Please note: This is a transcription so there may be slight grammatical errors.

Debra:

Thank you for joining us today. This presentation is intended for educational purposes only. And so please be reminded that your individual needs and your financial goals are as unique as you are. So please feel free to reach out to CAPTRUST@CAPTRUSTadvice.com to schedule an appointment to discuss your personal needs, or call us directly at 1-800-967-9948. And remember, CAPTRUST does not offer any accounting, tax or legal advice.

So today's presentation that we are giving, I've had a couple of people joining me today, and I just want to give you a little information about them. Brian joined CAPTRUST in 2016 as a vice president financial advisor in Raleigh. Brian specializes in providing comprehensive wealth management services to high net worth investors, private foundations, and highly compensated executives. He's a graduate of North Carolina State University. He is a certified financial planner, chartered life underwriter, and certified wealth strategist. And he actually began his career with Dean Ritter in 1997. He's married. He has two kids, one in high school and one in college.

We also have Mandy Ritter. She's a senior lead for the wealth planning team at CAPTRUST. Mandy runs the centralized wealth planning service. She and her team of specialists provide advice on various planning concerns, including cashflow analysis, estate planning, retirement planning, gifting strategies, and succession planning. Mandy has been with CAPTRUST for two years and has held various roles in the financial services industry for over 20 years in both Charlotte and Raleigh, North Carolina, with much of her career focused on the personal financial needs of high net worth individuals. She's a certified financial planner, professional, and holds a bachelor of arts degree in English and communication studies from the University of North Carolina at Chapel Hill. Mandy lives in the Raleigh area with her husband and daughter. All three are avid Tar Heel fans and they enjoy attending games together in addition to playing with their dog, Merlin, and two cats, Luna and Minerva. So welcome to this webinar today, Mandy and Brian. Really appreciate your coming in to talk to us about trust and wills because that's what we are going to discuss today.

So let us get started. We have an unprecedented number of people that are in on this call today. And so let's go on and move to our next slide here. All right, so everybody is saying... I'm sorry, there are so many notifications that are coming in and telling me that there no more attendees allowed. Let me clear my screen for that very purpose.

All right, so today we are going to talk about trust and we are going to talk about wills. I just need this to go. Rachel, can you pop in and take us to the next slide, please?

Rachel:

Yes. Give me one second and then I will get that ready for us. All right, sorry, my system is moving a little bit slowly today as well. We have-

Debra:

I apologize for that, that we are at capacity. And we have never been at capacity before with our slides.

Rachel:

All right, let's go ahead. We should be good here. All right.

Debra:

Can you take me to slide 5, please?

Rachel:

Yes. There we go.

Debra:

Wonderful. And so when we look at an estate plan, it is a plan for managing assets during your lifetime and after you die. And it is a process of setting up how your assets and your property will be distributed upon your death. The most basic elements and where we are going to place our focus today is on trust and wills. So please be advised that there are other documents that you would need. And we have placed the 25 documents in the handouts. So you can either download that, and I would suggest you download that. We will add that to the recording that we send out. But it's easy to divert estate planning because it could either feel intimidating or simply not that urgent. But an estate plan can minimize the amount of taxes your estate and family will incur once you're gone. And so having a plan can create ways to take the success you've already had and extend it to your family, benefiting them not just years from now, but right now.

And so the first thing that we want to do is we want to uphold the audience. But before I do that, I want to level set by posing a question to both Mandy and Brian. Tell me, is estate planning only for those folks that have a high net worth or should everyone have some type of plan? I'll start with you, Mandy.

Mandy:

So everyone should have some type of plan. This is something that is important for everyone. And it's important to note that if you feel like you don't have a plan, you actually do. It's what the state says is your estate plan. So if you don't want the state to tell everyone who's getting what, then it behooves you to set up your own estate plan. So regardless of whether you live in an apartment and have a retirement account and a checking account and those are your assets, or if you own 12 properties and have an estate that's multimillion dollars, everyone should have an estate plan that covers their goals and their objectives. Otherwise, the state will decide for you. Brian?

Brian:

That's very well said. Either have a plan, or like Mandy said, the state or your local municipality is going to have some instructions that your beneficiaries, your heirs will have to follow. The process will typically take significantly longer to have your loved ones or the folks that you care about actually receive any inheritance that may be coming for them. So it's super important. I'm interested to see the results of the polling question, Debra, to see if folks are honest with their response because we know that all the studies show that this is one area that many of us want to address and need to address. And perhaps that's why this webinar is totally packed, right? And so-

Debra:

Absolutely. Absolutely that we've met capacity. And the other thing that you want to make sure, we're talking about trust and wills, but also when you think about your estate, think about everything that you have. Think about your employer sponsored plan. Make sure that you've named your beneficiary. So you might want to go back just to make sure you have a benefactor on file, if you have changed your marital status. Any changes that you've made along the way, you want to make sure that you're checking that beneficiary. So just after this webinar, make sure that you go back and check your beneficiary for your employer sponsored plan as well.

So let's get to the poll. Rachel, can you launch the poll for us because we just want to know when was the last time you reviewed your estate plan. Was it, "Earlier this year. It's been a while. Maybe about a year or so ago. You never looked at it again after your initial setup. Or, you don't have an estate plan"? So what are we seeing? What do you think it's going to be, Mandy?

Mandy:

I think it's going to be a split of, "I haven't looked it at after I initially set it up and maybe I don't have one."

Debra:

Okay. Let's see.

Brian:

I think it's maybe B, maybe-

Debra:

What do you think, Brian?

Brian:

Split between B and E, possibly.

Debra:

Ah, okay. Let's just see. Okay, we have so many people on here. Oh my gosh, I'm looking here. Let's see the results, Rachel. We've got a lot of information to cover. "I don't have an estate plan." That was like 66%. Oh my gosh.

Brian:

Right.

Debra:

Yeah. So after this presentation, hopefully you will see the need and you will do something expediently. Hopefully today after this presentation we can give you some information so that you'll be able to do that.

Okay, so let's go, let's move on. Let's dive into this topic today. So let's go to the next slide there. Some of the legal documents that we need, we're going to talk about each one of these. So the first question that I want to pose to you is, who would set this up?

Mandy:

You would have an attorney set this up. And it would be a trust and estate attorney. I have had clients that have said, "Oh, I'll just go to my buddy who's a real estate attorney and she can set it up." Or, "I have a friend who does family law and he can set it up." Do you really want to trust an estate attorney and somebody who is focused in that area of practice to set these documents up for you?

Brian:

I certainly agree with that, Debra. Certainly agree with that. I would add that it's important to engage with someone that is licensed in the state that you reside in. There are lots of other avenues where you can acquire these four key documents. There are some online services that, from what I hear, do a solid job and they're accepted in courts. But I think from our point of view, we would lean towards the opportunity to sit down with someone in person and build a relationship with them. This is typically conversation and topics that are pretty intimate and some of the most important decisions that you'll likely make in your lifetime. And so I would encourage you to seek out a local resource, an attorney that is licensed that has got some experience and specializes in trust in estates. And that'll give you the utmost confidence to know that your wishes are going to be carried out.

Debra:

Absolutely. So let's take each one of these and let's look at them individually. What is the purpose or the objective of having a durable power of attorney that is a durable financial power of attorney? What's the purpose of having that? Mandy?

Brian:

I can get started with that if that's okay.

Debra:

Sure.

Brian:

So what that is that gives someone the legal right to make financial decisions on your behalf. And so, this would be just a quick example is let's say that you're married and the home is in one spouse's name only and the mortgage is in that spouse's name only. And then that spouse becomes incapacitated for whatever reason, can't make financial decisions, they need to address some aspect of that particular asset, say your home, maybe you need to refinance the mortgage, or maybe you just have a question about a mortgage payment. Legally, the bank in that case can't talk to the spouse who's not on the deed. And a financial power of attorney just, again, gives the person that you're giving that right to the ability to make financial decisions for someone else if they're incapacitated.

So I'm sure you could imagine lots of reasons why that could possibly come into play. It's really important that you select someone there that you trust because the responsibility that comes along with that. But there are those some hopefully rare occasions in life where there's a need to make financial decisions on someone else's behalf when they cannot, and this document allows that to happen.

Debra:

So on this document, before we move to the next one, can you make changes to this document? Do you have to get another power of attorney before to make a change or can you just make a change on the one that you already have? How would that work?

Brian:

Well, with this document, I mean, I think from a legal standpoint, now I'm not an attorney so I'm not giving legal advice, but it's my understanding that this document would go on in perpetuity until you revoked it. It's also possible that the attorney could add a time parameter to the document, where it said, "Hey, this power of attorney is good for this period-"

Brian:

... to the document right where it said, "Hey, this power of attorney is good for this period of specific time." But in general they go on until you revoke it and certainly you could make changes or revoke it at any point, but it's basically just giving someone the legal authority to make financial decisions on your behalf. You could be out of the country, you could be in a hospital bed, you could be totally incapacitated or you could be perfectly fine, but you trust someone else and you give them the ability and authority to make financial decisions for whatever reason that you cannot. There are plenty of stories that I could ... I don't want to take up too much time just on that one topic to express the importance of it, but I'm sure that we could all imagine those instances where we just, for whatever reason, we're not in a position where we needed to make a financial decision and there was a specific time you needed to make it.

If that happens, the court has a remedy for this. They'll go in and they'll essentially look at the case and then name someone as a financial power of attorney. But that typically takes months. It takes weeks and months for that to happen.

Debra:

Sure. That's why it's so important when you have your documents that you have your documents in one place so that those documents can be readily accessible. If you're keeping them on a computer or you have a disc drive or if you have a place that you're keeping them at home in a lockbox or something, make sure that you keep your papers in a file so that everyone can get to them. So some things are not over here, some things are over there, but everything is in one central location. Anything you want to add to that, Mandy?

Mandy:

No, Brian did a great job with that. I think that's the best way to talk about a financial power of attorney.

Debra:

Let's move on to the next one. Now we looked at the medical power of attorney, want to make sure you have that in place. First we talked about financial and that's what Brian was talking about. Let's look at the medical power of attorney.

Mandy:

The medical power of attorney is a similar document, but it allows someone to make decisions about your medical care on your behalf should you not be able to do so for yourself. You're in the hospital and somebody needs to make a decision about a medication or even to pay a bill, hospital bill. That all comes to play. If you can't do it yourself, you need to name a medical power of attorney. This is especially important in light of ... I'm sure everybody's heard of HIPAA. It's the Health Insurance Portability and Accountability Act. It became effective about 20 years ago, so I'm sure people have heard of that. But because of HIPAA, that makes this a much more important document.

You're not going to be able to walk into a hospital or a doctor's office and get information on a loved one if you do do not have medical power of attorney. That includes your adult children. When you have children that become 18 and they go off to college, it's very important that if you would like access to pay medical bills or be able to help make medical decisions if something happens to your child, it's important to have a medical power of attorney set up for your adult children in the college age. Brian, you've had some experience with that here recently, right?

Brian:

I have. We have a freshman and it is interesting that they expect mom and dad to pay the tuition, but for us to have any access to information, we have to have these documents in place. Certainly for the situation where if something were to happen and mom or dad needed to help from a medical standpoint, super important, but also from the financial side. Legally all I'm entitled to do is write a check and send it to university, but I can't necessarily see the grades and see some other things behind the curtain. This would allow us to do that.

But then also just kind of piggybacking on your point there, Mandy, I actually this morning spoke with a client that unfortunately her ... they're in their late 70s and her husband has some memory loss issues and that is continuing to progress. We had a conversation today about these very documents and how important that that will be if they're in a position where he's unable to make some of those decisions in the future and she needs to step in and be able to help out. So important document, worth the time and investment to have these things in place. Hopefully they're never needed, but the peace of mind to know that if and when they are, that you're ready and prepared.

Debra:

Walk us through about the living will and a will. Let's talk about that a little bit. When would you need to have that living will in place? Of course while you're still living, but tell me about the objective, the purpose of having that.

Brian:

Typically a living will is also focused on healthcare and medical events. A healthcare power of attorney gives someone else, typically a family member, a spouse, maybe a brother, a cousin, a son, a daughter, the ability to make healthcare decisions for someone. But a living will is a document that basically states your intentions for the actual, say, hospital or a place where you're going to receive care. A living will are typically things like do not resuscitate, those sorts of decisions where if you want to go ahead and set those decisions in place for yourself and let that be known for wherever. You may, say, have to go to an emergency room or a hospital situation, that is the document that is actually going to inform that institution of those serious medical decisions that you may want to go ahead and make yourself rather than leaving them or placing that responsibility on someone else like a spouse or a family member.

Mandy:

There's a very famous case back from the early two thousands you all may have heard of, it was the Terry Shiva case out of Florida. She had had a heart attack and had gone to the hospital and she was diagnosed to be in a continuous vegetative state. She had not made a living will, so there was no direction for her family to follow to say, "Hey, I don't want to prolong my life via feeding tube if I am declared to be in a continuous agitated state." It had to go to the court between her husband wanted to pull the feeding tube once it was determined that she would not recover, her parents did not want to pull it. It got all the way up to where at the time President Bush weighed in on it. It was years in the courts before they were able to make a decision and finally allow her to rest in peace.

If she had had a living will, those directions would've been made very, very clear and would not have ended up in the court case. That living will is very important to let everyone know what your intentions are for how you would like to pass away. It's an uncomfortable thing to talk about, a sensitive thing to talk about, nobody likes to talk about it, but it is something that is very important. It also can be ... some states call it an advanced medical directive, so there's some other names for it, but it's all the same document. It's your declaration for your desire for natural death and how you would like that to be handled.

Debra:

Then, of course, we're looking here at a will and we're going to spend a lot of time talking about wills. Tell us about a will and what is the objective? Why have it? Is it state specific? Do you need to take that into consideration when you're getting your will?

Mandy:

Sure. While the medical power of attorney allows people to make medical decisions for you, the financial power of attorney and allows people to make financial decisions for you while you're still alive, that declaration for a natural death, that living will or advanced medical directive, all of that is while you're still alive, the will is the document that says what happens to my assets in the event when I pass away. It can be as specific as "I want my antiques to go to my sister and I want all of my assets that are not part of my retirement plan to go to my brother. I want my car to go to my cousin or I want everything, all to go to my kids."

If you have minor children, the will also lets the court know who you would like to care for your minor children. It sets up a guardian for your minor children and that's a very, very important piece. Again, if you don't say who's going to take care of them, the state will make that decision for you.

Debra:

Let's move to the next slide, Rachel.

Mandy:

So there, names the guardian for minor children. Thing to keep in mind there is naming a guardian for a minor child is wonderful. You want to name at least two because the person named initially does not have to accept it. You want to have that conversation ahead of time, make sure they know that you are asking that of them. But even in the moment they can say, "This is not something that I can do", so you always want to have a backup. This document's going to name the guardian for the minor children. It's going to direct assets that do not already have a beneficiary and talk about where they're going to go. Assets can pass to folks in two different ways. It can pass via beneficiary designation. If you think about your retirement plan, like Debra mentioned earlier, you want to make sure that you say who the beneficiary is and you want to name a primary and you want to name a secondary.

Life insurance policy, right? Life insurance policies would have a beneficiary designated on that account. Assets that are held jointly. Assets that are joint with your spouse, those all will pass directly to the surviving person without having to go through the will. Anything that doesn't fall in those categories of beneficiary designation or joint, that is what the will directs. Anything that's not part of those other pieces, the will is going to direct where that goes. Brian, would you add anything about just the purpose of the will and what it does?

Brian:

I think just at a high level, a will says "This is what you do with my stuff" and then also gives you the ability to appoint some really important people. If you have minor children, that's pretty important of who you would trust to take care of them and make a lot of those big life decisions. Also, a will appoints the executor of your actual state and who's going to kind of help carry the will out in addition to the court or the state that you live in. The executor plays a really important role and like Mandy said, you want to have a conversation with that executor to make sure that they're kind of going to be up for the task if that were to fall to them.

But as Mandy also said, there are some really important things that a will doesn't do, and that would be things that you can name a beneficiary on. Maybe it's life insurance policies, retirement plans at work, 401(k)s, a 403(b), or it could be an IRA. Those types of accounts, you can name your beneficiaries. Then also you may own property jointly. You may own your home with your spouse or you may have a joint checking account. Those assets are typically going to go to the joint owner immediately and right away if the joint party passes away. But in general, a will is this is what you do with my stuff and then it gets distributed and that's it. Perhaps that could be a segue to another document, a tool that we would typically use to partner up with a will that allows you to have more ongoing control after your things are distributed.

Debra:

Absolutely. Let's go to the next slide because we are throwing a lot of terms around and for the listening audience, I want them to be able to see what these terms are and to know what role the people that they have that they decide to name as the executor. What does it mean for it to go to probate? Who is a testator, who is a trustee, who's a trustee? Just some key terms here that we've placed so people will know who these people are. Can you kind of start with that, explaining some of those things, Mandy?

Mandy:

Yeah, I'll start with the executor. The executor is the person that you name and they're responsible for managing the affairs of the deceased person's estate. That can be everything from when somebody dies, you have to inventory their assets. You need to make a list of everything that they have. Bank accounts, retirement accounts, real estate, furniture, jewelry, the list. You have to inventory their assets.

Mandy:

... picture, jewelry, the list, you have to inventory their assets. All this is public. So you would publish the death and all the assets in a local newspaper, or now there are online ways to do that. You have to pay the debt or taxes, any taxes or debt owed on the estate or that the deceased person owed. And then you distribute what is left according to the provisions of the will. So, again, this antique goes to my sister, this car goes to my brother, these assets go to my kids, et cetera. And then the last thing an executor does is files a federal and state income tax return for the deceased person. So the year that they pass away, they're going to have to file an income tax return just as if they were alive. You just file it under the deceased's name. And then the estate itself also has a tax return that should be filed.

So that is the responsibility of the executor. So, again, you want to check with the person to make sure they're okay with doing that. You might want to name a backup in the event that at the time this happens the executor is unable or unwilling to serve in that position. It's important to have a backup as well. My uncle actually called me a few months ago and asked if I would be the executor on his estate. We had a nice long conversation about that and it was appreciated that, that was not going to be a surprise for me.

Debra:

Sure, sure. Yeah, you want to have that in place and to know who you're going to choose for the executor. Brian, tell us a little bit about probate.

Brian:

So probate is really the process of making sure that the wishes are carried out. Typically, it's done in the court system and the probate court is going to make sure that the debts are paid, as Mandy said, and that assets are distributed according to the way that the will's written. And then also, if there are other accounts, asset based accounts that you name beneficiaries like retirement accounts, life insurance, et cetera. All that just gets sorted through. And so you can imagine that if you don't have a will. The average estate actually takes about 16 months to settle and so going through a little pre-work to make sure that everything is going to go the way that you want it, can drastically cut down that time to less than half of that for the average estate that has a plan in place.

And so the probate process is just making sure that all the I's are dotted and T's are crossed, that the will is going to go the way that is written. Or if you don't have a will, you're still going to have to go through probate and the court system's going to figure all that out. And you can imagine how long that can take and the challenges and problems that go with that.

Debra:

And I just want to stress that everyone needs to have a will in place.

Brian:

Yes.

Debra:

Let's go to the next one, testator, the trustor, and the trustee, and then we want to talk about trust. So let's talk about that and we'll go into that next slide after you talk about that.

Mandy:

Yeah. So the testator, that's probably the easiest one on here. It's the person who makes the will. So if I'm drawing up my will, I'm the testator for my will. My husband is the testator for his will. It is just the legal term. It's a funny word, but it's a legal term that says, "This is the person who's making the will."

Brian:

Sure.

Mandy:

Very easy.

Debra:

Brian, you want to touch on trustor?

Brian:

Yeah. The trustor is, if you actually create a trust, it's the person that funds the trust or puts property inside of it. So we're going to talk a lot more about trust here in the next few slides. But the trustor is the person that puts things inside of the trust and brings it into being.

Mandy:

And then one other term that you'll hear when we start talking about trust is trustee. That's the person who is appointed usually by the person who creates the trust. So if I'm creating a trust and I'm the trustor, I would say, "Brian, you're going to be the trustee. You're going to take care of all of the assets that are held inside of that trust, either at my passing or at my incapacitation or whatever the case may be." But it's the person who manages the assets in the trust.

Debra:

Great. All right. So let's dig into, we've talked about wills, estate specific. You're naming an executor, gathering all of your documents, bringing all of that together. You want to do that. Make sure you have a conversation with the person that you want to act in these different roles. Like Mandy said, her uncle called her and told her what role he wanted her to play in the event of his demise. So let's talk about trust. Let's go to the next slide, Rachel. So here we have it, revocable and irrevocable. Can you just start with telling us the difference between the two without stating the obvious, of course? We know one is revocable and can be changed and one is irrevocable, it can't be changed. We already know that, so we're starting at a level playing field, but can you tell me some of the other intricacies that are involved?

Brian:

Sure. I'll kick that off, Debra. I think the main thing, I want to go back to just tie in how trust possibly works hand in hand with wills. So a will says, "This is what you do with my stuff," and then it gets distributed and that's it. And so what a trust can do is that, after that stuff is distributed, it can provide ongoing control or ongoing instruction. And so, for example, in my case, I have a 15-year-old daughter. And, in our state, a 15-year-old can't legally really direct and control assets like an investment account or a bank account to that degree. And so if something happens to me and assets were to flow into a trust, I could provide ongoing control and instruction for that minor child. And so trusts provide that ongoing control.

And then there's two types of trust. One that you can make changes at any point, as Debra said, that's the revocable trust. And then there's another type where you can't make changes after it's established, and that's on purpose. A revocable trust is treated from a tax standpoint as it's treated as you, it uses your social security number, versus an irrevocable trust has its own tax ID and becomes like its own individual, like a person. And so there's obviously some distinct differences between the two in the way that those tools could be utilized to help solve problems or create the landscape that you want. But in general, one you can make changes to and the other one that you can't, and the one that you can make changes to is treated just like you are from a tax standpoint. And the one that you can't make changes to is treated as a different taxable entity.

Debra:

Let's go to the next slide and talk a little bit more about revocable trust. Mandy, want to take that one?

Mandy:

Sure. So revocable trusts are very, very common and they are trusts that you set up during your lifetime. Again, as Brian pointed out, they are an extension of you so they do not have to file their own tax return. They do not have their own tax structure. It utilizes your social security number and it provides for instructions for all phases of life. So it can compliment both your financial power of attorney and your will. So what a revocable trust does is it says, "Okay, I am taking my assets. I'm creating this revocable trust and my assets are going to go in this revocable trust. And when I pass away, rather than going through the probate process, we're just going to name things out through this trust." And so it's going to help reduce cost of the distribution of an estate because anything inside that revocable trust does not go through probate.

It keeps your estate from being public. So again, we talked about the executor having to do an inventory and posting that online or in the newspaper or whatever. Anything that's held inside that revocable trust does not go through that process. And then, furthermore, so once the person passes away, nothing about that trust can be changed. So once you pass away, you can't make any changes. So it becomes irrevocable automatically. And at that point it says, "All right, now that we know where things are going, kids are going to get this." It can set up care for pets. There are lots of folks just like me who love our pets, and if something were to happen to me, I want to make sure they're well taken care of. And so I can say in my revocable trust, "Here is a pot of money that's going to go towards the care of my pets, and this is who's going to care for them and this is how they're going to be cared for." And that's named in the trust document.

A lot of people in their revocable trusts go ahead and say, "If in the event one of my beneficiaries, one of my kids is special needs or in a situation where they're incapacitated or special needs, here's how the assets need to be kept aside so that they can still get Medicaid benefits and things like that. But we're going to hold them aside and here's how they're to be cared for, and here is how these assets are to be used." The other way that this revocable trust at death can become irrevocable and be helpful is, as Brian has mentioned in the past for minor children, if you've got a minor child that cannot inherit, cannot inherit assets, they legally cannot have an account with their name on it, this establishes a way to hold those funds aside separately for them, but also indicates how those funds should be used for their care.

A very common verbiage that's used in these is we want funds to be used for the beneficiary's health, for their education, for their maintenance and support. That's a very broad brush way of saying, "We want, our intention, as the people who have left this money, our intention is the care of our children or grandchildren or whomever." You can get really specific. So your trust can simply say, "All right, once I pass away, here, everybody gets their money outright. Here's a little bucket of money for pets. We're done." But it can go on longer and say, "All right, if they're a minor child, here's how we're going to care for them, and we're going to keep it in trust and we're going to continue to care for them in this way until they're 30. And then, at 30, they can get a portion of the remainder of the assets. And then at 35 they can get a little bit more, and at 40 they can get the rest."

So you can be really, really specific and really direct how you want your assets to flow even beyond just who it goes to, but how and when people are able to access funds at your passing. Brian, do you want to talk a little bit about the additional asset protection as well?

Brian:

Yeah. So you have asset protection for beneficiaries. If I have a living trust and I'm still alive, then those assets are still viewed legally as under my control and part of my estate. But if I pass away, those assets are in a trust and then my children are the beneficiary of that trust, and then one of my children has a car accident and it's their fault and they get sued, those assets in the trust are protected from that lawsuit. They're creditor proof for the beneficiaries of the trust, so a really valid, important reason to consider their application and to want to use them. But like Mandy said, I think, in general, the theme is ongoing control, the ability to have ongoing instruction, and really certainty of how you want this to be used. It could be a short period of time, an intermediate period of time, or an entire lifetime for someone.

Hopefully, you try to set things in place to give people the best probable outcome, and this can help do that. It just is going to really help ensure that your wishes have the very best probability to come true in terms of their outcome, and allows for that ongoing control and instruction that a will just simply doesn't provide. A will says, "Distribute it," and then it's done. And then, again, a trust allows that ongoing instruction and control.

Debra:

That's great. So let's go to the next slide, Rachel, because I want to talk about the problems with an outright inheritance. Let's talk about, what is it? So if someone might say, "Can I just go ahead and just put my kids on my accounts? Can I just put my kid on my deed?" Talk about the problem with just doing that without...

Debra:

Talk about the problem with just doing that without doing that within a trust. And then we'll go to the next slide that'll show some various topics. Why we leave an inheritance and where we leave that inheritance.

Brian:

Sure.

Debra:

Should I start with [inaudible]?

Brian:

Take that off, ladies first.

Mandy:

I can start that. So just putting your kids just as a joint owner on your account, we see that a lot, honestly. And that is... It can be dangerous for a couple reasons. One, if they are a joint account owner, that means technically they can make decisions on that account without your permission. So if I put my daughter on my account, she could go in and write a check and empty the account and there's nothing anybody could do about it. So putting a joint owner on the account can be a little bit dangerous. For things like a house or something like that where they can't write a check and go get assets putting joint a child on as a joint owner on that, the house, yes, would pass to them, but when you pass away, everything's valued. Remember we talked about the executor had to create an inventory and a value for every asset in the estate.

So when an estate is valued, so an assets, let's say a house for example is valued, the portion that is passing onto the next person gets what they call a step-up in basis. So if you bought your house for a hundred thousand dollars and it's now worth $200,000, the person who's receiving it now has it for $200,000 and they sell it for $200,000. They don't owe any capital gains tax on it. You've got a joint account owner, they already own a portion of that basis, so they already own 50,000 of that original $100,000. So if I'm on my mom's house and she passes away, I only get half of that step up.

So it can create some issues when we're talking about assets that need to be sold and what we're going to pay capital gains tax on, et cetera. Having the joint ownership does avoid probate, but it does interfere with the advantage of being able to get a step-up and date this. It also becomes part of that person's estate in and of itself. So if I'm on my mom's house and I die, then that's part of my estate, and then we got to deal with that and that was not the intention. So it's better to have a will and have things passed through the will and or set up a revocable trust and have things governed that way.

Debra:

Yeah. Let's stay right here, Rachel. And now we're going to talk about where you're going to leave that inheritance, leaving it in a trust and in talking about the protection for remarriage or creditor. So can we start talking about that, Brian?

Brian:

Sure. So yeah, I think this is a great visual in terms of thinking about applications with trust and leaving money in a trust. So remember if someone inherits things and the will says, "Hey, this goes to John," and let's say John is married and then that doesn't work out and then his spouse takes half of John's stuff, a trust could help prevent that. John could be the beneficiary of that trust, but John's spouse is not specifically named as that beneficiary. And so you've got a lot... Divorce protection is a big deal, unfortunately. Something that this can help alleviate those issues. Bankruptcy is another issue. Someone could have some really challenging times financially or maybe it's a business that just doesn't work out. If you've got assets in a trust, they're going to be creditor proof with other things that could be going on in a bankruptcy that might relate to you personally or a business that you own.

But if you have assets in a trust, that's not going to be related to that and that can help protect it. And then we had mentioned earlier too about those examples of maybe there's a car accident or there's some other issues why you may be getting sued. The assets within a trust can be creditor proof, so you've got some legal protection there. So legal protection for things that might not go well, personally, that can lead over into the financial side of things. You can just have a lot of peace of mind that if you have assets and a trust, that it can avoid a lot of those calamities.

Debra:

Wonderful. Anything else you want to add to that, Mandy, or can we go to the next slide?

Mandy:

We can go to the next one.

Debra:

All right. Let's go to the next one and let's look at these key takeaways. Of course the first one is gather your documents. Look at that 25 documents handout that is inside of this attached to this presentation due as a PDF. Establish your goals and integrate them into your financial plan. Consult with an attorney or we've just finished with about 66 benefit fairs and we know we see that the companies with their benefits, they might have legal services or you might want to go to EAP to direct you to where you can get information about setting up a trust or setting up a will.

But we strongly suggest you look at a probate attorney and keep in mind we're talking about trust and we're talking about wills, looking at the complexities of what you have as to whether or not you would have a trust or if you would have will and then call CAPTRUST to discuss your financial goals. You may not have a question about your trust or your wills. Are you trying to look at your finances and getting that in order? Please don't hesitate. We are a resource, a part of your benefits package and we can help you as well.

We're at capacity with over about 3000 people that are on this call. So we couldn't take individual questions that we want to answer your questions as best we can reach out to our advice desk. If you have questions about your financial plan, we can run a blueprint for you and we can see where you are, what assets you have to give and to put inside of a trust or to put inside of a will. We can definitely help you with that, but we strongly encourage you to reach out to an estate attorney for that.

But I do want to just to clarify, there are a couple of questions. Let's go to the next slide. If someone is... I've got a question from some of my colleagues. If someone is say they're 26, do they need a trust or do they need a will? We've talked about a trust being as detailed as it is with the will going to probate court. So what are we suggesting that they look into having a trust or a will? What are your thoughts on that?

Mandy:

I think everybody needs a will. So that is the takeaway. So regardless of your age or the amount of financial assets that you have, you should have a will to direct where your assets will go, as Brian says, "Who gets your stuff?" And then whether you need a trust on top of that or not, really depends on what your goals are. It also depends on your asset level. If all of your assets are in your retirement account and your assets consist of a retirement account, a checking account, and a home in a car and maybe what's in your home, a revocable trust might not be necessary, but a will is definitely necessary. As you accumulate more assets that don't have that beneficiary designation, that's when you would want to start adding that revocable trust. As you have other heirs, kids or things that would want to, where you would want to control assets for a little bit longer until they get a little bit older and can manage those assets on their own, you would want to add that trust piece to it. Brian, would you add anything?

Brian:

That's well said. I think that with a 26-year-old when I was 26 I just needed to make sure that I had the beneficiaries named for retirement accounts. And then you want a will because hopefully starting to accumulate some things. Maybe it's just a car, maybe it's a car and a checking and a savings account, but you still want a will, because if you don't have it, probate is going to take months. It's going to be some expense. And I think it's a really simple way to address that reality and have the peace of mind that it's done.

And so those four key documents I think for any adult are really important. And that's the will, the healthcare power of attorney, the living will, and the durable financial power of attorney. Those four things, any adult needs that. You can get it done anywhere. Now, I think we would prefer an advisor to sit down with a pro that's licensed in your state, but you can get it done anywhere now, and those four documents will give you the peace of mind that everything's going to go as you want it. And then as you maybe have a little bit more complexity, and certainly with minor kids, a trust is going to be much be very appropriate.

Debra:

This is a very good point that you hit on Brian. There are a lot of people that'll think, "What about LegalZoom, their advertisements? Can I go online and make my will? Will it be recognized in a court system if I just went online to LegalZoom or any of the other places that you can go online and do that? How would that work?"

Brian:

It's my understanding that those documents are being accepted across the country, but if you have just a little bit of doubt, you know that you can sit down with a pro locally and get it done with a living, breathing attorney, hopefully in your town where you live. That's always the possibility. But it is my understanding that a lot of the online resources are adequate and accepted.

Debra:

Absolutely.

Mandy:

I would say the only thing I would add to that is as long as those documents are properly executed. So you want to make sure that even if an online source draws up the document, you want to make sure it's signed, that you have the appropriate witnesses as required, and that it's notarized as required. That's where a lot of people miss. It's the dotting of the I's and the crossing of the T's. And if you're with an attorney, when you go to do those documents, they'll sit down with you, they'll have the witnesses available, they'll have the notary available, and it'll all be taken care of. So just something, if you go online, make sure that you're following it to the very end of the process, which includes having it notarized, having it witnessed, and that kind of thing.

Debra:

Well, thank you both so much. This has been a plethora of information. I want to put up the next slide, and as I put up the next slide, which it'll give information to reach out to CAPTRUST, you can schedule an appointment, go online to captrustadvice.com, set an appointment, 30 minute increments. Monday through Thursday, 8:30 AM until 8:00 PM. Friday, 8:30 AM until 6:00 PM or you can call us directly 8:30 AM until 5:30 PM, Monday through Thursday. On Friday, 8:30 AM until four o'clock. And so while this slide is standing there, I just want to get your closing thoughts, anything you want to leave with our listening audience, Brian or Mandy? Start with you, Brian.

Brian:

Well, I would just say thank you for this opportunity to join you guys and talk about this important subject. I would say for anyone listening or watching, just know and have confidence that the team here is we're standing by and ready to help. I mean, this is what we're trained to do is have these conversations with you. It's tough in this setting because we have to be so general, but when we talk with you one-on-one, we can figure out exactly what's going on, exactly what your objectives are, and we can help you coordinate and execute on that and get it done. So take advantage of the resources that are there available to you. We're looking forward to those conversations with you guys.

Mandy:

Well said, Brian. And the only thing I would add is again, thank you for the opportunity to chat with you all today and don't put it off. I know that these are uncomfortable things to think about. They're uncomfortable things to do, but don't put it off. These are so very, very important.

Debra:

Absolutely. And again, this webinar is being recorded. It will be sent out within 24 to 48 hours that you'll be able to listen to it again, make sure that you get all of the documents that you need to get. So again, thank you very much. I hope you have a wonderful day and stay safe out there. This ends our presentation.