



MENTAL HEALTH LIVED EXPERIENCE

Akin Fireside Chat with Sarah R. Watchko Esq.

Legal insights for supporting loved
ones with mental illness

Event will start at 7:05pm ET



Welcome!

Tonight's agenda

- Introductions & Purpose
- Introducing Sarah Watchko, Esq!
- Discussion



Hello from your hosts, Akin Mental Health

Our mission is to meaningfully improve the wellbeing of families affected by serious mental illness

Guiding family and friend supporters of people with SMI to

- Connect with people who understand
- Learn new ways to face challenges
- See that recovery is possible

Purpose of Akin Fireside Chats

Recovery is real and expected

- New perspectives on mental health and illness
- Knowledge and tools to support recovery and wellbeing
- Genuine hope, understanding, empathy

How to get the most out of tonight

- Participate with**
- Respect
 - Curiosity
 - Openness
 - Active Participation

Video Please consider keeping your **video on** and **microphone on mute**

Discussion Post questions **in the chat or private message** Matthew Montanez.

- * Please use the word “anonymous” if you would like your comment or question to be anonymous.
- * Please keep questions under a few minutes so everyone has a chance. Each participant will be **limited to 2 minutes** to pose questions and we will try to stick to 5 minutes per question altogether.

Introducing Ms. Watchko

Sarah R. Watchko

Licensed Attorney

Georgia

estatelawga.com

Sarah R. Watchko, Esq.



ESTATE PLANNING, SPECIAL NEEDS PLANNING, AND MENTAL HEALTH

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What is Estate Planning?

There are a few ways to approach this topic...



What *is* Estate Planning?

The Big Three:

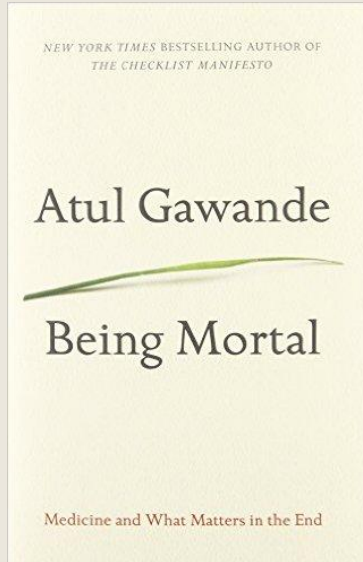
1. Last Will and Testament
2. Power of Attorney
3. Advance Directive for Healthcare

Extra Credit:

4. Revocable Trust
5. Irrevocable Trust

“The best way to predict the future is to create it”

– Alan Kay



“This is what it means to have autonomy – you may not control life’s circumstances, but getting to be the author of your life means getting to control what you do with them.”

Planning for Life: the Power of Attorney

Cardinal Rules
or the POA:

Be Specific

Take
Nothing for
Granted



My favorite POA
analogies:



Planning for Life: the Healthcare Directive

GEORGIA ADVANCE DIRECTIVE FOR HEALTH CARE

By: _____ Date of Birth: _____
(Print Name) (mm/dd/yyyy)

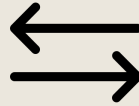
This advance directive for health care has four parts:

PART ONE HEALTH CARE AGENT. *This part allows you to choose someone to make health care decisions for you when you cannot (or do not want to) make health care decisions for yourself. The person you choose is called a health care agent. You may also have your health care agent make decisions for you after your death with respect to an autopsy, organ donation, body donation, and final disposition of your body. You should talk to your health care agent about this important role.*

PART TWO TREATMENT PREFERENCES. *This part allows you to state your treatment preferences if you have a terminal condition or if you are in a state of permanent unconsciousness. PART TWO will become effective only if you are unable to communicate your treatment preferences. Reasonable and appropriate efforts will be made to communicate with you about your treatment preferences before PART TWO becomes effective. You should talk to your family and others close to you about your treatment preferences.*

PART THREE GUARDIANSHIP. *This part allows you to nominate a person to be your guardian should one ever be needed.*

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New to the Scene:

the Georgia Psychiatric Advance Directive for Healthcare

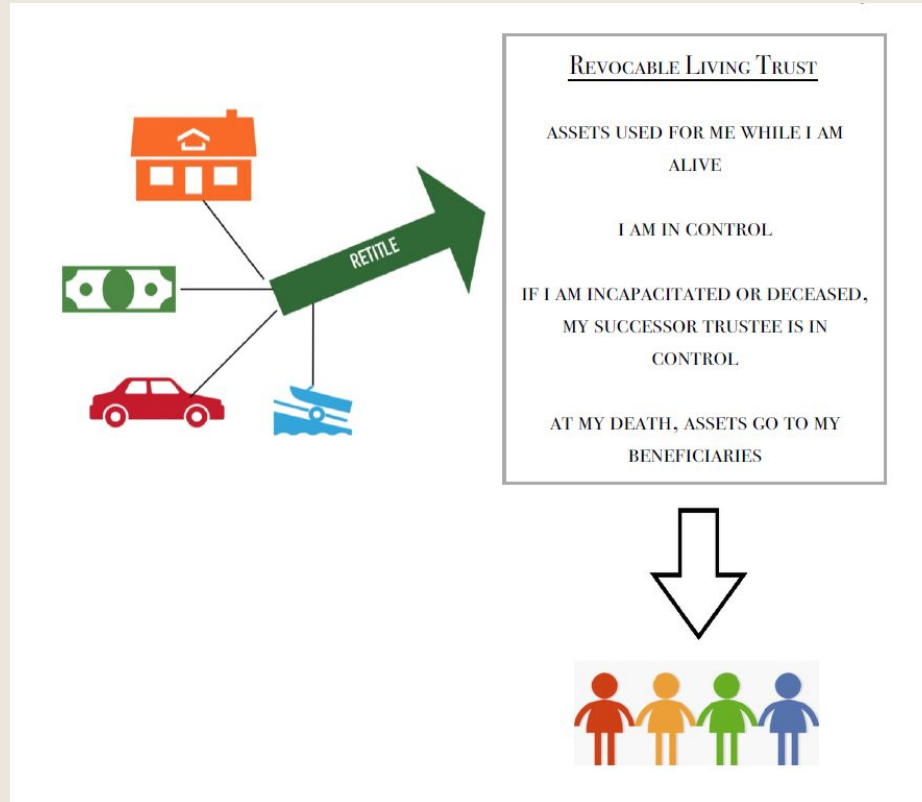
What is a Psychiatric Advance Directive (PAD)?

- A PAD is a legal document that allows you to explain, while you are well, how you want to receive or not receive mental health care when things are not going well.
- During a mental health crisis, the PAD allows health care professionals to create a mental health treatment plan according to your wishes.
- It allows you to choose a "mental health care agent" to make mental health care decisions for you if you cannot do so for yourself.

What Can I Explain in the PAD?

- You can explain whether you want to receive a treatment, service, or procedure to alleviate a mental health crisis, developmental disability, or addictive disease.
- You can provide instructions for types of treatment you do and do not want.
- You can provide information such as known causes for past mental health emergencies, past helpful responses, and current or past medications.
- You can explain how you would like other aspects of your life cared for, such as who to take care of your pets or collect your mail.

Planning for Life: the Revocable Living Trust



Planning for Life: the Revocable Living Trust



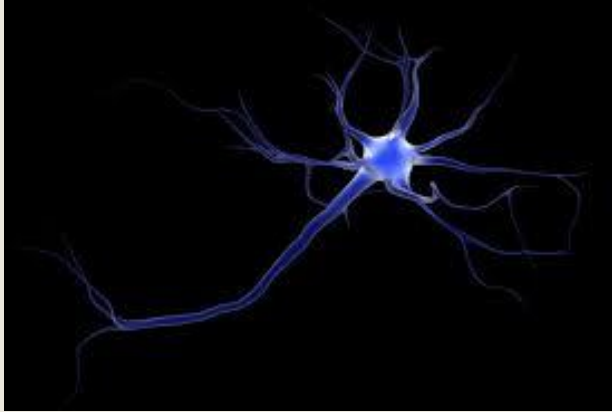
Power of
Attorney

VS.



Revocable Living
Trust

The Legal Capacity to Plan what if it is lacking?



Legal Standard: Guardianship

...court may appoint a guardian for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety

...No guardian shall be appointed for an adult unless the appointment is in the best interest of the adult.

Legal Standard: Conservatorship

...The court may appoint a conservator for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning the management of his or her property

...No conservator shall be appointed for an adult unless the appointment is in the best interest of the adult.

Guardianship: The Big Picture

“All guardianships ordered pursuant to this chapter shall be **designed to encourage the development of maximum self-reliance and independence in the adult** and **shall be ordered only to the extent necessitated** by the adult's actual and adaptive limitations after a determination that **less restrictive alternatives** to the guardianship are not available or appropriate.”

O.C.G.A. § 29-4-1

What rights are removed from the person in a Guardianship and Conservatorship?



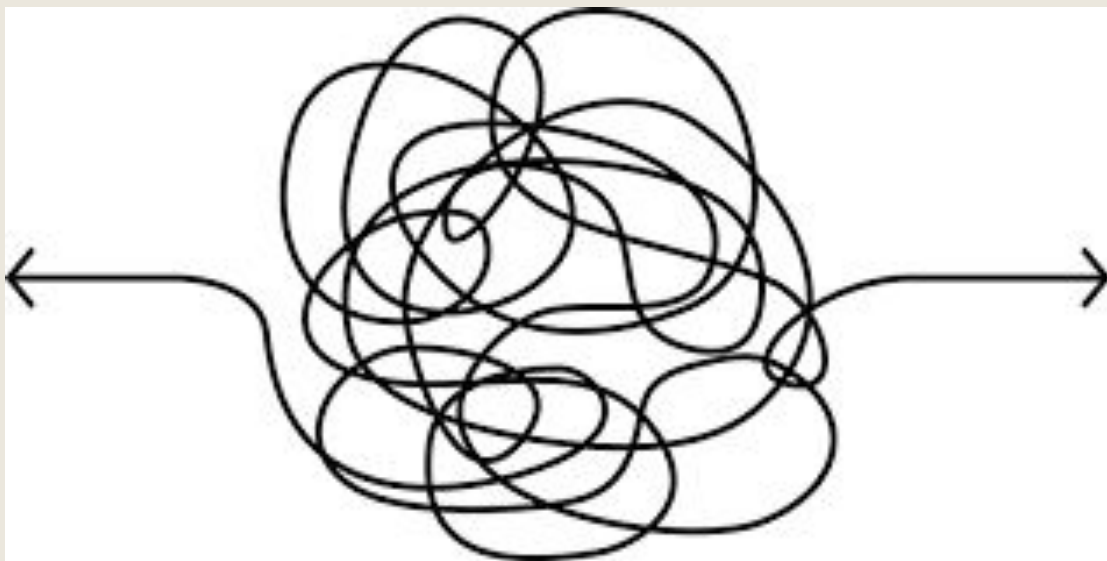
The Guardianship (Conservatorship) Process



[Annual Reports]



Switching Gears: Government Benefits Eligibility





ASSET RULES

Individual Resource Allowance

\$2,000.00

Resource Allowance for a Couple both on Medicaid

\$3,000.00



EXEMPT ASSETS¹ that are not Counted:

Homeplace with equity less than \$688,000 (no equity limit if spouse lives in home)

IRAs owned by applicant if RMDs are taken

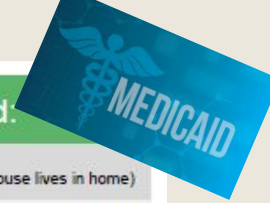
IRAs owned by spouse

Single Premium Immediate Annuity meeting Medicaid Requirements

Burial Exclusion (\$10,000 per person) & Burial Space Items

Term Life Insurance (but count's against burial exclusion)

1 Automobile



COUNTABLE ASSETS²:

Bank Accounts and Cash

Investments (unless in an IRA)

Most Annuities (unless in an IRA)

Cash Value of Life Insurance

Non-Homeplace Real Property

Automobiles (except for 1)





Can you make gifts?



WHAT IS A SPECIAL NEEDS TRUST?

A Trust is an arrangement where a person or entity (the Trustee) is empowered to manage assets for another (the beneficiary). A Special Needs Trust ("SNT") is specially designed to make sure the trust assets do not count against the beneficiary purposes of eligibility for means-tested public benefits.

DO MY BENEFITS REQUIRE A SPECIAL NEEDS TRUST?

YES

because these are "means tested" benefits

SSI

Supplemental Security Income

SSI is a monthly benefit for aged, blind, or disabled people with limited income/resources and who are not eligible for SSDI or Social Security Retirement



MEDICAID

Medicaid is the United State's public health insurance program that provides health care coverage to low-income families or individuals. In Georgia, if you are eligible for SSI you are automatically eligible for Medicaid, too.

NO

because these are not "means tested" benefits

SSDI

Social Security Disability Insurance

SSDI is an entitlement program that is typically available to any disabled person who has worked and paid into the Social Security system, or the dependents of a disabled, retired, or deceased worker



MEDICARE

Medicare is a federal government health insurance program. You are eligible for Medicare two years after your entitlement date for SSDI, or upon turning 65. There are premiums, deductibles, and copays for most parts of Medicare.

	WHO CREATES IT	WHO CONTROLS IT	WHO CAN FUND IT	WHO GETS PAID BACK
FIRST PARTY SPECIAL NEEDS TRUST	the disabled person under age 65, or his/her parent, grandparent, guardian, or a court	the Trustee - can be a person or a professional company but not the beneficiary	should only be funded with beneficiary's assets	Medicaid is reimbursed from trust at beneficiary's death
THIRD PARTY SPECIAL NEEDS TRUST	anyone other than the disabled person	the Trustee - can be a person or a professional company but not the beneficiary	can be funded with anything other than the beneficiary's assets	no reimbursement requirement
POOLED SPECIAL NEEDS TRUST	the disabled person under age 65, or his/her parent, grandparent, guardian, or a court	the nonprofit organization that runs the pooled trust	can be funded with beneficiary's funds or third party funds	Medicaid is reimbursed from trust at beneficiary's death
ABLE ACCOUNT	person who was disabled prior to age 26, or his/her guardian, spouse, parent, sibling, or grandparent	the disabled individual or his/her parent or guardian	can be funded with beneficiary's funds or third party funds	Medicaid is reimbursed from account at beneficiary's death

Thank you for
your time!

Discussion

- Participate with**
- Respect
 - Curiosity
 - Openness
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Matt will prompt individual attendees for each topic

If willing, please turn your video on and unmute to ask your question and continue conversation



Thank you!

- Ms. Watchko!
- You
- akinmh.com

THANK YOU

Please help us keep this initiative going

We would love your feedback!

Brief survey - Link sent in chat and in your email

Check out [estatelawga.com](https://www.estatelawga.com)

Next Fireside Chat Events

- August: Psychiatric Advance Directives
- December: Dr. Devika Bhushan, former Surgeon General of CA

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www.akinmh.com

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