



Copenbarger &  
Copenbarger  LLP  
attorneys at law

**Essentials of Estate Planning  
2023**

**We Will Begin Shortly**



# Essentials of Estate Planning 2023

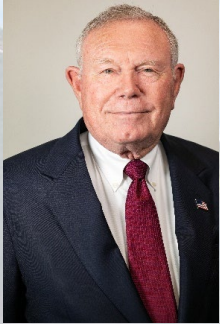
*Avoid the Hassle of Probate*



**Victoria Horvatic**  
*Estate Planning*



# Meet Our Attorneys



**Lloyd Copenbarger, LLM**  
Estate Planning



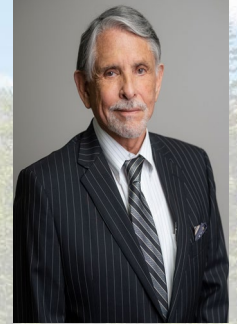
**James Kosareff, LLM**  
Estate Administration



**Larry Copenbarger, LLM\***  
Estate Planning



**Sunny Boren, CPA, LLM**  
Business & Tax



**Robert Galliano, MS.Tax**  
Estate Planning



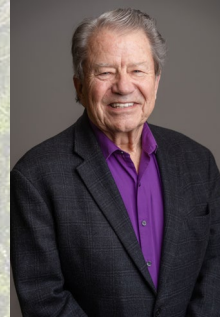
**Victoria Horvatch**  
Estate Planning



**Kimberlee Parkins**  
Estate Administration



**Monica Braun-Hendy**  
Estate Administration



**Stan Hutchinson**  
(Of Counsel)



**Toni Degasperin**  
(Of Counsel)

\* near completion



# Meet Our Staff





# Our Locations



**South Coast Metro**  
(Main Office)



**San Jose**



**Temecula**



**Santa Cruz**



**Laguna Hills**



**Pasadena**



**San Diego**



**Sacramento**



# Agenda

- **How to Establish a Comprehensive Estate Plan**
- **Protecting Yourself From Avoidable Disasters**
- **The Reality of Incapacity, Conservatorships, and Long Term Care**
- **Recent Law Updates**
- **How to Leave a Lasting Legacy**
- **Why Copenbarger Law Firm**





# Comprehensive Estate Plan





# Comprehensive Estate Plan

## Essential Documents for Your Protection



### Advanced Healthcare Directive

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A legal document in which you specify what **actions** should be taken for your **health** if you are no longer able to make decisions for yourself.



### Durable Power of Attorney

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A document that stays in effect if you become **incapacitated** and are unable to handle **financial matters** on your own.



### Pour Over Wills

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A **will** that **catches** any assets not placed in the trust during your lifetime.



### Living Trust

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A legal document **created by you** during your lifetime. Similar to a will, a living trust **spells out exactly what your desires are** with regard to your assets, your dependents, and your heirs. Two main types are **revocable** and **irrevocable**.



# Comprehensive Estate Plan

## Medical Power of Attorney

### Advance Health Care Directive

- ❖ Document that gives authority to act on your behalf for healthcare decisions
- ❖ Everyone over 18 years of age needs one
- ❖ When it goes into action
- ❖ How to get started on yours now





# Comprehensive Estate Plan

## Financial Power of Attorney

# POWER OF ATTORNEY

## Durable Power of Attorney

- ❖ Document that gives authority to act on your behalf for financial decisions
- ❖ When to get a DPA
- ❖ When it would go into effect
- ❖ How to get started on yours now



# Comprehensive Estate Plan

## Wills

- ❖ Purpose of a Will
- ❖ Who needs a will?
  - Individual(s) with no real estate
  - Individual(s) with an estate of less than \$184,500
  - Parents of minor children
- ❖ Types of Wills







## What is the Purpose of Probate?

- ❖ To settle accounts with the living
- ❖ To settle the accounts of the decedent
- ❖ To transfer title from the decedent to their heirs or beneficiaries



### Facts on Probate

- ❖ Legal process that follows state rules
- ❖ Often causes lengthy delay in settling the estate
- ❖ Control is with the court, not the family
- ❖ Public proceeding
- ❖ Costs 5%-7% of the gross estate





# Comprehensive Estate Plan

## Living Trusts



- ❖ A **contract** between settlor and trustee
- ❖ **Settlor:** Person who creates the trust and sets the terms
- ❖ **Trustee:** Manages and invests the trust assets
  - Must follow the terms of the trust
- ❖ **Beneficiary:** Person/entity named in trust to benefit from the trust assets



# Comprehensive Estate Plan

## Benefits of a Living Trust

### ❖ Benefits of a Living Trust

- Avoids cost and delay of probate
- Protects your privacy
- Allows tax planning
- Avoids court-supervised guardianships or conservatorships
- Ensures your wishes (not the court's) are carried out





# Comprehensive Estate Plan

Living Trust Only Protects What it Owns



## A Trust Only Protects What It Owns

- ❖ Any assets outside the trust may still need to be probated
- ❖ Accomplished through use of a Pour-over Will
- ❖ Durable Power of Attorney helps manage financial matters outside of the trust



# Comprehensive Estate Plan

## Pour Over Will



## Extra Protection Options

- ❖ Accompanies a trust
- ❖ Names an executor
- ❖ Names a guardian for minor children
- ❖ Can transfer personal effects
- ❖ Transfer remaining assets (outside of trust) to trustee
  - But it must be probated to do so!



# Comprehensive Estate Plan

## Letter of Instruction

### Letter of Instruction

- ❖ Burial instructions
- ❖ Notifications
- ❖ Location of documents
- ❖ Distribute personal effects
- ❖ How to access important accounts





# Pitfalls To Avoid



WILLS  
§§802-1569

WITNESSE

79

80



# Pitfalls To Avoid

## Estate Planning Mistakes

- ❖ Wrong type of trust
- ❖ Not addressing incapacity
- ❖ Not adding protective provisions that would benefit your family
  - Spouse remarriage
  - Creditor and divorce protection
  - Contest clause
  - Substance abuse
- ❖ Not updating plan as life changes





# Pitfalls To Avoid

## Lessons From Prince

- ❖ Prince **never created** an estate plan (no trust or will)
- ❖ **6** years to settle
- ❖ Finally valued at **156.4** million
- ❖ Heirs paid **45 million** in probate fees
- ❖ **2 of 6** siblings died while waiting (2 others siblings in 80's)
- ❖ Death **Tax 55%** (40% Federal & 15% Minnesota)



PRINCE  
1958 - 2016

# Pitfalls To Avoid

## Lessons From Paul Walker



- ❖ Trust **partially** funded
- ❖ Out of date documents that **did not include** his daughter
- ❖ \$25 million estate had to go through probate
- ❖ **Did not expect** to die young





# Incapacity, Conservatorships, and Long Term Care

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# Reality of Incapacity

## What We Know



- ❖ **Not every day is a good day**
- ❖ **Added stress for the family**
  - Maintaining your job, kids, health, and finances
  - “I don’t need to be here”
- ❖ **Difficult to adjust to new home life**
  - “I don’t like this” or “I don’t like you”
  - Added cleaning or home care
- ❖ **Often become paranoid or suspicious**
  - Forgetting things
  - “You are stealing my money/jewelry”
- ❖ **Often become unwilling to cooperate**
  - “I’m not eating/doing that.”



# Reality of Incapacity

## Conservatorship

If you **do not have documents in place**, a conservatorship may be **required**

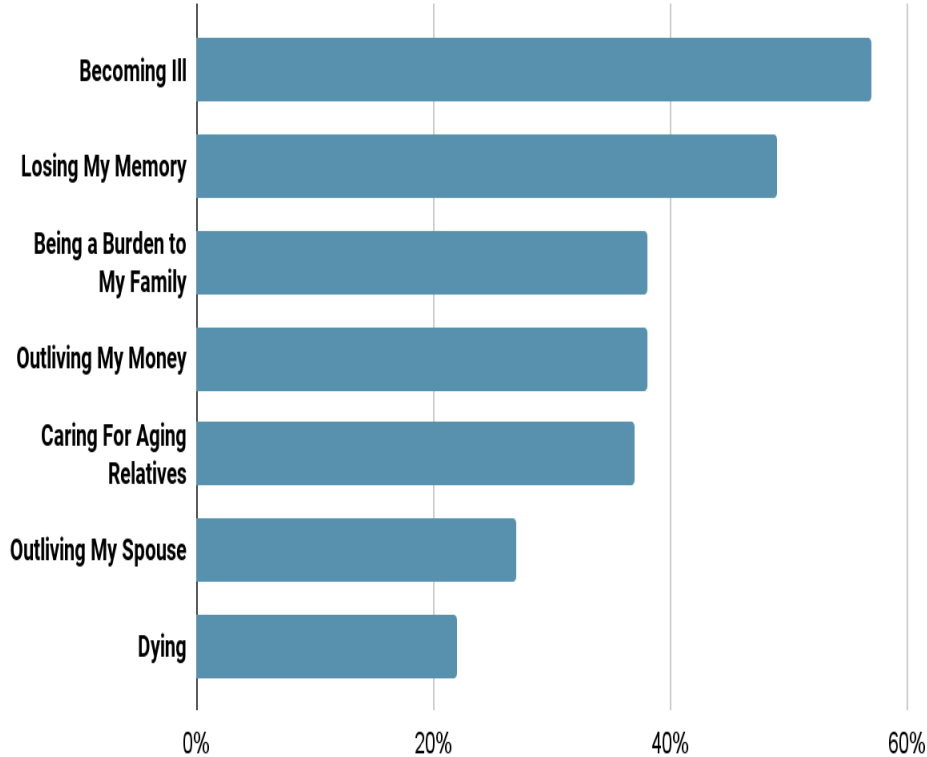
- ❖ A conservator is a court appointed representative, or protector, of an adult who is incapacitated
- ❖ Conservator's duties
  - Overseeing finances
  - Establishing and monitoring the physical care
  - Managing living arrangements
- ❖ Court can oversee decisions



# Reality of Incapacity

## Protecting Estates from LTC Costs

### Top Concerns for Seniors



Health concerns  
are at the **top of**  
**the list** of worries  
for seniors and  
their families



# Reality of Incapacity

## Statistics

- ❖ 70% of people over age 65 will need some form of long-term care
- ❖ Alzheimer's increased by 46.1% as a cause of death
- ❖ Average cost of care in skilled nursing has **increased and is expected to continually increase**
- ❖ Average length of stay in skilled nursing is 892 days (2.44 years)
- ❖ Women are more likely to require care



# Reality of Incapacity

## Medi-Cal Planning



**Medicare**

VS



**Medicaid**



# Reality of Incapacity

## Cost of Care In California

Care Type	Monthly Cost* 2023	Annual Cost 2023
Home Health Aide	\$6,726	\$80,721
Homemaker	\$6,726	\$80,721
Assisted Living	\$5,788	\$69,458
Nursing Home - Semi-Private	\$10,798	\$129,577
Nursing Home - Private	\$13,414	\$160,965

\*Source: Genworth Cost of Care 2023 (with 5% climb)

# Reality of Incapacity

How You Can Pay For It



## Ways to Pay for Long-Term Care

- ❖ Your monthly income
- ❖ Savings
- ❖ Sell your home
- ❖ Your family
- ❖ Long-Term Care Insurance
- ❖ Government



# Reality of Incapacity

## Medi-Cal Planning

### Establish a Medi-Cal Plan to Avoid Depleting Your Estate

- ❖ Qualifying for Medi-Cal
- ❖ Protection against state recovery-**State can only recover from a Probate Estate**
- ❖ Preserving assets for a healthy spouse
- ❖ Ability to stay at home



# Reality of Incapacity

## Medical Updates

## Changes to Medi-Cal

- ❖ **Phase 1 (07/01/22)-Implemented**
  - Single Allowance: \$130,000
  - Married Allowance: \$195,000 (65k+ for one spouse)
    - ✓ Additional family members **\$65,000** each up to a max of 10
- ❖ **Phase 2 (01/01/ 2024 )-Not implemented**
  - Single & Married Allowance: **Limits are eliminated**
- ❖ **Look-Back Period- 5 years (was 30 months)**





# Reality of Incapacity

## How We Can Help



- ❖ Preventative planning allows you to have **choices** for your long-term care options
- ❖ Under California law, you can make financial arrangements to **preserve your assets** so they can supplement your Medi-Cal care
- ❖ Provide authority to do Medi-Cal planning



# Law Updates





## Important Changes

- ❖ Medi-Cal Authority
- ❖ Secure Act - IRA Rules
- ❖ Proposition 19 - Property Tax





# Leaving A Lasting Legacy

WILLS  
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## How do I leave my Financial Legacy?

- ❖ Will/Trust
- ❖ Beneficiary accounts (take priority over the Trust)
- ❖ Life Insurance
- ❖ 401ks
- ❖ IRAs
- ❖ 529 plans
- ❖ Deed
- ❖ Consider taxes and their impact

# A Lasting Legacy

## Emotional Legacy

## How do I leave an Emotional Legacy?

- ❖ Family History
- ❖ Records
- ❖ Momentos
  - Letters
  - Pictures
  - Videos
- ❖ Recipes





# In Review

As Your Plan Closes, Many Others Begin



**Documents for every adult**

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**Planning changes  
throughout your journey**

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**Plan when you can, and avoid  
unnecessary legal situations**



# How We Can Help





# How We Can Help

## Establish a Plan



- ❖ Consider what **matters most to you**. What do you want to share with your loved ones about your life and legacy?
- ❖ Determine responsible successors & beneficiaries
- ❖ Discuss and plan these things while you are **alive and well!**
- ❖ Maintain Your Estate Plan Current

# Why Copenbarger Law Firm

Working with Qualified Professionals

- ❖ Open since 1979
- ❖ 8 full time attorneys, 2 attorney of counsel & a CPA
- ❖ Over 350 years of combined attorney experience!
- ❖ Certified Specialists in Probate, Estate Planning, and Trust Law
- ❖ Advanced Tax Degrees
- ❖ 35+ highly qualified support staff
- ❖ 8 office locations + ZOOM





# Booking an Appointment

The Best Time to Start Planning is NOW!

## We are here to help!

We would love to hear from you!

We have our team standing by ready to assist with any questions or comments you may have.

We look forward to hearing from you!



(800) 244-8814  
*Call Anytime!*



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more information.*



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