



TEXAS SOUTHERN UNIVERSITY
THURGOOD MARSHALL SCHOOL *of* LAW

ESTATE PLANNING AND DRAFTING

FALL 2022 & SPRING 2023

PROFESSOR

MCKEN V. CARRINGTON

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SYLLABUS:

GLOSSARY OF TERMS

CHAPTER I - LAWYER'S ROLE IN ESTATE PLANNING

CHAPTER II - PLANNING FOR THE ELDERLY

CHAPTER III - ESTATE PLANNING FOR THE NON-TAXABLE ESTATE

CHAPTER IV - CAPITAL PLANNING

CHAPTER V - INSURANCE PLANNING

CHAPTER VI - TAX PLANNED WILLS

CHAPTER VII - DRAFTING THE DOCUMENTS

POUR-OVER WILL & REVOCABLE TRUST AKA LIVING TRUST AKA

MANAGEMENT TRUST

TESTAMENTARY TRUST

TRANSFER ON DEATH DEED FOR REAL ESTATE

**IRREVOCABLE LIFE INSURANCE TRUST AND ABSOLUTE
ASSIGNMENT FORM**

**COMBINATION DIRECTIVE TO PHYSICIAN AND MEDICAL POWER OF
ATTORNEY**

FLORIDA HEALTH CARE LIVING WILL

TEXAS STATUTORY POWER OF ATTORNEY

NEW YORK POWER OF ATTORNEY_

COURSE BOOKS & MATERIALS

TO BE PURCHASED AT KWIK KOPY PRINTING (A/K/A COPY CLUB)

4001 SAN JACINTO & CLEBURNE (713) 526-6364 CONTAINS THE

MATERIALS FOR THE COURSE.

(Mondays and Wednesdays: 11:00 – 11:50 A.M.)

Professor McKen V. Carrington

(713) 806-6394

Mcken.Carrington@tmslaw.tsu.edu

Office Hours: Mondays and Wednesday 12 PM-2PM.

And by appointment

Note that I am setting these hours aside specifically for student counseling.

This will be my schedule for office hours throughout this semester regardless and we return to remote classes at some point during the semester.

GOALS AND OBJECTIVES

This course is designed to cover the various techniques available in the planning of a person's lifetime as well as the estate. These planning issues include the following: Disability drafting - Advance Healthcare Directives, including a living will, instruction directive, health care proxy or health care power of attorney. In addition, the course covers gift and estate planning; insurance planning; capital planning.

With this design in mind, as a result of taking this course, students will be able to:

1. List the advance healthcare directives, explain their purposes and draft them.
2. Explain the differences between a taxable estate and a non-taxable estate.
3. Explain the process for minimizing transfer taxes and certain capital gain income taxes.
4. Assemble and draft appropriate documents for Estate Planning.
5. Assemble and draft appropriate documents for health care decision-making.
6. Identify ethical considerations involved in Estate Planning.
7. What does a lawyer need to know about insurance planning?
8. What does a lawyer need to know about capital planning?
9. Participate in a Simulated Probate Hearing.

ATTENDANCE & CLASSROOM PARTICIPATION

Attendance and classroom participation WILL be graded.

Attendance

To receive credit for this course, students must attend classes regularly and punctually. Hence, I shall be keeping a record of attendance.

Each student will begin the semester with a credit of five (5) attendance. You will lose one point for each absence, to a maximum of four (4) such absences. Any student who misses two (2) class sessions will receive a warning letter from me, copied to the Associate Dean for Academic Affairs. The student will receive similar letters if he or she misses class for a third or fourth time, with said letters also being copied to the Associate Dean for Academic Affairs. Any student who then misses a fifth class will be dropped from this course.

Assignments

1 Professional Responsibility in Estate Planning:

The attorney must possess sufficient skill in probate matters, or not fail to associate or consult another lawyer who did possess the requisite learning and skill, and that he willfully failed and refused to perform all of the services for which he was retained. The privity rule.

2-3 Planning for Incapacity:

Revocable Management Trust (“Living Trust”), an outlined will, Advance Directives, Texas Advance Directives Act, Directive to physicians, family or surrogate, Medical Power of Attorney, Out-of-Hospital Do-Not- Resuscitate Order [OOH-DNR], Healthcare Facility Do-Not-Resuscitate Order, Durable Power of Attorney, Estate Planning by a surrogate, Designation of Guardian before Need Arises, Directive to Physicians (“Living Will”), Anatomical Gift Directive.

4-5 Estate Planning for the non-taxable estate

Young singles, adult singles, young couples, middle-age couples, seniors, and the elderly

6-8 Capital Planning

What does the Estate Planning Lawyer need to know about Capital Planning?

Objectives, ways to invest, advantages of investing in common stocks, investment managers, mutual funds, Top mutual fund performances 2020, real estate.

9-11 Insurance Planning

Property & Casualty Insurance – Types of coverage, Cost of Replacing a Home – co-insurance rules, home contents, full replacement value endorsement, proof of value, health insurance, disability insurance, major medical insurance, taxation of life insurance.

12- Chapter 6 - The Federal Estate Tax: Imposition, Structure, Computation, Provisions

Supp. pp.2-11 The troubled journey of the federal estate tax from 1916 to 2021. When does an estate need “tax planning”? The gross estate. See outline on page 2 below and accompanying discussion.

13 Taxable Estate and Deductions:















Supp. pp.11-17 - The taxable estate. See outline on page 2 below and accompanying discussion. Basic estate planning for spouses. The marital deduction

14. Computation of the Tax Calculate the estate tax on \$11,700,001.

#15-17 .The Federal Gift Tax

In this assignment, we will compare the treatment of gifts by spouses in a common law state (“split gifts by spouses in a community property state. We will also explore the scope of the § 2503 (e) unlimited exclusion for tuition and medical payments. Then: When is an interest a “present interest” for purposes of the annual exclusion? Can we extend a Section 2503(c) Trust for Minors beyond age 21 when the statute says that (to be eligible for annual gifts) the trust must terminate at age 21? When are “Crummey withdrawal” clauses used in estate planning: In Crummey-type trusts designed to secure annual exclusions? In Extended Section 2503 (c) trusts? In irrevocable life insurance trusts?

18- 21. Drafting:

 John Doe - Combination Direct	 Irrevocable Life Insurance Trust for I	 Irrevocable Life Insurance Trust for I	 Florida HealthCareLivingWil	 Transfer on Death Deed.docx	 Specimenrevocablet rustwithendnotes FI
 Specimenpourover willwithguardianprc	 s 25201 Form of absolute assignmen	 Revocable Trust - New York.pdf	 PowerofAttorney - New York.pdf	 Pour-OverWill New York.pdf	 Part V - 0-entire-transfer-on
 LivingWillandHealt hCareProxy.pdf	 LivingWillandHealt hCareProxy (1) New	 John_Doe__Statuto ry_Durable_Power_o	 John Doe - HIPAA Release.docx		