



Securing the Future: Legal and Financial Tools for Seniors

Cathleen Summers, RN, JD
Summers, Summers & Associates, P.C.
Acton, Massachusetts
978-263-0006

This presentation is meant to be a general overview of estate planning and should not be considered as legal advice. You should consult an attorney in your state to determine the legal requirements for your individual situation.

Basic Estate Planning

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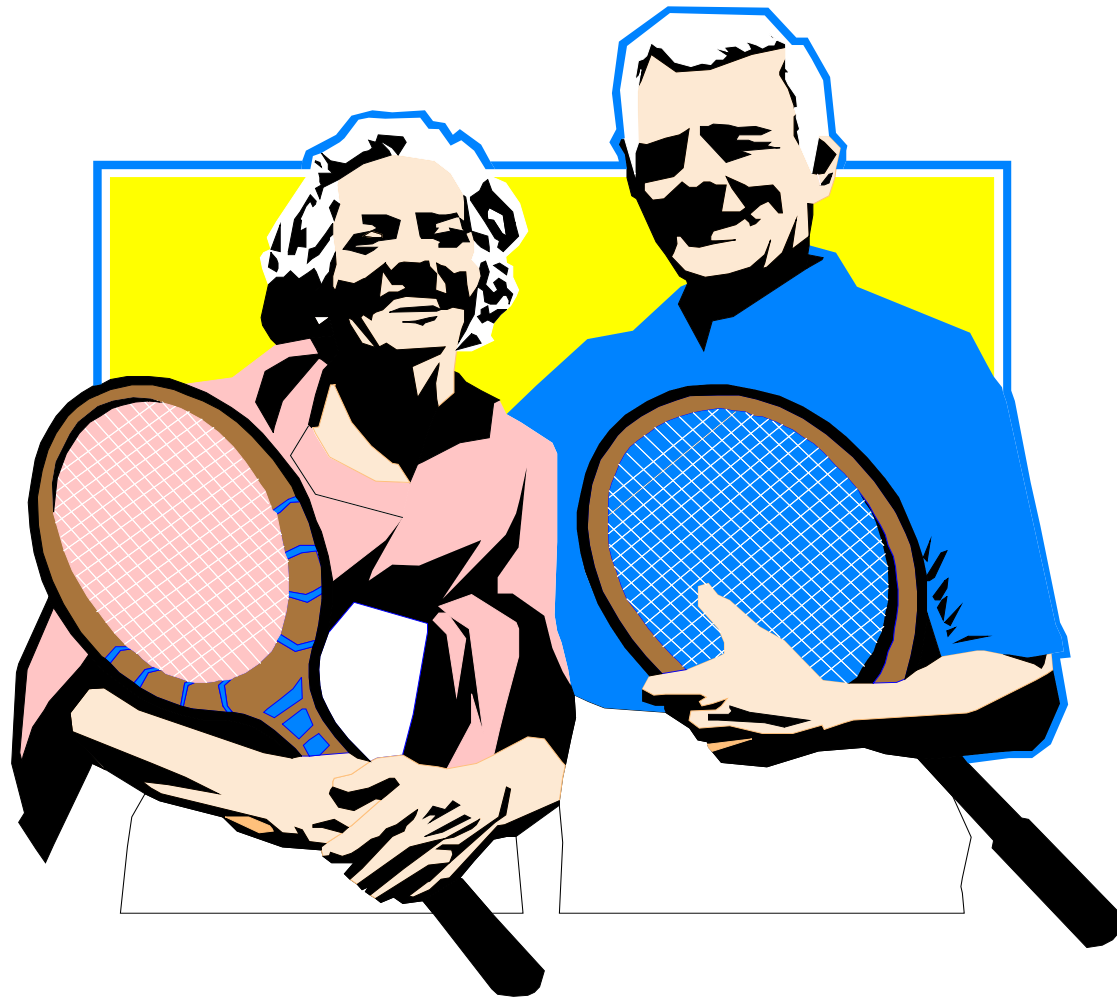


- Will
- Durable Power of Attorney
- Health Care Proxy
- Living Will
- Declaration of Homestead
- Trusts



The Bernie and Phyl Story

Phyl and Bernie



Sally



John



Bernie and Phyl's Assets

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- Home: \$475,000
- Second Home: \$300,000
- Savings: \$ 75,000
(CDs, checking, etc.)
- Investments: \$350,000
(stocks, vacation real estate)
- Retirement Plans: \$300,000
- Life Insurance: \$850,000
- Personal Effects: \$150,000

Total Assets: \$2,500,000

Where to Begin

START WITH THOSE YOU TRUST

Trustee, Executor, Agent, Health Care Representative:

Spouse

Child

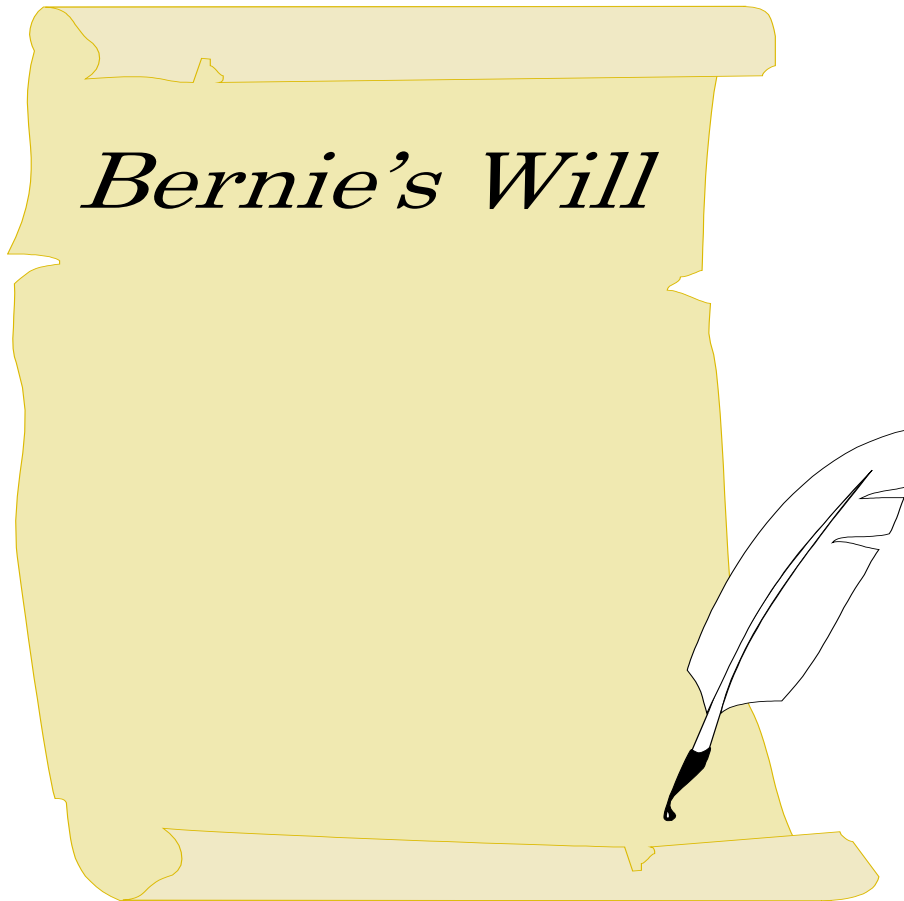
Parent or Friend

Certified Public Accountant

Attorney

Financial Advisor

Wills



- Only effective at death
- Guarantee probate
- Public
- Easily challenged
- Rarely control all property
- If you die without a will, property will be distributed according to laws of the state

Durable Power of Attorney

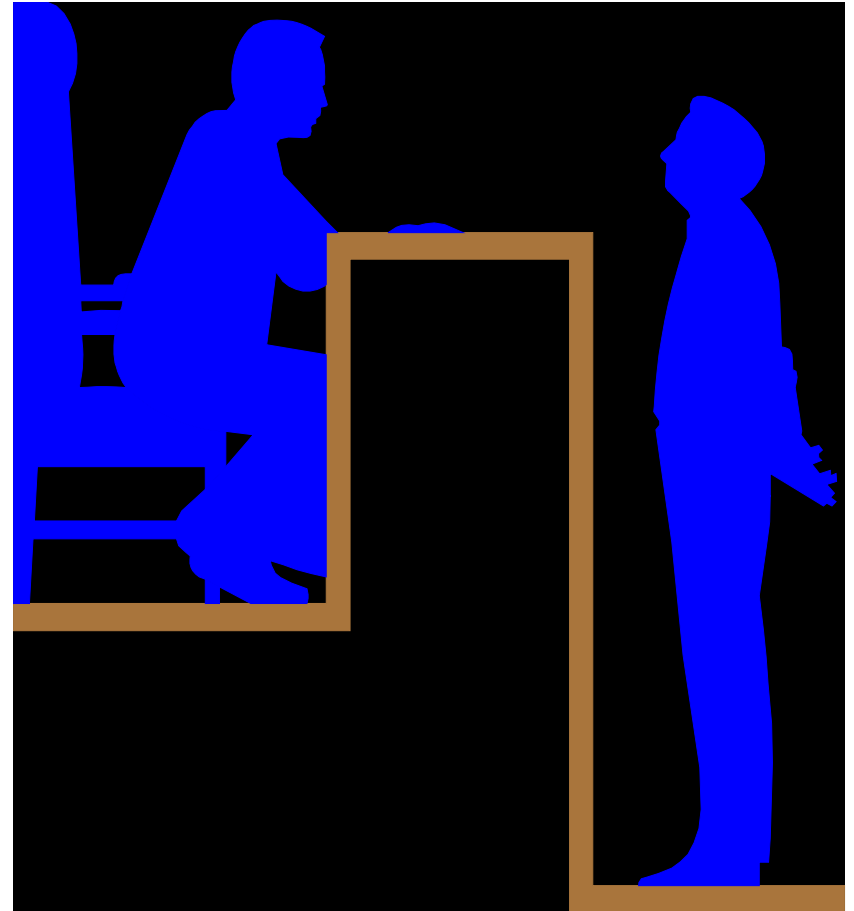
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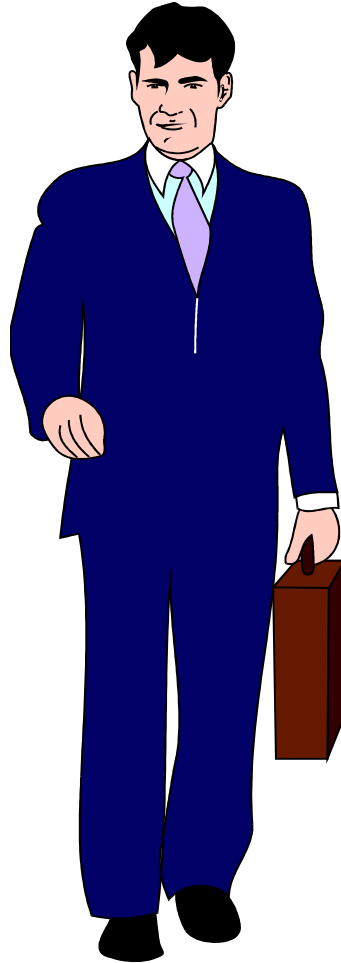
- A document that allows you to appoint someone else to act on your behalf
- “Durable” means that it is still effective even if you become disabled
- “Springing” POA: Only takes effect when I am deemed incompetent
- “General” POA: Effective when signed –
A blank check

Guardianship/Conservatorship

- A family member or “friend” petitions the local court to be executor;
- A public hearing may be set if opposition;
- The person in question is “examined”; and
- If the court finds that such person is incompetent, the court will appoint a guardian/conservator for that person.

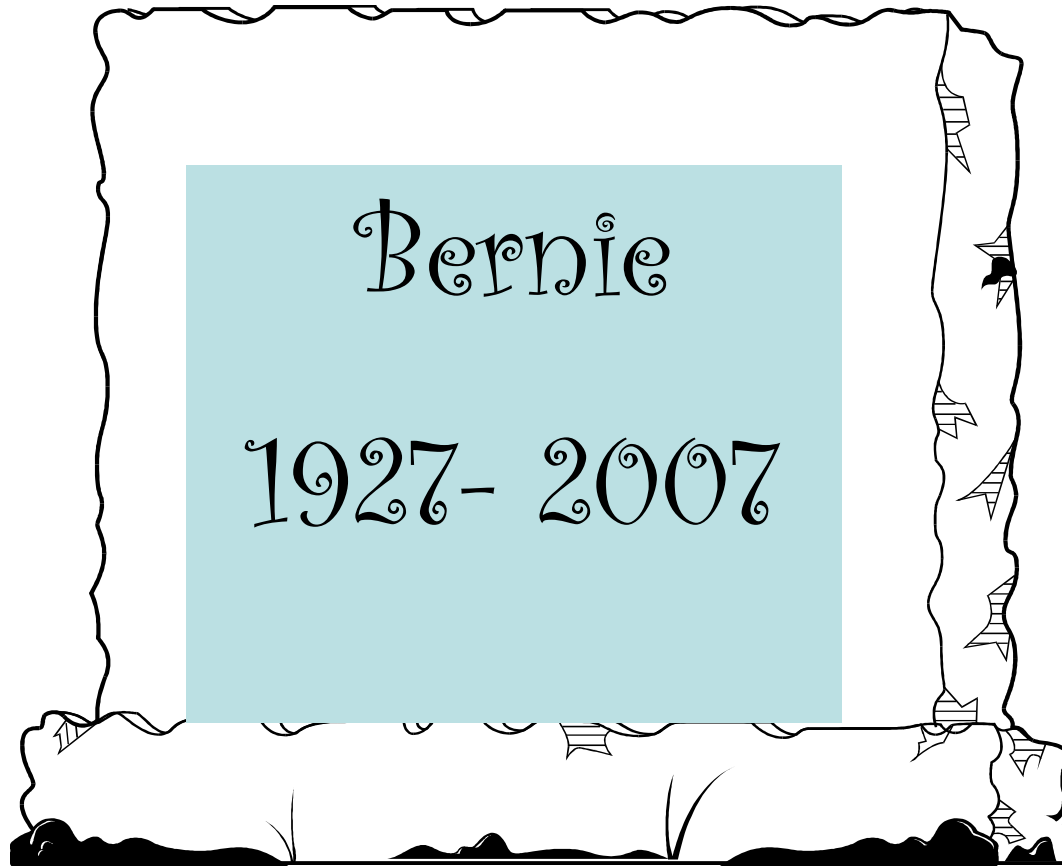


Phyl's Guardian???



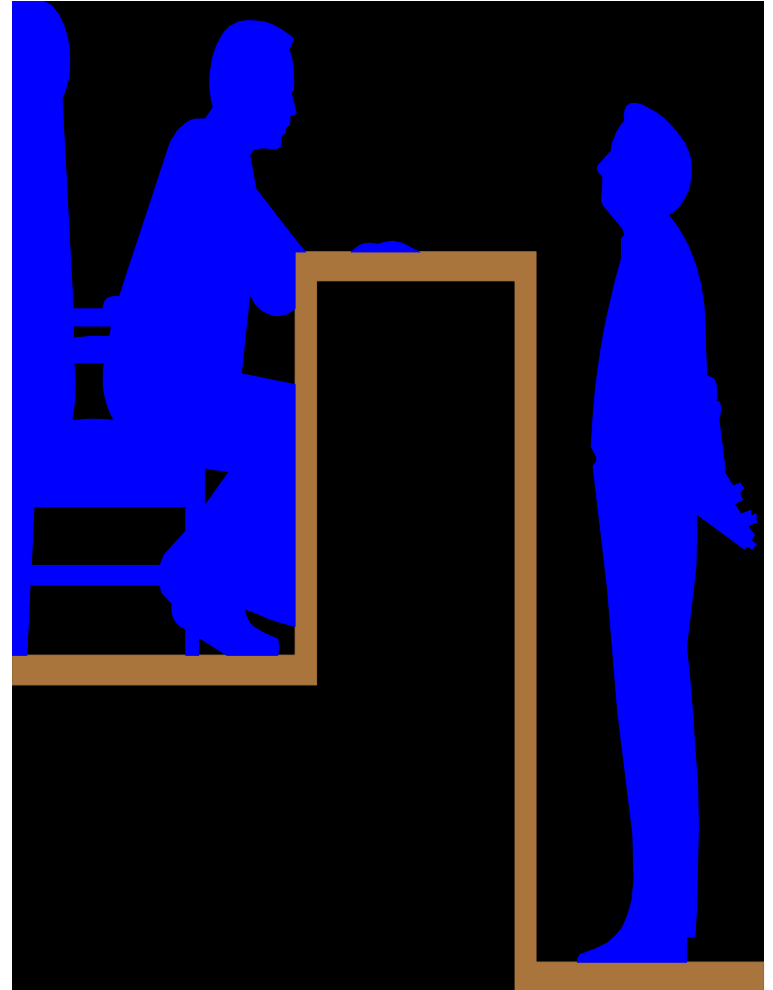
The “New and Improved” John

What Happens at Death?



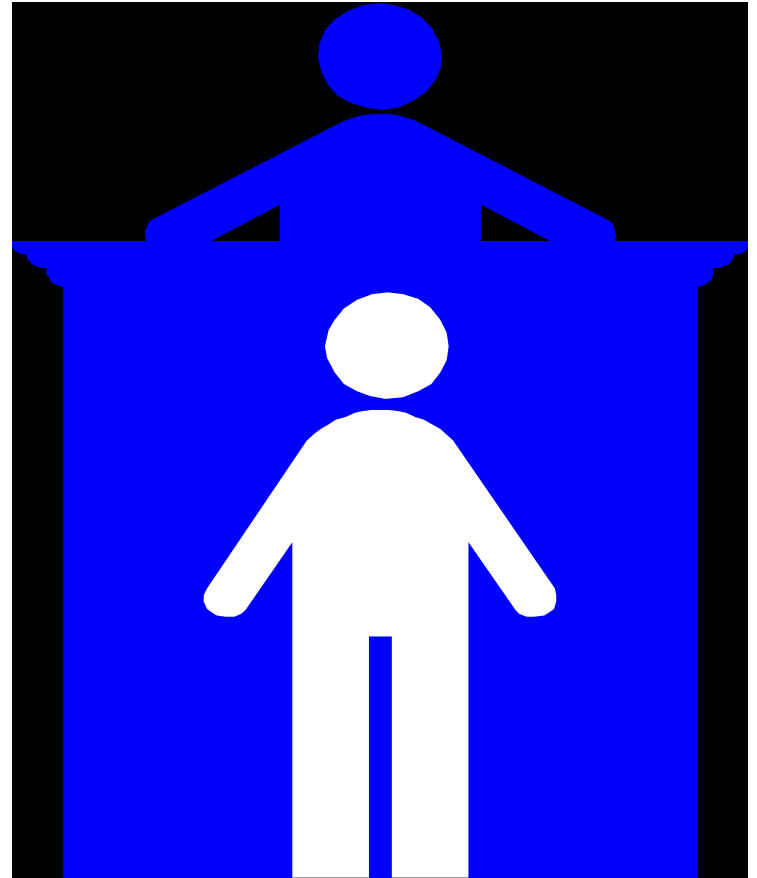
Probating The Estate- Formal

- Appoint a personal representative
- Notify the public that the estate is being probated
- Locate and value all of the property of the estate
- Pay any debts and expenses of the estate
- Distribute all of the assets of the estate



The Probate Estate

- The court retains **total control** over the probate estate
- Any actions taken on behalf of the estate must be approved by the court



Probate Costs

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- These costs include the fees and expenses incurred in probating the estate. The most common probate cost involves attorneys fees.
- According to AARP, attorneys fees consist of 2-6% of the *gross* estate.

Will and Testamentary Trust

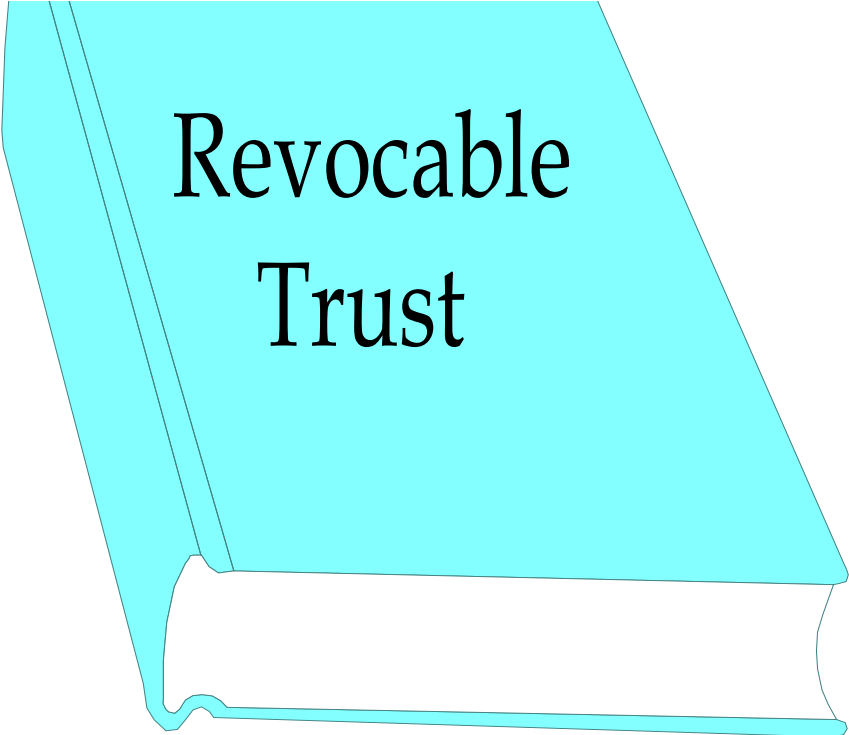


*BERNIE'S WILL and
TESTAMENTARY
TRUST*

- “Attached” to back of Will
- Instructions for Kids, etc.
- Does not take effect until death
- Funded with assets left after probate costs
- Trustees can be different from Executor or Guardian
- Public Record-Probate Court
- Probate Accounting with Court every year

Revocable Trust

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Revocable Trust

- Established during life
- Assets in trust pass probate free
- Private
- More expensive than Will and Testamentary Trust
- Trustmaker retains control during life
- Good estate tax planning tool if funded

Revocable Trust continued

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- Contains all of the trustmaker's instructions
- Can be revised during life
- To remain effective should be updated regularly
- While no probate, still have trust administration costs

Irrevocable Trusts

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- Retained Interest Trust - Payments may be made to Grantor.
 - The retained interest portion (whether paid or not) will be considered an asset to the Grantor
- Non-retained interest Trust - No payments may be made to Grantor
 - 60-month look back but then no access to grantor so OK with DMA after ineligibility period has run.
- Income Only Trust - Trustee obligated (or has discretion) to pay income to Grantor. Access to income only but protects principal.

Health Care Proxy

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- Under M.G.L. c. 201, a competent person may designate another as health care “agent”
- Witnessed by two individuals
- Effective once it is determined the principal lacks capacity to make or communicate health care decisions

Homestead Act

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- Declaration protects up to \$500,000 in equity in your principal residence
- Exceptions - taxes and or debt contracted prior to Homestead
- 65 years or older or disabled can declare a \$300,000 homestead
- Both spouses can elect the \$300,000 elderly and disabled homestead for a total of \$600,000 (not sure how courts will treat this “double” declaration)
- Cost is minimal

MassHealth-Medicaid

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- Single person - all assets above \$2,000, with the exception of the individual's home and some minor assets, are considered "countable".
- Couples – the "institutionalized" spouse can have no more than \$2,000 in assets; the "community spouse" can have approximately \$94,000 in assets.
- Your home is usually not countable, however, a lien may be placed upon it.
- Disqualification period up to 60 months

Planning Should Be All Encompassing

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- Don't just plan for one thing (example – Medicaid) and forget to consider all the other ramifications (example – estate taxes)
- Start early and review your documents and overall plan on a regular basis
- Seek knowledgeable professionals who are current with the ever changing rules and regulations

Thank you! Any Questions?

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Legal and Financial Tools for Seniors

