

Presentation
for

The Fragile X Foundation

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Life Planning 101

Basics of Estate Planning With and Without Children with Special Needs

- Wills and Trusts
- Guardianship
- Medicaid, SSI and SSDI

What is Estate Planning?

Estate Planning is People:

Spouses, Children, Grandchildren, Favorite
Family Members, Charities, Close Friends

Their security and prosperity
without you.

It is protecting and
enhancing your estate
from an uncertain future.

Estate Planning is Living Planning

It is your attempt to use your resources to create an environment for yourself and others that will be sufficient for you and extend beyond your life.

“Estate planning for me?
Heavens, I don't need and
estate plan! I have so
little.”

Really?

No loved ones, no disposition to a favorite family member, or a person in need, close friend or institution? No property, no insurance or pension plan? No personal possessions, mementos, family heirlooms? No debt?

Estate Planning is for everyone!

Plan for the worst and you and your loved ones will never be unpleasantly surprised.

Do you have a Will?

80% of us don't!

Basic Estate Planning Goals

- Plan to make your life more enjoyable.
- Plan for loved ones and those who count on you, when you are no longer around.
- Plan to reduce or eliminate estate and gift taxation that is unnecessary.
- Plan to protect the State benefits for your children with special needs.

If you don't have a Will, you are "intestate" in the eyes of the State you live in.

Do you want a judge who knows nothing about your family, your wishes, your special needs, to decide who would take care of your children and to what degree?

Estate Planning Documents

- Simple Will (or “Pour-Over” Will as feasible).
- Revocable “Living” Trust
 - Avoids excess costs, delays and scrutiny of the probate process
- Irrevocable Trusts.

Estate Planning Documents

- Simple Will

- Appoints and empowers executor (personal representative).
- Appoints guardians of children & property.

- Revocable “Living” Trust

- Trust assets avoid scrutiny, costs, and delays of probate.
- Ensures eventual distributions of assets of the settlor in desired fashion
- Can provide special needs provisions.

- Irrevocable Trust

- Trust assets typically excluded from taxable estate.
- Can provide special needs provisions.
- Tax efficient way to own life insurance.

Estate Planning Documents

- Durable Power of Attorney
 - Appoints an “agent” or “attorney-in-fact” to handle financial affairs.
 - Can serve in the event of incapacity of the principal.
- Declaration Naming Pre-Need Guardian
 - Names a guardian to serve in the event of incapacity.
 - Has no general power.

Estate Planning Documents

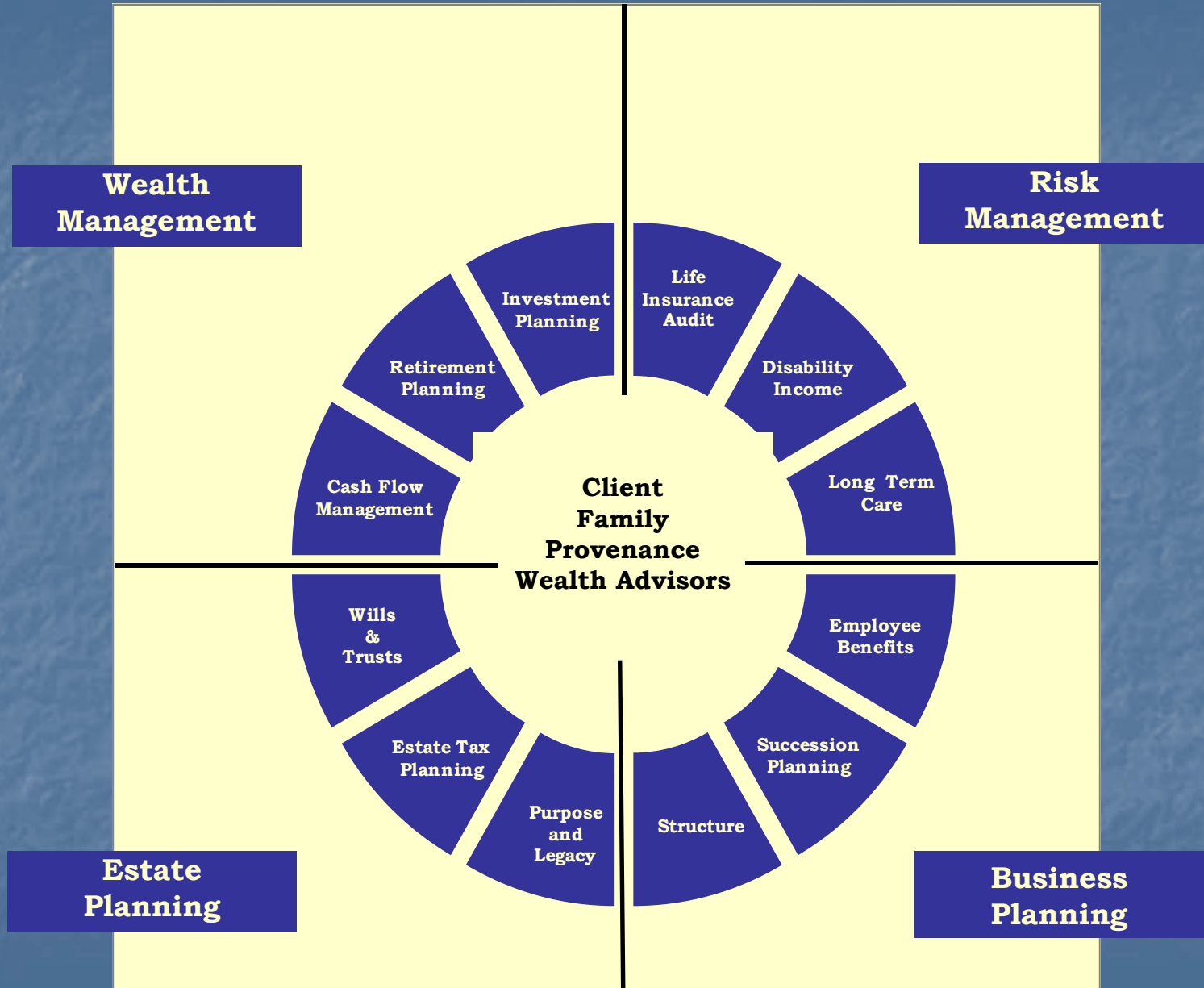
- Health Care Surrogate
 - Provides a health care power of attorney to make health care decisions if the principal is not able to.
- Living Will
 - Part of the health care powers that specifically addresses if the principal is terminally ill or in a permanent vegetative state with no likelihood of recovery.
 - A planning necessity.

Risk Management

Your basic estate plan should also include:

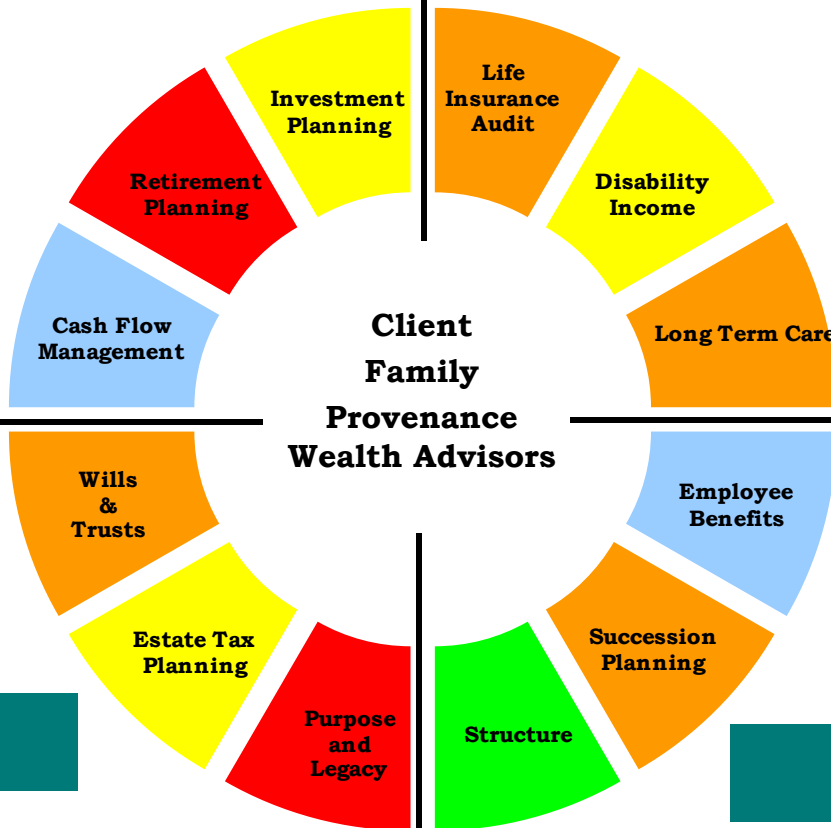
- Health Insurance
- Disability Insurance
- Life Insurance
- Long Term Care Insurance

Holistic Comprehensive Planning



Wealth Management

Risk Management

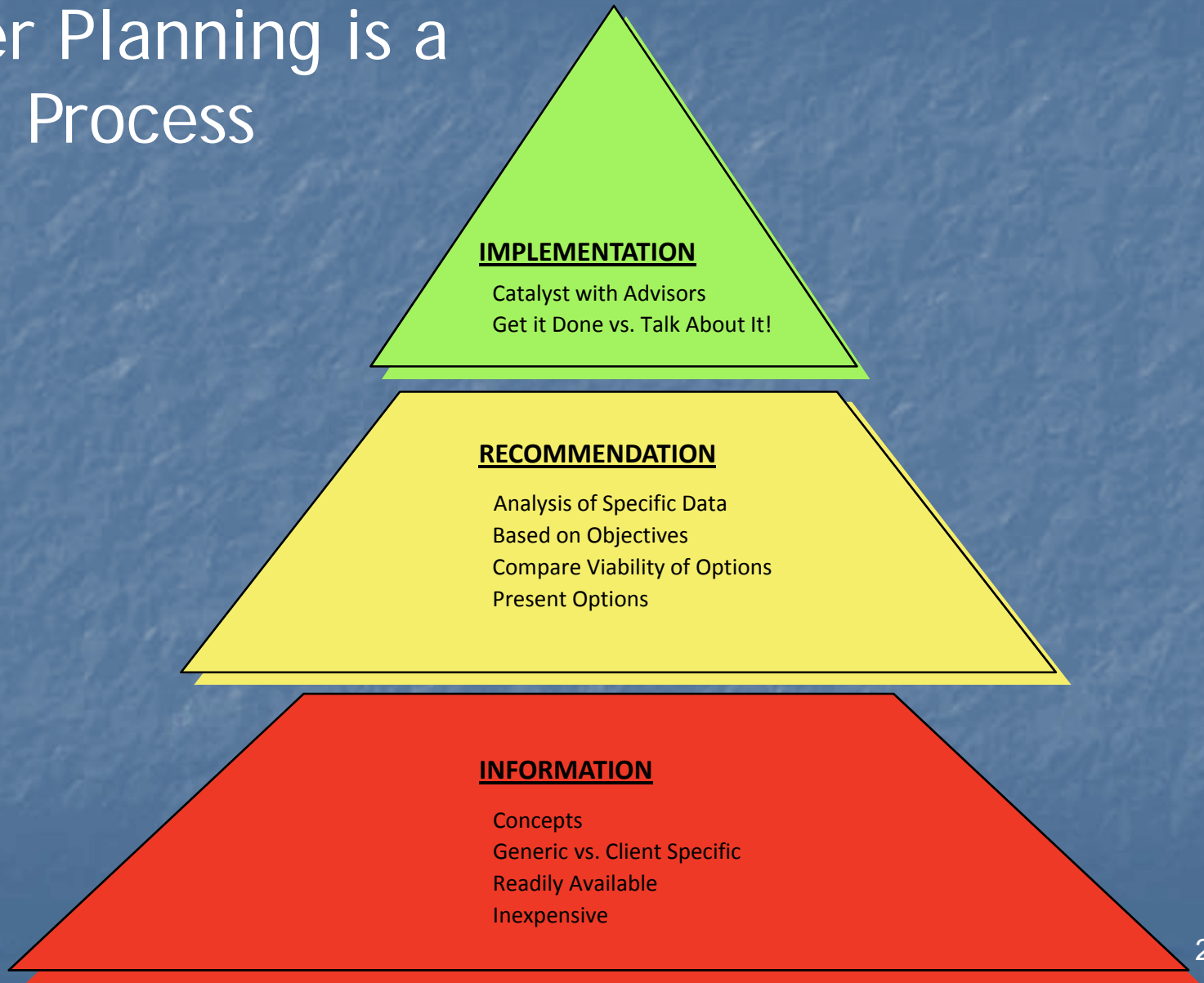


Estate Planning

Business Planning

Severe
High
Elevated
Guarded
Low

Proper Planning is a Process



Guardianship

- Guardianship is when one person's rights are taken away and given to another person.
- Courts treat guardianship as a last resort.
- 3 roles in a guardianship proceeding
 - "Petitioner" - Person who notifies court that someone is in need. Can be over age 18.
 - "Ward" - The person in need of help.
 - "Guardian" - The person appointed by the court to look after the needs of the "Ward".

Guardianship Negatives

- Although sometimes the only solution, somebody's rights are being taken away.
 - Planning ahead may be the way to avoid guardianship
- Guardianship can be expensive.

The ABC's of Special Needs Trusts

- A. Special Needs Trusts (SNT) allow people to keep the benefit of their money and their public benefits
- B. The goal of all special needs planning is to provide a safe harbor for a disabled individual's money without jeopardizing the person's needs-based government benefits.
- C. SNTs seek to preserve the person's eligibility for government benefits.
- D. Preservation of entitlement to need-based benefits can make a tremendous difference in a disabled person's life.

Who are SNTs Suitable For?

- Individuals who are currently receiving need-based public benefits:
 - Medicaid
 - Healthy Kids
 - Kid Care
 - Section 8 Housing Assistance
 - Supplemental Security Income (SSI)
 - Nursing Home Program (Medicaid ICP)
 - Medically Needy Program
 - State Waiver Program
- Individuals who are indigent but for the expected receipt of new assets.
- Individuals with expensive care costs.

Advantages of SNTs

- Retention of public benefits.
- Leave benefit options available for person's future.
- Money management enhancements.
- Creditor protection.
- Savings on cost of care.
- Avoids costs and anxiety of guardianship.
- Creates new payor options.

Disadvantages of SNTs

- Pay-back provisions.
- Restriction on availability of assets.
- Finding good people.
- Administration costs.

The Mechanics of SNTs (Individual or DA4)

- Individual SNTs are authorized by Federal law U.S.C. 1396P(d)(4)(A) - i.e. -D4A
- Federal and State rules and laws specifically exempt assets in a properly drafted SNT from being counted towards eligibility for need-based government benefits.
- Federal and State rules and laws exempt transfers to SNTs from the government's normal penalty rules.

Mechanics of SNTs (Continued)

- A good D4A SNT is individually tailored to the person's particular needs.
- Trustee of SNTs can use the money in the trust for almost anything government public benefits do not provide.
- A D4A Trust must, by law, include a "pay-back" provision.
- Can only be created for people who are under age 65, and who are "disabled" as that term is described by Social Security.

Mechanics of SNTs (Continued)

- SNTs can be “pooled” or individual.
- Third party SNTs are created by a third person, with that person’s own money, for the benefit of a disabled individual, and incorporates “special needs” language.
- Unlike D4A Trusts, there is no requirement that a third party SNT include a pay-back provision.

Thank you.