



ROAD MAP

- Presenter Programs and Services
- Benefit of Financial Wellness
- Capacity and Diminished Capacity Definitions
- Capacity Under California State Law
- The Capacity Trap
- Planning
 - What and Who You Need to Plan
 - Benefits of Planning
 - Caregiver Considerations
- Securing Your Assets from Fraud
 - Reducing Vulnerability
- Sharing Your Plan
- Questions



Council on Aging - Southern California

Helping Seniors Remain Healthy, Connected & Protected

Advocacy & Protection



Ombudsman

a Program of Council on Aging



HICAP

a Program of Council on Aging



Senior Protection & FAST

a Program of Council on Aging

Socialization & Wellness



Friendly Visitor

a Program of Council on Aging



ReConnect

a Program of Council on Aging

Education & Outreach



SmileMakers

a Program of Council on Aging



Answers

a Program of Council on Aging

Promoting the independence, health and dignity of adults through compassion, education and advocacy.

The Facts:

- 290,000 Seniors Served Annually
- 80 Employees
- \$4,600,000 in Revenue
- 77% from Government Funding
- Balance from Individuals, Foundations and Corporations





601 Civic Center Drive West, Santa Ana, CA 92701
(714) 541-1010
www.publiclawcenter.org

The Public Law Center (PLC) is a pro-bono law firm that provides access to justice for low-income residents of Orange County. PLC provides free legal assistance in the following areas of law:

Family

Housing

Health

Immigration

Consumer

Veterans

Small business

Elder justice

The Facts:

- 40 Staff Attorneys
- 1,600 volunteers
- Annually:
 - 65,000 hours of pro bono legal service
 - 4,500 cases
- 2019: legal assistance to 500+ adults over the age of 60



FINANCIAL WELLNESS WHAT IS IT?

- **COMMON UNDERSTANDING**
 - Definition:
 - Improving your relationship with money
 - Process:
 - Accumulating wealth through sound investments

FINANCIAL WELLNESS WHAT IS IT?

- **TRUTH**
 - Financial Wellness requires a comprehensive financial plan that considers not only wealth accumulations but also **the ways that wealth and income affect our emotional and physical well-being**



FINANCIAL WELLNESS BENEFIT

AVOIDING THE CAPACITY TRAP

PUBLIC  LAW CENTER

 **Council on Aging**
Southern California

FINANCIAL WELLNESS CAPACITY

- **FINANCIAL CAPACITY**
 - Ability to manage money and assets to serve an individual's best interests
- **DIMINISHED FINANCIAL CAPACITY**
 - Decline/loss of this ability can increase vulnerability to fraud and other forms of financial abuse



**FINANCIAL
WELLNESS
LEGAL
CAPACITY**

- **Determined by a court of law**
- **California State Law:**
 - PRESUMED
 - COMPLICATED



**FINANCIAL
WELLNESS
LEGAL
CAPACITY**

- **PRESUMED**

- Beneficial:

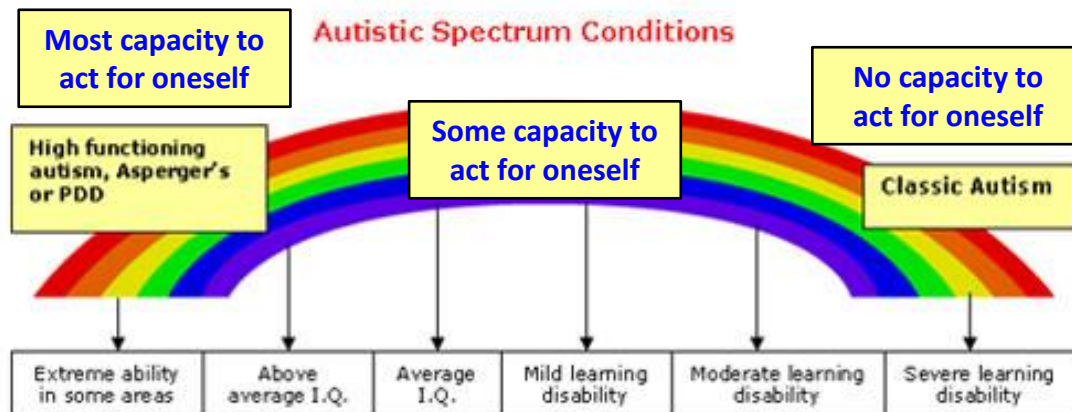
- Preserves our right to self determination/autonomy

- Harmful:

- Can make decisions, good or bad, about life, property, and assets until a court of law says otherwise
- Increased vulnerability to manipulation or being scammed out of money or property

FINANCIAL WELLNESS LEGAL CAPACITY

- **COMPLICATED**
- In California, capacity is based on a spectrum much like Autism
 - An individual may have the capacity to do one thing but lack capacity to do another
 - The required capacity to partake in a legal action **depends on the action itself**



FINANCIAL WELLNESS CAPACITY

“CAPACITY TRAP”

- Capacity is often at the center of financial abuse allegations
- Obtaining a legal determination of capacity:
 - Long, drawn-out process
 - Costly to all involved
 - Emotionally
 - Financially

FINANCIAL WELLNESS

So how do we avoid
falling into the
capacity trap?

One solution
is to practice
Financial Wellness.

**FINANCIAL
WELLNESS
GET A
PLAN**

WHAT YOU SHOULD HAVE

– **WILL OR TRUST**

- Distribution of your assets

– **POWER OF ATTORNEY**

- Manage your property, assets, and personal care

– **ADVANCE HEALTHCARE
DIRECTIVE**

- Manage your medical care

WILL OR TRUST

- **WILL**
 - Distributes your assets after you pass away
- **TRUST**
 - Generally, your assets are transferred to the trust and administered for your benefit during your lifetime
 - When you pass away, they are transferred to your beneficiaries

POWER OF ATTORNEY

- **WHAT**
 - Grants power to another person to make financial decisions on your behalf
- **WHY**
 - Gives a trusted person the power to help you manage your financial decisions if you become unable to do so
 - If you do not have a POA, may need a “Conservatorship”
 - Long, costly, and public court process
 - Can strip you of your autonomy
- **WHEN**
 - You decide!
 - Can give trusted person immediate or future power

POWER OF ATTORNEY

- **AGENT**
 - WHO
 - Someone you trust
 - May designate more than 1 person
 - Financially sound
 - Avoid high conflict personalities
 - Understand and willing to accept **both**
 - Responsibilities
 - Fiduciary Duty

POWER OF ATTORNEY

- **AGENT**
 - DUTIES
 - Act in your best interest
 - Retain records
 - Stay in contact with you
 - TASKS
 - Personal Care
 - Where you will live
 - Hiring household employees
 - Financial
 - Access your financial accounts
 - Pay your bills
 - File/pay your taxes

ADVANCE HEALTH CARE DIRECTIVE

- **WHAT**
 - Grants power to another person to make medical decisions on your behalf
- **WHY**
 - Gives a trusted person the power to help you manage your medical decisions if you become unable to do so
 - If you do not have an AHCD, may need a “Conservatorship”
- **WHEN**
 - You decide! Immediate or future power
- **HEALTH CARE DECISIONS**
 - Agree to, say no to, change, stop, or choose:
 - Doctors
 - Medications, tests, or treatments
 - CPR, dialysis, feed tube, etc.
 - End of life care
 - Spiritual leader, dying at home or in hospital
 - What happens to your body after you pass away



FINANCIAL WELLNESS BENEFITS OF PLANNING

Lessening of stress and anxiety naturally improves both our emotional and physical well-being to foster financial wellness

FINANCIAL WELLNESS BENEFITS OF PLANNING

- Alleviates fear about what will happen to us should we become unable to manage our own affairs
- Eases anxiety of those who love and support us
 - Plan provides “directions” to follow
 - Not forced to make hard decisions
 - Life sustaining care
 - Selling the family home
 - Asset distribution

FINANCIAL WELLNESS BENEFITS OF PLANNING

CAREGIVERS

- Planning for your self can help avoid using someone else assets for your own needs
 - Most caregivers start out with good intentions then a financial/personal/medical disaster may trigger bad decisions
- Keep and share CLEAR records
 - Transparency can avoid legal issues later on
- Pay yourself a reasonable wage for your services
 - Use an affordable payroll service



**FINANCIAL
WELLNESS
BENEFITS
OF
PLANNING**

**Securing
your
assets
from fraud**

FINANCIAL WELLNESS BENEFITS OF PLANNING

DECREASED VULNERABILITY

- **Research indicates:**
 - People with dementia are at greater risk of elder abuse
 - Approximately 5.1 million Americans over 65 have some kind of dementia
 - Approximately 50% of all people over 85 have Alzheimer's disease or dementia
 - Close to 50% of people with dementia experience some kind of abuse
 - 47% of participants in 2010 study on dementia and abuse were found to be mistreated by caregivers.

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FINANCIAL WELLNESS HAVE THE CONVERSATION

Once you have a plan, share your wishes with any others who will be affected



FINANCIAL WELLNESS HAVE THE CONVERSATION

Especially important if:

- Known disagreement amongst family members:
 - Adult children cannot agree
 - Adult children do not agree with current spouse
- Examples:
 - Sale of childhood home
 - Sale of family vacation home
 - Distribution of valuables such as jewelry, art, pictures



FINANCIAL WELLNESS

Planning ahead,
while not
foolproof, may
help you stay in
control of your
finances and
avoid the
capacity trap,
even in the face
of diminished
financial
capacity

**FINANCIAL
WELLNESS**

Questions?