

Estate Planning 101 for California Attorneys

Serving HIV+, AIDS, and LGBTQ+ Clients
90-Minute MCLE

Law Office of Debra M. Garcia
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www.fppl.info

Key Points

Practice Notes

Questions / Follow-Up

Introduction & Framing

- Purpose and scope of training
 - Estate planning as dignity and autonomy
 - Historical context for HIV+ and LGBTQ+ clients
 - Trauma-informed lawyering principles
 - Setting expectations and encouraging questions

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Foundational California Principles

- Testamentary intent & execution (Prob. Code §§ 6100–6113)
 - Capacity standards (Prob. Code §§ 810–813)
 - Undue influence (Prob. Code § 86)
 - Community vs. separate property
 - Titling & beneficiary designations

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Wills

- When a will is sufficient
 - Execution requirements (Prob. Code § 6110)
 - Common drafting errors
 - California Statutory Will limitations (Prob. Code § 6240)
 - Holographic wills risks (Prob. Code § 6111)

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Revocable Living Trusts

- Trust creation and validity (Prob. Code § 15200)
 - Definition
 - Probate avoidance
 - Trust funding basics
 - Medi-Cal recovery awareness

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Durable Powers of Attorney

- Avoiding conservatorship
 - Agent selection challenges
 - Financial institution resistance
 - Statutory POA (Prob. Code §§ 4400–4465)

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Advance Health Care Directives

- Statutory AHCD (Prob. Code §§ 4670–4678)
 - Recognition of non-family agents
 - HIPAA authorizations
 - Honoring end-of-life preferences

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Disposition of Remains & Ancillary Docs

- Authority and priority (Health & Safety Code § 7100)
 - Preventing family override
 - Privacy and digital assets

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Cultural Competency & Client Discovery

- Trauma-informed intake techniques
 - Inclusive and identity-affirming language
 - Chosen family structures
 - Screening for undue influence
 - Housing and benefits considerations

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Common Planning Scenarios

- Unmarried LGBTQ+ partners
 - Minimal assets, high vulnerability
 - Benefit preservation (SSI, SSDI, Medi-Cal)
 - Avoiding over-engineered plans

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Pitfalls, Ethics & Risk Management

- Execution errors
 - Failure to document capacity
 - Lack of successor fiduciaries
 - Confidentiality obligations
 - Avoiding paternalism

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Probate, Conservatorship & Trust Administration

- When probate is required
 - Why probate harms vulnerable clients
 - How planning prevents conservatorship
 - What happens when planning fails

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Q&A, Resources & Closing

- Audience questions
 - Key statutory references
 - Practice resources
 - Closing reflections

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