

# ELDER LAW TODAY

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## *Revocable Living Trusts*

**W**e receive lots of questions about Revocable Trusts. Most people have heard about them but actually understand what they are. A Revocable Living Trust is a legal document that includes instructions regarding what should be done with your assets when you die. Now, you may be thinking — isn't that what a Will does? Yes, that's exactly what a Will does, however, the key difference between a Will and a Trust is that a Trust prevents the assets in the Trust from being probated (tied up in the court system) at your death — a Will doesn't.

As we have discussed in previous issues of *Elder Law Today*, Revocable Living Trusts are not the only way to avoid probate. Jointly titling your assets or designating beneficiary are two other commonly used methods of avoiding probate. While joint ownership and/or beneficiary designations may be appropriate in certain cases, there are other situations where having your assets in a Trust is the best course of action.

Trusts are not nearly as complicated as many people believe them to be. The first step is to meet with an attorney who is experienced in drafting Revocable Living Trusts and who can explain the process to you. You will become the Grantor of the Trust — meaning the Trust belongs to you and only you can make changes to your Trust. You will also need to name someone as Trustee to manage the assets in your Trust. You can be your own Trustee or designate someone else (a family member, friend, or corporate trustee like a bank) to serve as Trustee.

Finally, you will designate beneficiaries--- people or organizations who will receive your assets when you die. This is where a Trust is extremely useful. For example, you may have three adult children and you may want all of your assets to pass in equal shares to the three kids upon your death---and should one of your children die before you do, you want this share to go to his/her kids. This can be easily accomplished with a Trust but would not be possible by naming the three kids as joint owners on your assets nor would it be possible by naming the three kids as beneficiaries.

This is just one example of the potential benefit of using a Revocable Living Trust to avoid probate. Revocable Living Trusts are also helpful should your desired method of distribution be more complicated. For instance, you may want a portion of your assets to go to your grandchildren but perhaps they are all teenagers right now. You could set up your Trust such that your grandchildren won't receive their share of the assets until they each reach the age of 25. On the other hand, you may have an adult daughter with a

developmental disability who wouldn't be able to manage her share of the assets upon your death. In that case, you may choose to have her share of the assets continue to be held by the Trust after your death so the Trustee can manage her share for her. Situations like the two just mentioned can only be handled through a Revocable Living Trust---they cannot be accomplished through joint tenancy or beneficiary designations.

One last point---a Trust by itself is worthless unless the Trust has been funded. Once the Trust document is drawn up according to your wishes and has been signed, you must transfer your assets into the Trust. This means you will need to re-title your assets, such as real estate, stocks and CD's in the name of your Trust. (Retirement Plans and IRAs should not be placed in a Trust.)

Though having a Revocable Living Trust in place can help you simplify the administration of your financial affairs after your death and ensure your wishes are carried out, there are a lot of issues to consider when deciding if a Trust is right for you. A good elder law attorney can help you with this decision.

### *Services Available*

Adrian & Pankratz, P.A. offers the following Elder Law services:

Division of Assets	Long Term Care Planning
Guardianship	Powers of Attorney
Estate Planning	Wills
Living Trusts	Special Needs Trusts



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