I. Introduction to the wills, trusts, and estates practice.
   A. First, do no harm!
   B. A review of intestacy.
   C. Estate planning is more than planning for the passing of wealth at death.
      i. Planning for incapacity.
      ii. Preventing fights.
      iii. Clarity in drafting.

II. Wills.
   A. Introductory paragraph, and why defining family members matters.
   B. Tangible personal property.
      i. Incorporated list. § 64.2-400.
      ii. What to do with tangible personal property after specific bequests.
   C. Specific financial bequests, and the challenges of using a dollar amount.
   D. Real estate. To sell or not to sell?
      i. Executor’s authority. § 64.2-105.
      ii. Beneficiaries signing deed.
      iii. The challenges of multiple ownership interests in real estate.
   E. Residuary estate.
i. The concept of “everything left over.”

ii. Thinking in percentages.

iii. WHAT IF, WHAT IF, WHAT IF???

F. Nomination of testamentary guardian.

i. Statutory authority. § 64.2-1701.

ii. Qualification and timeline.

iii. When family law meets WTE.

G. Trust provisions (testamentary and non-testamentary).

i. Young beneficiaries.

   a. Uniform Transfers to Minors Act. § 64.2-1900 et seq.

   b. HEMS.

ii. Disabled beneficiaries.

   a. Special needs trusts.

   b. Decanting. § 64.2-779.1 et seq.

iii. Credit shelter trusts.

   a. Brief review of federal estate tax law.

   b. CST approach, conceptually. (A/B, disclaimer.)

H. Nomination of executor.

i. Nomination versus qualification.

ii. The concept of surety.

   a. Waiving surety. § 64.2-505.


iii. Avoiding the accounting requirement.

I. Boilerplate.
   i. Payment of final debts.
   ii. Defining terms (e.g., heirs versus descendants).
   iii. Inclusive meanings of fiduciaries.

J. Execution.
   i. Requirements. § 64.2-403.
   ii. Self-proving clause. § 64.2-453.
   iii. Substantial compliance. § 64.2-404.

III. Advance Medical Directives.

A. What is an AMD?

B. What isn’t it?

C. Suggested form. § 54.1-2984.

D. Absence of AMD.
   i. Statutory hierarchy. § 54.1-2986.
   ii. Guardianship. § 64.2-2000 et seq.

IV. Powers of Attorney.

A. What is a POA?

B. “Hot powers.” § 64.2-1622.

C. Absence of POA.
   i. No statutory hierarchy.
   ii. Conservatorship. § 64.2-2000 et seq.
V.  Disposition of Remains.

A. What is it?

B. Needed situationally.

C. Statutory authority. § 54.1-2825.

VI.  Revocable Living Trusts and Probate Avoidance.

A. Probate isn’t inherently bad.
   i. Probate tax. § 58.1-1712 (state); § 58.1-1718 (city/county).
      a. Combined: $1.33 per $1,000.
   ii. Qualification procedure. § 64.2-500 et seq.
   iii. Supervised by commissioner of accounts.

B. But, you may have reasons to avoid probate.
   i. Out-of-state fiduciaries.
   ii. Out-of-state real estate.
   iii. Privacy concerns.
   iv. Not supervised by commissioner of accounts.

C. Other means of avoiding probate.
   i. POD/TOD designations.
   ii. Survivorship.
   iii. TOD deed. § 64.2-621 et seq.
   iv. Lifetime gifting.

VII. Resources.


B. A good dictionary.
C. Black’s Law Dictionary.

D. Harrison on Wills & Administration.

E. Virginia CLE.

F. Mentor/partner/etc.
   i. Lynchburg Bar Association
   ii. Virginia Legal Aid Society

QUESTIONS AND ANSWERS

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