

# Administration and Dissolution of Estate: Issues and Concerns ▶ in Estate Settlement

HOSTED BY:

University of Wisconsin - Madison Retirement Association's  
Committee on Financial Matters in Retirement

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Why we are here  
today...



# Estate Settlement

# Vocabulary

- **Trust** - Agreement between parties created to own, manage, use and distribute property (avoids Probate).
- **Settlor (Grantor or Trustmaker)** - Person(s) who creates the trust.
- **Trustee** - Controls the assets of the trust re: investments, management, distributions, and acts as legal title holder.
- **Last Will & Testament** - a document that outlines what you want to happen with your property at the time of your death.
- **Probate** - the court process through which a will is proved valid or invalid and property is transferred after a property owner's death.
- **Personal Representative (Executor)** - a person, appointed by will and the court, to administer the decedent's estate.
- **Beneficiary** - Receives the beneficial use and enjoyment of the assets of the trust or the estate.

# Last Will & Testament:

What is it and how does it work?

## Your lifetime

- No effect during your lifetime

## Your Incapacity

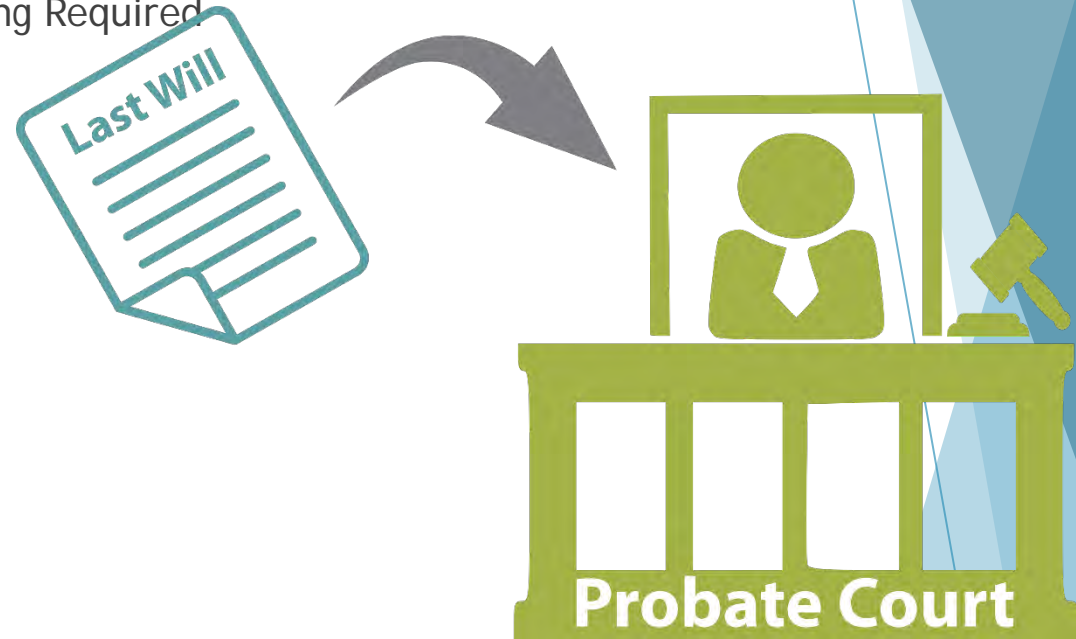
- No effect during incapacity

## Upon Your Death

- Personal Representative admits will to probate court
- Works with probate judge, court, interested parties, and creditors to carry out instructions

# Wills and Probate

1. Last Will admitted
2. Interested Parties Notified - Consent or Hearing Required
3. Initial Probate Documents Filed
4. Personal Representative appointed
5. Creditors Notice
6. Assets gathered, valued and managed
7. Beneficiaries notified
8. Inventory Filed with Court
9. Creditors Cleared
10. Accountings approved
11. Tax Returns filed
12. Estate Account Filed with Court
13. Distribution to Beneficiaries
14. Closing Documents Filed to Complete Probate



**Probate =**  
*Court Supervised Legal  
Process*



# Where Are Assets Probated?

Domicile - State and County of Residence

Real Property owned in other states must open an ancillary administration

Stocks, Bonds, brokerage or bank accounts in other states do not require ancillary administration

# When Is Probate Not Necessary?

- No assets in individual name of deceased
- Assets owned by a revocable trust
- Assets owned jointly\*
- Assets Designate a Beneficiary
- IRA/Retirement Accounts\*
- Life Insurance\*
- Transfer on Death Accounts\*
- Limited Assets Such as Tangible Personal Property, Some Automobile(s), collectibles, etc.

*\* Be aware of dangers, risks, and limitations of Joint/POD/Beneficiary Designated accounts*



# Revocable Living Trust:

What is it and  
how does it work?

## Your lifetime

- Settlor, Trustee & Beneficiary = You

## Your Incapacity

- Trustee = Successor(s)
- Beneficiary = Still You

## Upon Your Death

- Trustee = Successors
- Beneficiary = Spouse, Children, Siblings, Parents, Charity, etc.

# Trust Administration Process

1. Trustee accepts position
2. Trust terms circulated (as trust requires)
3. Assets gathered, valued and managed
4. Creditors identified and cleared
5. Accountings completed and circulated
6. Tax Returns filed
7. Distribution to Beneficiaries
8. Trust Administration closed by Trustee

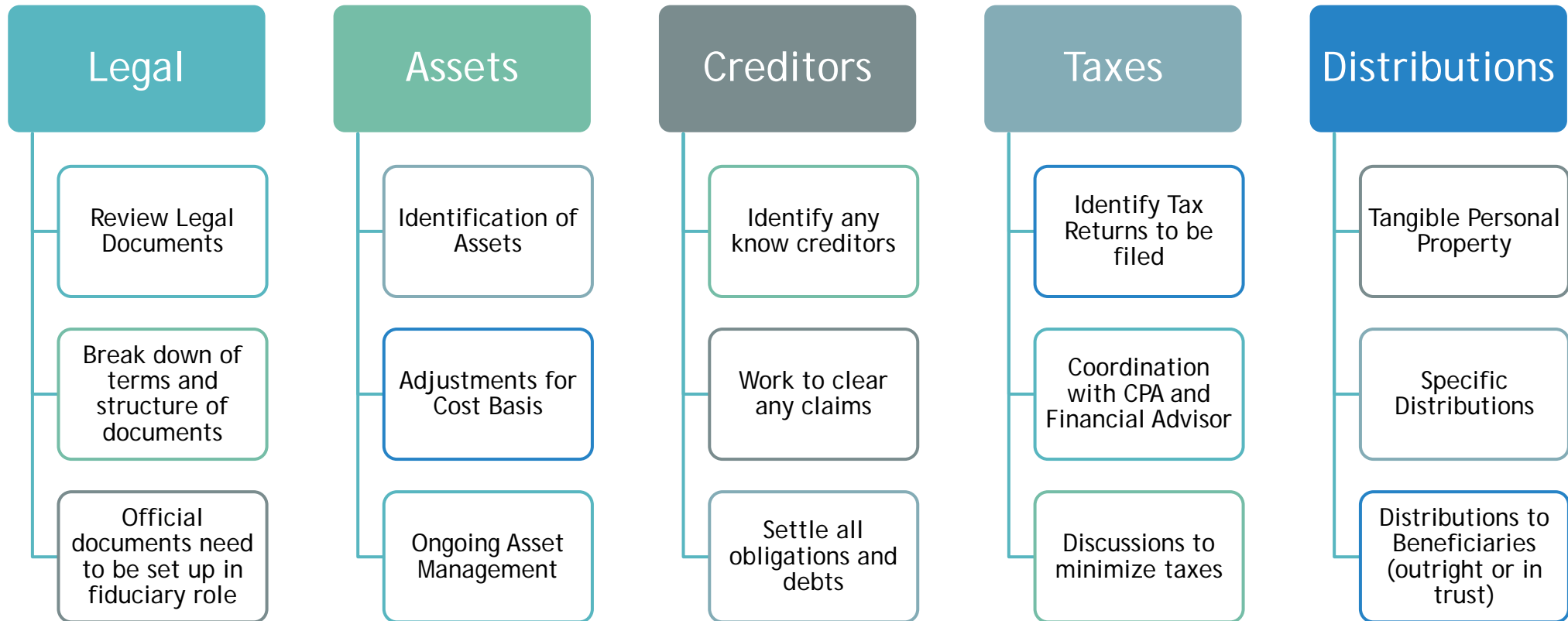


Trust Admin. =  
*Private Process*

# What is the Role of Trustee/Personal Representative?



# Responsibilities of Trustee/Personal Rep.



# What the Role is and isn't...



- ▶ What it is:
  - ▶ A Job
  - ▶ Account Manager
  - ▶ Responsible Party
  - ▶ Action taker
- ▶ What it isn't:
  - ▶ "The Favorite"
  - ▶ Scrivener
  - ▶ Judge
  - ▶ Beneficiary
  - ▶ Dictator

# Dos and Don'ts for the Trustee/Personal Rep.

## Do

- Understand your role
- Communicate with parties
- Keep records
- Be attentive
- Be timely and efficient
- Interact with legal, financial and tax professionals
- Continue the relationships started for you

## Don't

- Be adversarial
- Play favorites
- Change the terms of the trust
- Try to do it all
- Not communicate
- Contact professionals too late
- Drag things out
- Be too busy
- Lack awareness

# Who should serve as Trustee or PR?

Factors to consider when selecting who to serve as fiduciary

## Individuals:

- Family Member
- Family Friend
- Child/Beneficiary

## Professionals:

- Attorney
- CPA
- Other Advisor

## Corporate:

- Bank Trust Department
- Professional Trust Company

- \* Familiarity with Family
  - \* Experience
  - \* Burden
- \* Impact on Relationships
  - \* Efficiency

- \* Professional Knowledge
- \* Relationship with Family
- \* Age and Stage of Career
  - \* Experience
- \* Intent of Clients

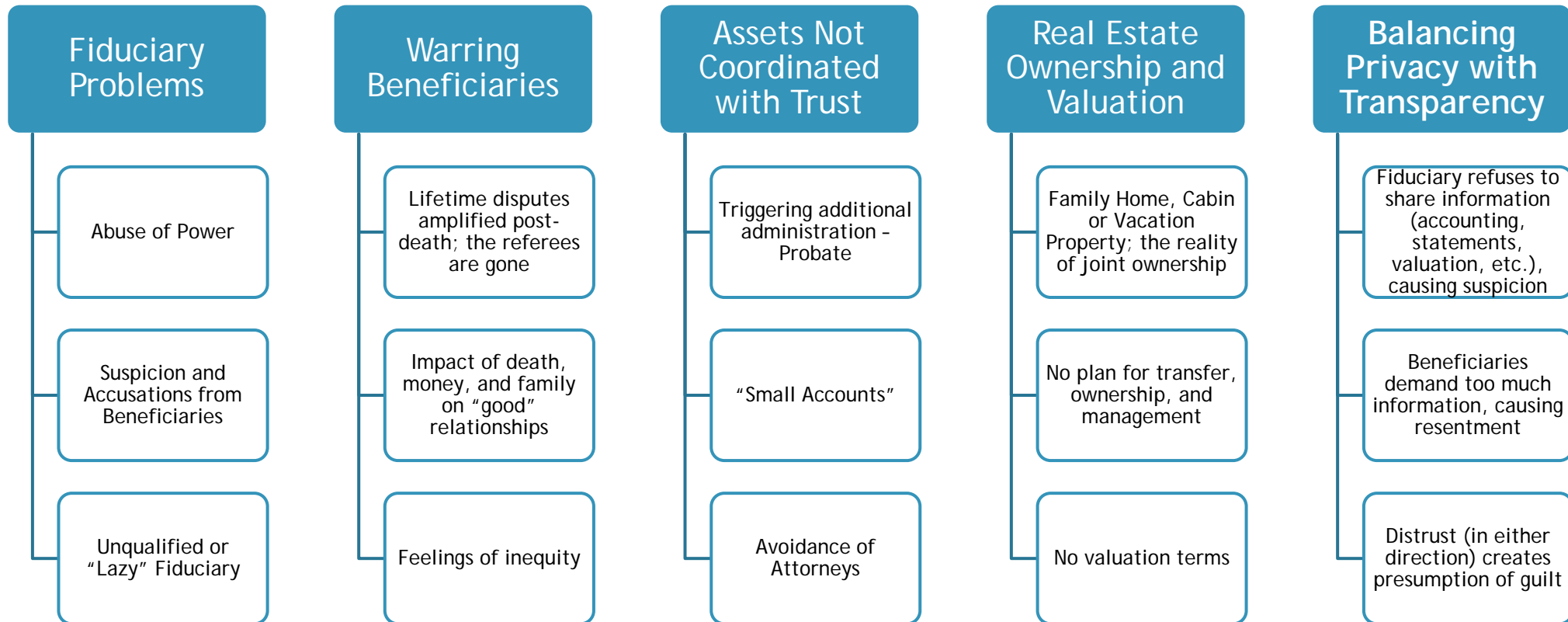
- \* Institution
- \* Professional Knowledge
- \* Distribution Dynamics
- \* Location of Investments
  - \* Experience

# Fallout from Poorly Administered Estate Plans?

- ▶ Money is the least of the concerns!
  - ▶ Though it will cost a lot of it....
- ▶ Fractured Relationships
- ▶ Separation of Generations
- ▶ Career Loss
- ▶ Educational Loss
- ▶ Lawsuits
- ▶ Delayed Settlement (think years, not months, post death)
- ▶ New Beneficiaries = Attorneys, Courts, Creditors, Interested Parties
- ▶ Loss of (Intended) Legacy



# 5 Common Issues in Estate Settlement



# Costs of Estate Administration

- ▶ **Probate Administration**  
average costs 4-10% of Estate Value
  - ▶ Court Fees
  - ▶ Attorney & Professional Fees
  - ▶ Cost of Delay
  - ▶ Executor Fee (2%+)
- ▶ **Trust Administration**  
Typical costs 1-3% of Estate Value
  - ▶ Trustee Fee (~1%)
  - ▶ Attorney & Professional Fees

# How to Prepare During Lifetime



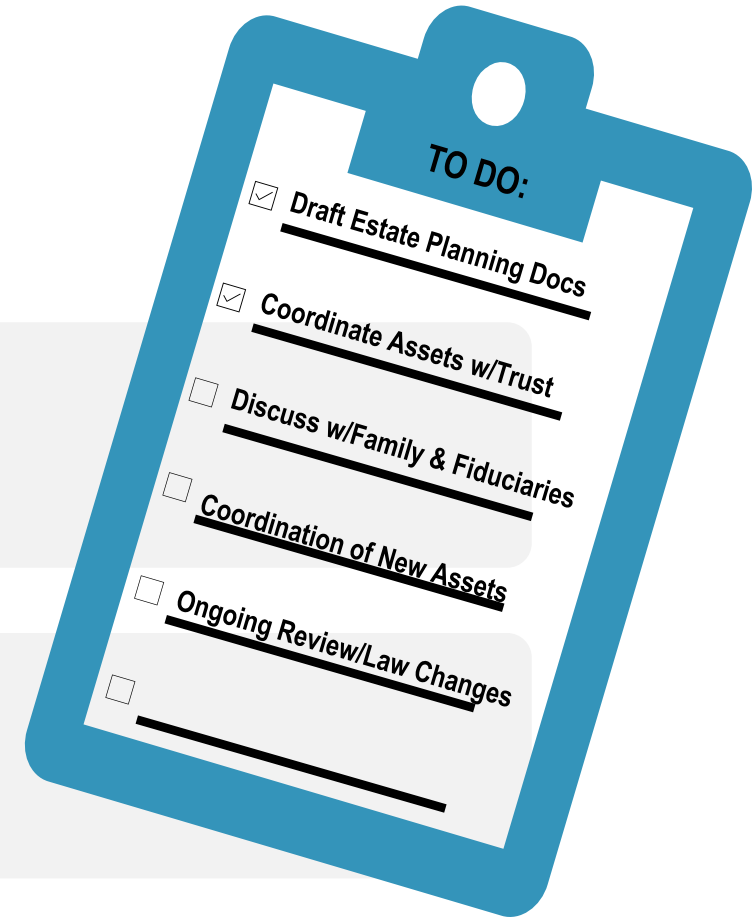
Draft a comprehensive estate plan



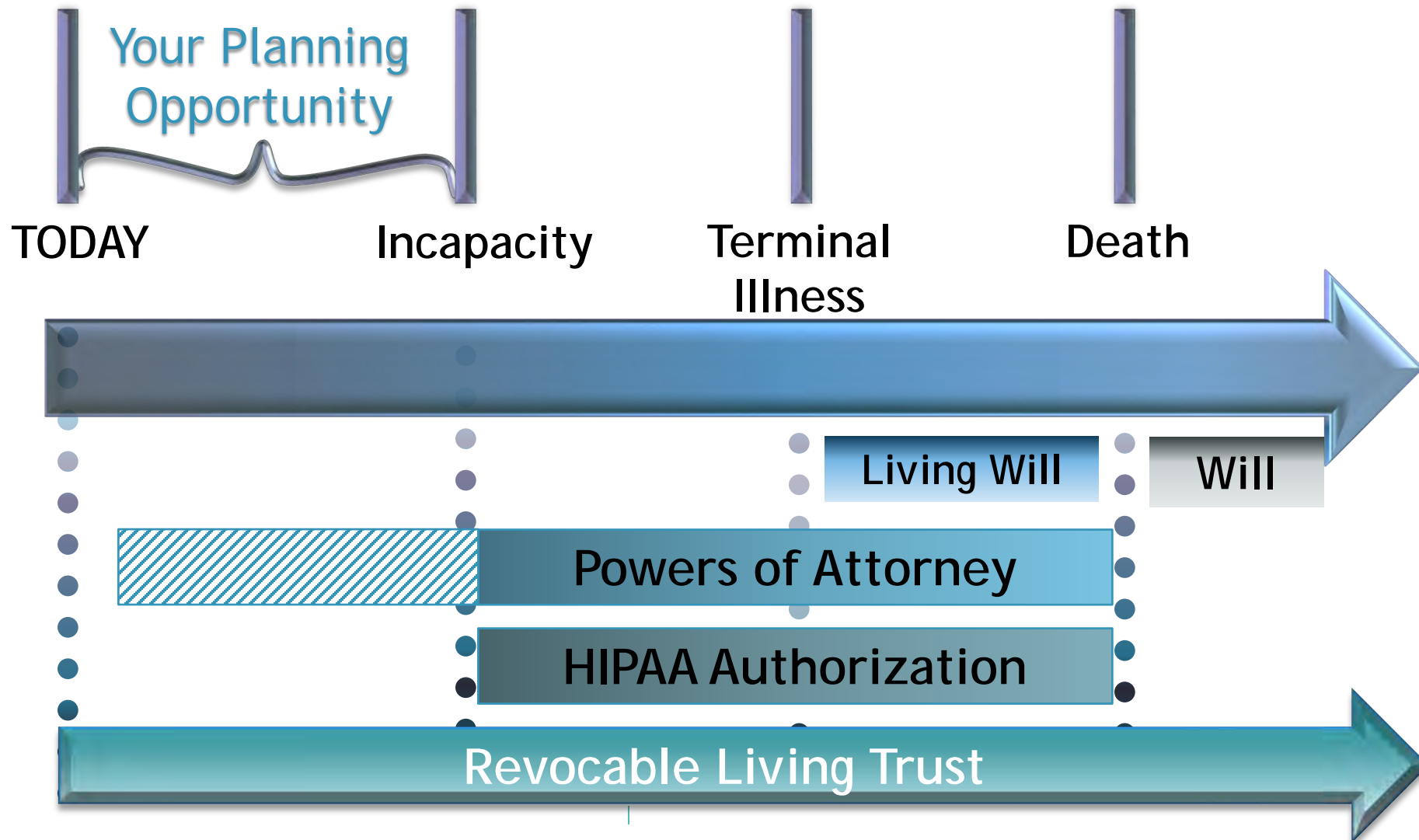
Ongoing Asset Coordination (For Trusts)



Discuss and Communicate with Family & Fiduciaries



# When is the best time to plan...?



Questions?



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**Treat our firm as a resource!**

**For Questions or to Schedule a Consult:**

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