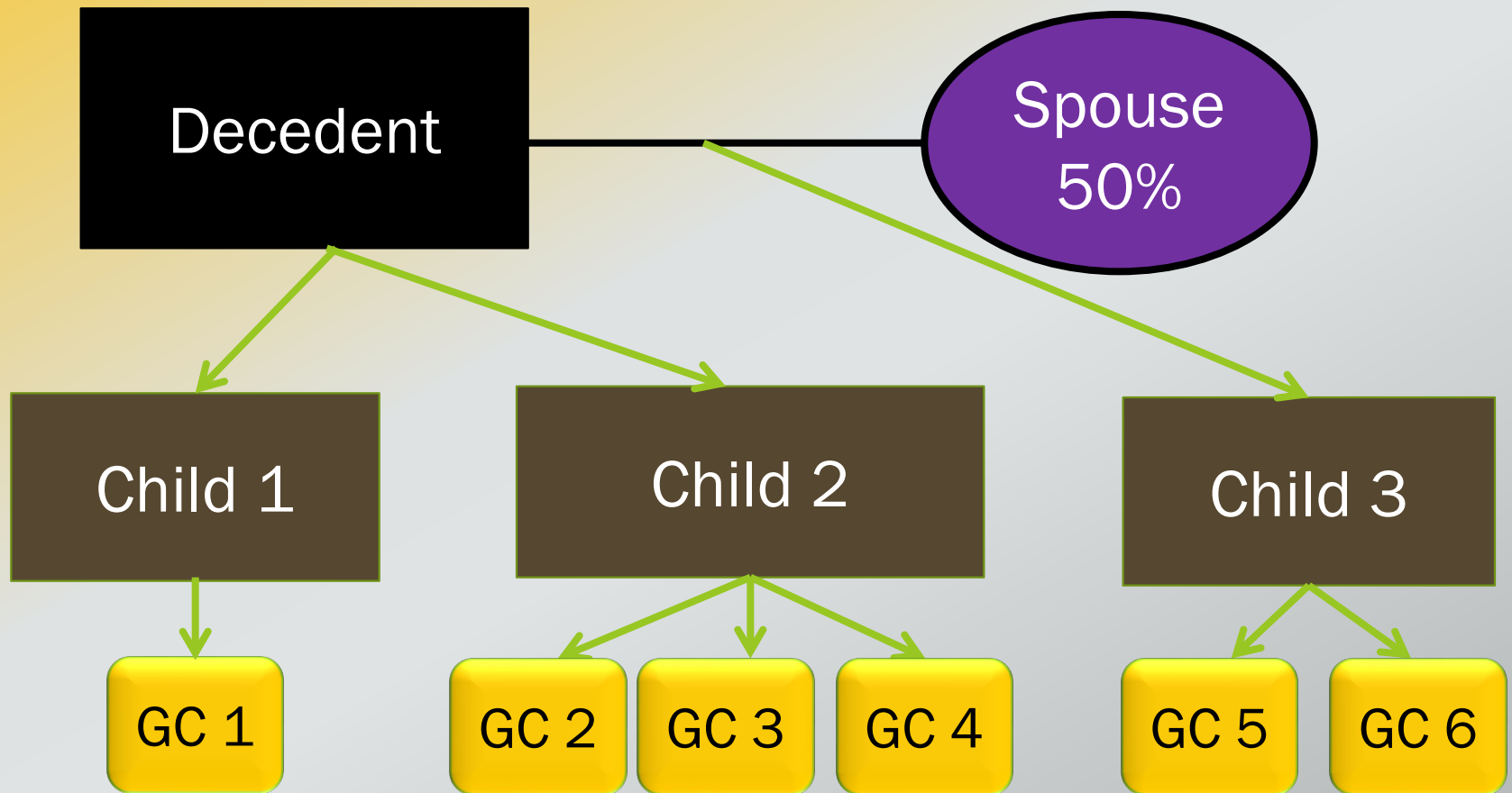
Adopteds Included

Half = Whole Blood

Survive by 5 Days

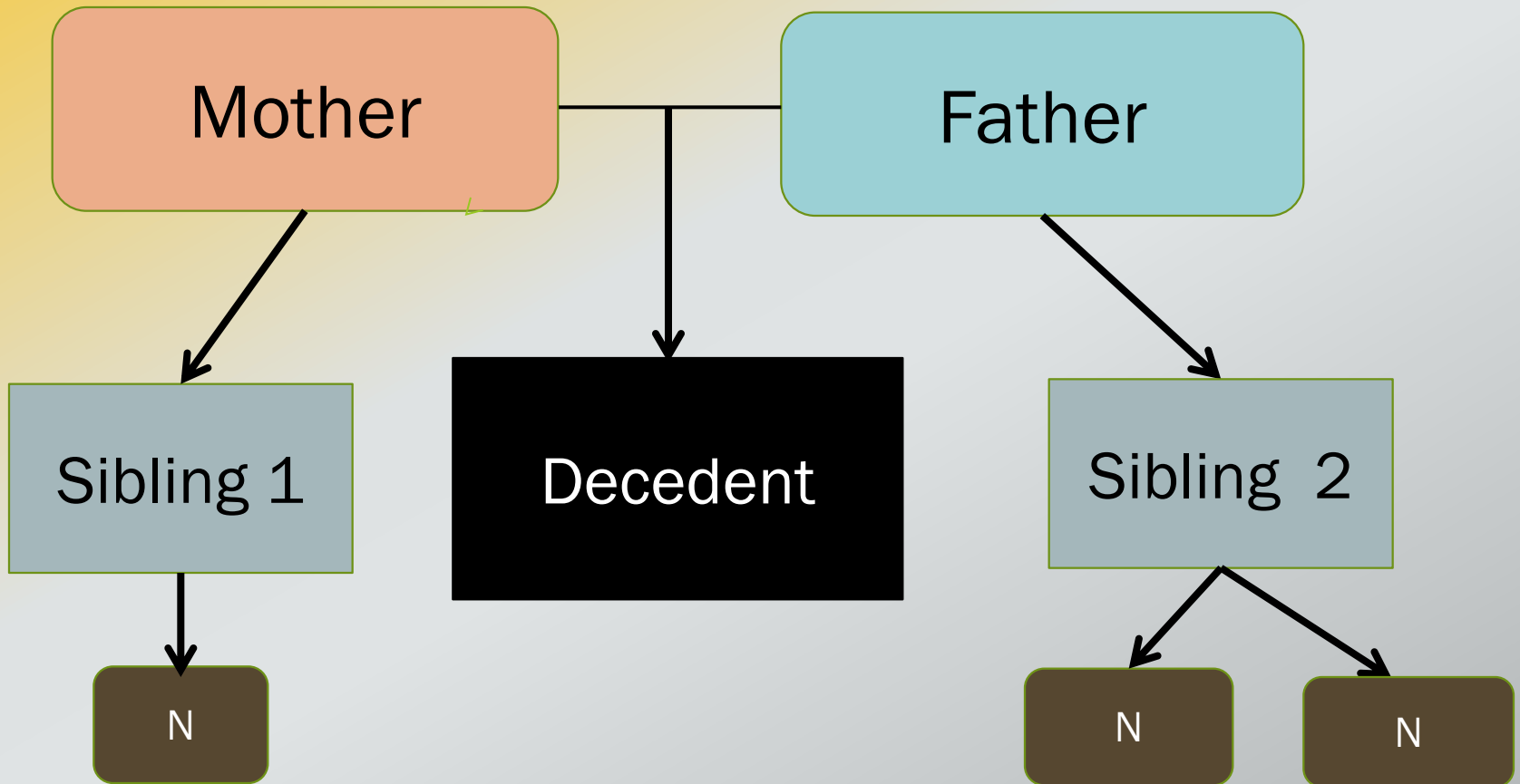


# Will Advantages

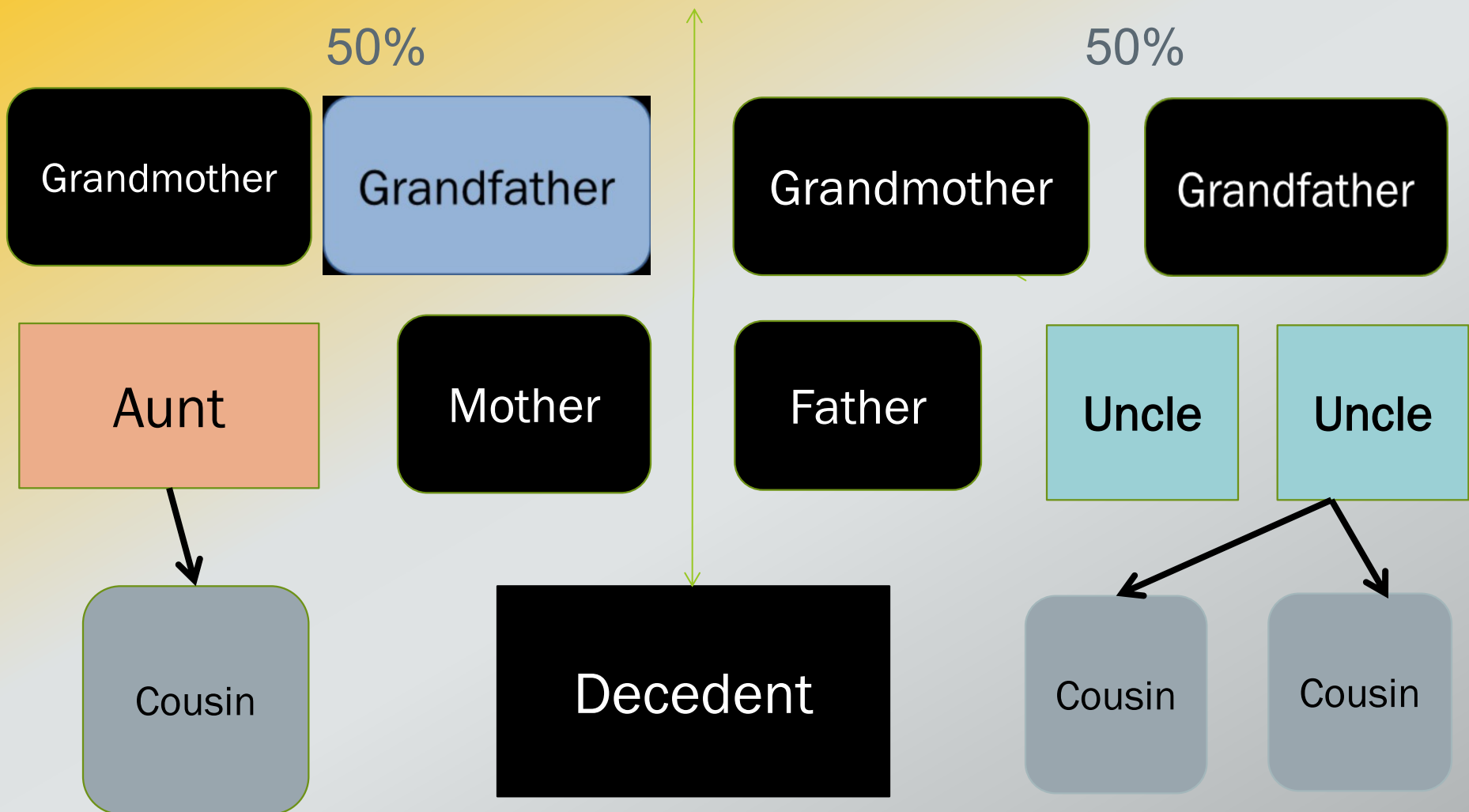




# Will Advantages



# Will Advantages



# Will Advantages

- ❖ Name a Guardian/Conservator
  - Nominate a Guardian for Adult Disabled Child
  - Nominate a Guardian for Disabled Spouse
  - Nominate a Guardian for Minor Children
  - Nominate a Conservator for Minor or Incapacitated Adult

# Will Advantages

## ❖ Address Special Situations

- Minors
- Disabled Persons
- Spendthrifts
- Foster/Step-children
- Adopteds
- Spousal Rights

# Will Advantages

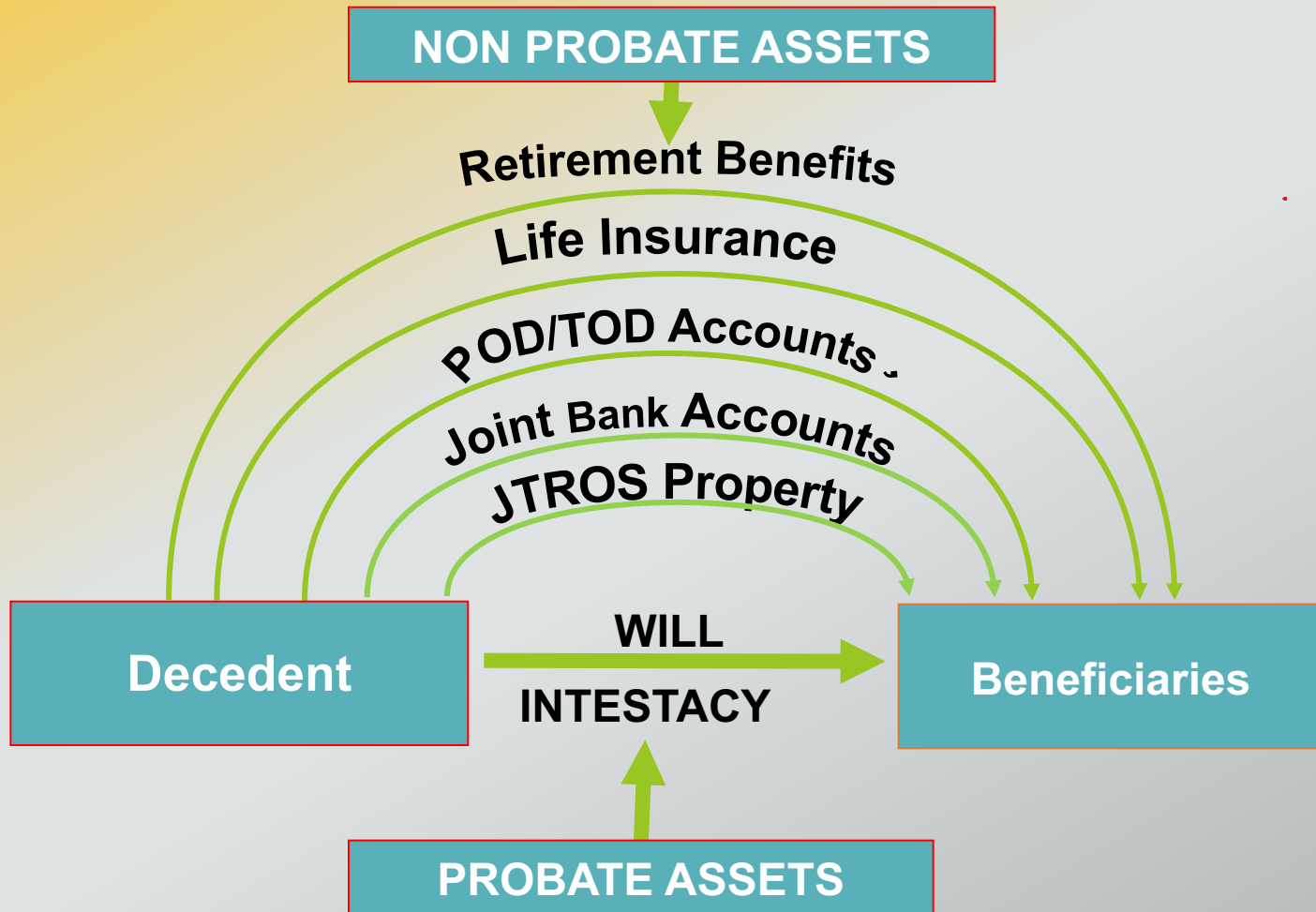
## ❖ Minimize Taxes

- Estate Tax Rate 40%
- Exclusion Amount = \$11,700,000 per person in 2021—changes annually --Indexed for inflation Scheduled to decrease in 2026
- Portability between spouses
- GST Exclusion is same amount, same rate, no portability

# Will Advantages

- ❖ Name the Personal Representative (Executor)
- ❖ Dispose of Assets
- ❖ Direct Payment of Debts
- ❖ Name a Guardian/Conservator
- ❖ Address Special Situations
- ❖ Minimize Taxes

# Probate v. Non-Probate Assets



# Other Options To Consider

- ❖ Beneficiary Designation for Life Insurance
- ❖ Beneficiary Designation for Retirement Benefits
- ❖ Payable on Death Bank Accounts
- ❖ Transfer on Death Securities Accounts
- ❖ Joint Ownership with Survivorship (JTWROS)
- ❖ Vehicle Titled in One “Or” Another



# Probate Procedure

1. Have Will Probated and PR Appointed
2. Determine Assets
3. Determine Debts
4. Settle Estate

# Probate Procedure

## 1. Have Will Probated and PR Appointed

- File with Probate Court in Decedent's Domicile
- Certificate of Appointment Issued
- Notify Beneficiaries & Heirs

## 2. Determine Assets

- Date of Death Values
- Inventory & Appraisement Due 90 days after appointment

# Probate Procedure

## 3. Determine Debts

- Notice to Creditors in Newspaper  
8 mos from 1st publication
- Actual Notice to known Creditors (optional)  
Later of 60 days from notification or 8 mos
- 1 year from Date of Death

# Probate Procedure

## 4. Settle Estate

### A. Use Assets to Pay Debts

- What Assets? (Order of Abatement)
  - Intestate Property
  - Residuary Property
  - General Devises
  - Pecuniary Devises
  - Specific Devises
  - Exempt Property--\$25,000 of household items/autos/ personal effects for Spouse/Dependent Children
  
- What Debts? (Order of Priority)
  - Funeral & Administration Expenses
  - Debts & Taxes with preference under federal law
  - Personal Care & Medical Expenses of Last Illness
  - Debts & Taxes with preference under SC law including Medicaid
  - All Other Claims

# Probate Procedure

## 4. Settle Estate

### B. File and Pay Taxes

### C. Distribute Assets

- Elective Share of Spouse
- Omitted Spouse or Child Share
- Survivorship
- Anti-Lapse
- Missing Beneficiary
- Disclaimer

# PLANNING FOR DEATH

## QUESTIONS?

Catherine H. Kennedy  
Certified Specialist in Estate Planning and Probate Law  
PO Box 1473 | Columbia, SC 29202  
1901 Main Street, Suite 1700 | Columbia, SC 29201  
803-227-4367 | Fax 803-400-1567  
[ckennedy@turnerpadget.com](mailto:ckennedy@turnerpadget.com)

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Spring 2021



# Planning a Legacy: Charitable Giving, During Life or at Death

*Matthew J. Myers*

*This work is intended to provide general information only with regard to donations to public charities and may not be relied on for any specific donor or situation. Donors should always seek independent professional advice regarding their unique situation before making a charitable donation.*

# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## Gifts at Death:

<b>Bequest from a will or trust</b>	Name charity as beneficiary of a will or trust	Not parting with use or control of assets until death. The built-in appreciation of donated asset escapes taxation.
<b>Beneficiary designation</b>	Name charity as a beneficiary of a financial account	Same as a bequest from a will or trust, but simpler because donor does not have to revise their will or trust, and results in a quicker transfer to charity after death. Also, if the account is a tax-deferred account such as an IRA, then the money passes to the charity without the money having ever been subject to income tax.



# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## Direct Lifetime Gifts:

Cash	Deliver check or digital transfers directly to charity, such as “text to give”	Donor may claim tax deduction if itemizing and, for 2021, a tax deduction of \$300 even if using the standard deduction
Donor advised fund	Establish and fund account with broker, and subsequently direct broker to distribute funds when desired	Allows donors to “bunch” charitable deductions in order to exceed the itemized deduction threshold in year of transfer to fund, and can use standard deduction in other years. Donors can then distribute from fund over multiple years.

# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## Direct Lifetime Gifts:

<b>Gift of appreciated securities (stocks and bonds)</b>	Have broker transfer stock to charity	Avoid tax on built-in appreciation by giving the asset rather than selling and then giving cash. Also, gifts of securities held over 1 year to a public charity are tax deductible at fair market value if itemizing, or at cost basis if held 1 year or less.
<b>Gift of appreciated real estate</b>	Deed real estate to charity	Same as gifts of appreciated securities, except deduction is reduced by portion of the built-in appreciation attributable to depreciation recapture.

# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## Direct Lifetime Gifts:

<b>Gift of tangible personal property (such as vehicles, art, books, inventory, possibly gold/silver, etcetera)</b>	Deliver property to charity and, if necessary, transfer title	Same as real estate, except that for a full fair market value deduction the property must also be used by the charity to further its exempt purpose AND it cannot be “ordinary income” property such as business inventory or self-made art. Otherwise, the deduction is limited the lower of cost or fair market value, except for vehicles not used by the charity, for which the deduction is generally equal to charity’s proceeds from selling the vehicle.
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# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## Direct Lifetime Gifts:

<b>Gift of life insurance</b>	Transfer policy ownership to charity (not merely naming charity as beneficiary)	Donor's deduction if itemizing is generally equal to the lesser of the donor's cost basis or the replacement cost of the policy, plus any premiums paid by donor after transfer.

# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## Direct Lifetime Gifts:

<b>Gifts from an IRA during life</b>	Contact plan administrator to direct “qualified charitable distribution” or QCD	Donors age 70 ½ years and older may transfer up to \$100,000 per year from an IRA to a public charity without the distribution being included in taxable income, thus helping donors that use the standard deduction or have their itemized deductions phased out. Such QCDs also satisfy required minimum distributions (RMDs).
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## CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

### Lifetime Gifts With Reserved Donor Interest:

<b>Gift of remainder in real estate</b>	Deed remainder interest only of real estate to charity	Donors may deduct the value of the remainder interest in the real estate if itemizing deductions, while maintaining full use of the real estate for life and avoiding taxation for any built in appreciation on the real estate.
<b>Bargain sale of property</b>	Sell property to charity at a significant discount	Donors receive partial payment for the property and are deemed to make a part sale and part gift, with the gifted portion of the property escaping tax on built-in appreciation and also eligible for a tax deduction if the donor itemizes.

# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## Lifetime Gifts With Reserved Donor Interest:

<b>Charitable annuity</b>	Transfer property to charity in exchange for a stream of payments to donor	Donors receive a stream of payments for one or two lifetimes, either beginning immediately or at a future date. The donor is eligible for an immediate taxable deduction based on actuarial factors if itemizing, and a portion of each payment will be taxable.
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# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## Lifetime Gifts With Reserved Donor Interest:

<b>Charitable remainder trust</b>	Establish charitable trust and transfer property to the trust	Donors may deduct the value of the charitable remainder in the trust if itemizing deductions, while receiving a stream of distributions from the trust for life or up to 20 years as predetermined by the donor. Also allows for the deferral of income taxes if appreciated property is transferred to the trust and later sold by the trust.
<b>Pooled income fund</b>	Transfer property to fund	Similar to charitable remainder trust, except payments to donor are based on the donor's proportional share of the fund's net income, which is fully taxable to donor, but the appreciation of contributed property is not subject to tax.



# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## 2021 Federal Tax Rates and Standard Deductions:\*

Tax Rate	Single	Married Filing Jointly	Married Filing Separately	Head of Household
<b>10%</b>	Up to \$9,950	Up to \$19,900	Up to \$9,950	Up to \$14,200
<b>12%</b>	\$9,951 to \$40,525	\$19,901 to \$81,050	\$9,951 to \$40,525	\$14,201 to \$54,200
<b>22%</b>	\$40,526 to \$86,375	\$81,051 to \$172,750	\$40,526 to \$86,375	\$54,201 to \$86,350
<b>24%</b>	\$86,376 to \$164,925	\$172,751 to \$329,850	\$86,376 to \$164,925	\$86,351 to \$164,900
<b>32%</b>	\$164,926 to \$209,425	\$329,851 to \$418,850	\$164,926 to \$209,425	\$164,901 to \$209,400
<b>35%</b>	\$209,426 to \$523,600	\$418,851 to \$628,300	\$209,426 to \$314,150	\$209,401 to \$523,600
<b>37%</b>	\$523,601 or more	\$628,301 or more	\$314,151 or more	\$523,601 or more

\*add 3.8% net investment income tax on passive income over a modified adjusted gross income of \$200,000 single or head of household, \$250,000 married filing jointly or widower with qualifying dependent, and \$125,000 married filing separately.

# CHARITABLE GIFTING OPTIONS AND THEIR FINANCIAL BENEFITS TO DONORS

## 2021 Federal Tax Rates and Standard Deductions:\*

Filing Status	Standard Deduction Amount
Single	\$12,550
Married Filing Jointly & Surviving Spouses	\$25,100
Married Filing Separately	\$12,550
Heads of Household	\$18,800

\*add 3.8% net investment income tax on passive income over a modified adjusted gross income of \$200,000 single or head of household, \$250,000 married filing jointly or widower with qualifying dependent, and \$125,000 married filing separately.



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