TRUST & ESTATE SERVICES

FOR YOU & YOUR FAMILY

Non Deposit Investments Available Through Pioneer Bank & Trust Are Not FDIC Insured, Are Not Deposits, Obligations or Guaranteed by Pioneer Bank & Trust, Are Subject to Investment Risk Including Possible Loss of Principal.

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The CEO

Dylan S Clarkson

CEO, Pioneer Bank & Trust

TIME TO MAKE THE RIGHT DECISION

We really are “Local,” and we look forward to helping you.

I’m privileged to be the President and Chief Executive Officer of Pioneer Bank & Trust. As a $1,000,000,000 in total asset size (and growing) financial institution, Pioneer Bank & Trust is a leader in the South Dakota banking industry. Owned by the Clarkson family for over 100 years, Pioneer Bank & Trust really is “Local.” As a fourth-generation family member to be involved in the operation of Pioneer Bank & Trust, I have witnessed “families helping families,” and I am proud to continue the practice of helping our neighbors and communities which my ancestors began in Harding County, South Dakota well over 100 years ago. Having received Trust powers in 1956, Pioneer Trust & Estate Services has the knowledge and experience to be effective stewards of your generational family assets.

Having received Trust powers in 1956, Pioneer Trust & Estate Services has the knowledge and experience to be effective stewards of your generational family assets.

Our Team

Helping your family
is our highest priority.

Cherie Coleman
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AVP/Trust Officer

Amy Clark
Trust Operations

Renae Tysdal
Trust Assistant

Alexis Tifft
Trust Assistant

Trista Galles
Trust Assistant

LaRae Richards
Trust Assistant

About Our Trust Team

Helping your family is our first and highest priority. Our team of professionals focuses on your needs and has the expertise and experience to help you reach your goals. Personalized service and an understanding of the local area are our keystones. Your team at Pioneer Bank & Trust has over 140 years of combined experience and from a variety of backgrounds including law, insurance, banking, and accounting. The bank's loan officers offer additional depth for ranching and business expertise.

Your account will be administered 100% in our local offices. If we need a certain skill that isn't available in-house, we will find the best advisors available to assist us. You will never have your real estate administered by someone in another state. You and your family will benefit from the focus and understanding that a local corporate fiduciary team provides.

You know where to find us when you are in the neighborhood and if you want us to come to you, we would be happy to do so. Pioneer Bank & Trust has had trust powers since 1956 and is locally owned.

What is Estate Planning?

When someone passes away, his or her property must somehow pass to another person. In the United States, any competent adult has the right to choose the manner in which his or her assets are distributed after his or her passing. (The main exception to this general rule involves what is called a spousal right of election which disallows the complete disinheritance of a spouse in most states.) A proper estate plan also involves strategies to minimize potential estate taxes and settlement costs as well as to coordinate what would happen with your home, your investments, your business, your life insurance, your employee benefits (such as a 401K plan), and other property in the event of death or disability. On the personal side, a good estate plan should include directions to carry out your wishes regarding health care matters, so that if you ever are unable to give the directions yourself, someone you know and trust can do that for you.

Why is it important to establish an estate plan?

Sadly, many individuals don't engage in formal estate planning because they don't think that they have "a lot of assets" or mistakenly believe that their assets will be automatically shared among their children upon their passing. If you don't make proper legal arrangements for the management of your assets and affairs after your passing, the state's intestacy laws will take over upon your death or incapacity. This often results in the wrong people getting your assets as well as higher estate taxes. If you pass away without establishing an estate plan, your estate would undergo probate, a public, court-supervised proceeding. Probate can be expensive and tie up the assets of the deceased for a prolonged period. Even worse, your failure to outline your intentions through proper estate planning can tear apart your family as each person maneuvers to be appointed with the authority to manage your affairs. Further, it is not unusual for bitter family feuds to ensue over modest sums of money or a family heirloom.

Every estate plan should be a reflection of a family's unique circumstances.

What does my estate plan include?

Your estate is simply everything that you own, anywhere in the world, including:

- **Your home, your business, or any other real estate that you own.**
- **Your share of accounts, including investments & retirement accounts.**
- **Life insurance policies that you own.**
- **Any property owned by a trust over which you have a significant control.**

Who should I choose as personal representative of my estate? (PR)

A personal representative (PR), sometimes referred to as an executor, is the person or organization named in your will to administer your estate and distribute your assets as directed in the document. You can name almost any legally competent adult to serve as PR. Another option is a corporate PR, such as a bank trust department. The duties and responsibilities of a personal representative are many and varied, which is a reason to appoint a corporate PR who has a fiduciary responsibility to act in good faith to carry out your wishes.

What estate planning documents should I have?

A comprehensive estate plan should include the following documents, prepared by an attorney based on in-depth counseling which takes into account your particular family and financial situation:

- **Revocable Living Trust**

  A Revocable Living Trust (RLT) can be used to hold legal title to and provide a mechanism to manage your property. You (and your spouse) are the Trustee(s) and beneficiaries of your trust during your lifetime(s). You also designate successor Trustees to carry out your instructions in case of death or incapacity. An RLT is fully effective both before and immediately after incapacity or death. Your Living Trust is "revocable" which allows you to make changes and even to terminate it. One of the great benefits of a properly funded RLT is the fact that it will avoid or minimize the expense, delays and publicity associated with probate.

- **Last Will & Testament**

  A Will, also referred to as a Last Will and Testament, is primarily designed to transfer your assets according to your wishes. A Will also typically names someone to be your personal representative, who is the person you designate to carry out your instructions. If you have minor children, you should also name a Guardian as well as alternate Guardians in case your first choice is unable or unwilling to serve. A Will only becomes effective upon your death, and after it is admitted by a probate court.

- **Pour Over Will**

  If you have a Revocable Living Trust-based estate plan, you also need a pour-over will. The other major function of a pour-over will is that it allows the personal representative to transfer any assets owned by the decedent into the decedent's trust so that they are distributed according to its terms. For those with minor children, the nomination of a guardian must be set forth in a will.

A Will may be one of the most important documents that you will ever write.

There are generally two types of durable powers of attorney.

- **Durable Power of Attorney**

  A Durable Power of Attorney for Property allows you to carry on your financial affairs in the event that you become disabled. Unless you have a properly drafted power of attorney, it may be necessary to apply to a court to have a guardian or conservator appointed to make decisions for you during a period of incapacity. This guardianship process is time-consuming, emotionally draining and often costs thousands of dollars.

- **Present Durable Power of Attorney & Springing or Future Durable Power of Attorney**

  A present durable power of attorney in which the power is immediately transferred to your agent (also known as your attorney in fact); and a springing or future durable power of attorney that only comes into effect upon your subsequent disability as determined by your doctor. Anyone can be designated, most commonly your spouse or domestic partner, a trusted family member, or a corporate fiduciary such as a bank trust department. Appointing a power of attorney assures that your wishes are carried out exactly as you want them, allows you to decide who will make decisions for you, and is effective immediately upon subsequent disability.

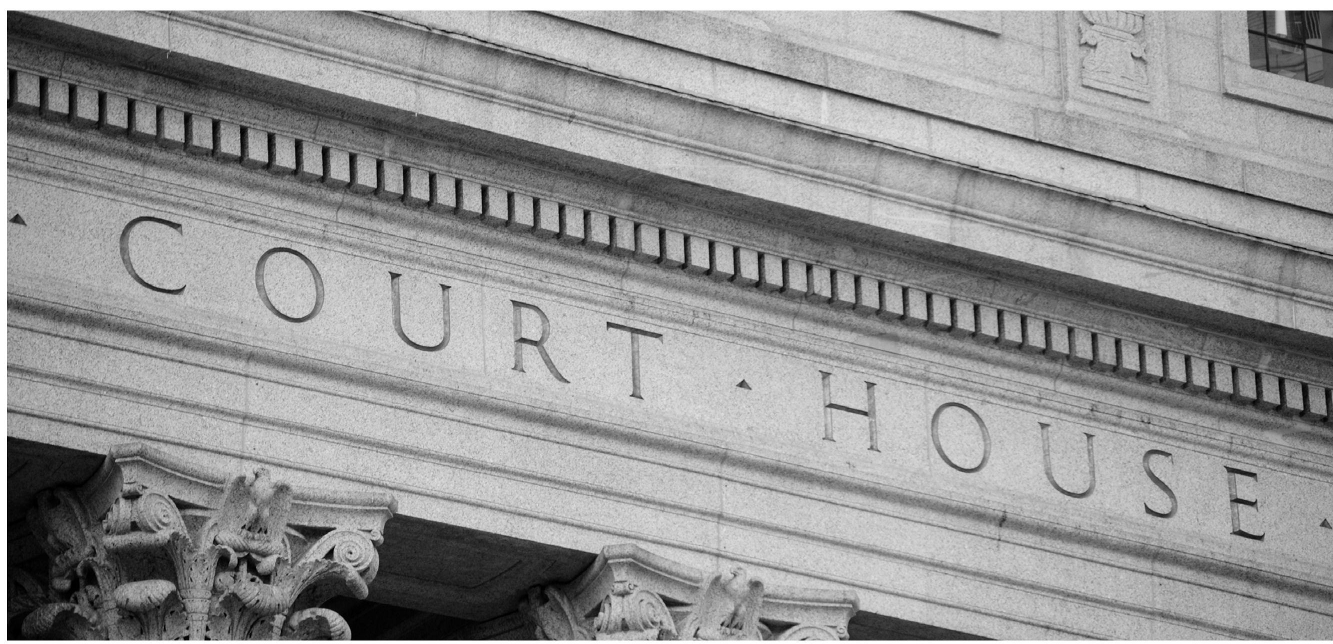
- **Health Care Power of Attorney**

  The law allows you to appoint someone you trust to decide about medical treatment options if you lose the ability to decide for yourself. You can do this by using a Health Care Power of Attorney or Health Care Proxy where you designate the person or persons to make such decisions on your behalf. In conjunction with other estate planning tools, it can bring peace of mind and security while avoiding unnecessary expense and delay in the event of future incapacity.

Ensure that someone you trust will make your medical decisions if you cannot do so.

Trusts in Estate Planning

Many people have preconceived notions about trusts and believe that they are only for multi-millionaires who wish to leave large trust funds to their children. However, this is far from the truth; trusts can be invaluable tools in the estate plans for millions of individuals.



Trusts are simply an arrangement where one party holds property on behalf of another party. In an estate planning context, trusts are created by the person doing the estate planning (the settlor), who authorizes another person (the trustee) to manage the assets for the benefit of a third party (the beneficiaries). There are many reasons for establishing trusts including tax minimization or providing for the needs of underage beneficiaries.

What is Probate and why does everyone want to avoid it?

When a loved one passes away, his or her estate often goes through a court-managed process called probate or estate administration where the assets of the deceased are managed and distributed. If your loved one owned his or her assets through a properly drafted and funded Living Trust, it is likely that no court-managed administration is necessary, though the successor trustee needs to administer the distribution of the deceased. The length of time needed to complete probate of an estate depends on the size and complexity of the estate as well as the rules and schedule of the local probate court.

What happens if someone objects to the will?

An objection to a will, also known as a "will contest" is a fairly common occurrence during the probate proceedings and can be incredibly costly to litigate.

In order to contest a will, one has to have legal "standing" to raise objections. This usually occurs when, for example, children are to receive disproportionate shares under the will, or when distribution schemes change from a prior will to a later will.

In addition to disputes over the tangible distributions, will contests can include a quarrel over the person designated to serve as personal representative.

Some Types of Trusts That May Be Useful in Estate Planning:

- **Revocable Living Trust**

  Revocable living trusts are documents completely separate from wills, although they often work hand in hand with wills, to carry out the decedent's wishes. Revocable living trusts are used to avoid probate. Your property is administered as you direct during your lifetime, after any disability you may have, and after death.

- **Irrevocable Life Insurance Trusts**

  Irrevocable life insurance trusts (or ILIT's) can be used in order to move a person's life insurance proceeds outside his or her estate for estate tax purposes.

- **Trusts for Minors**

  Many people leave money to their children or their grandchildren in a trust as part of a comprehensive estate plan. This is typically done to ensure the money is there for the children's benefit while they are younger (for support, education, medical expenses, etc.). Once the children reach a certain age or achievement level (such as obtaining a bachelor's degree), they may receive money from the trust to do with as they please.

- **Spendthrift Trusts**

  Spendthrift trusts are generally established to protect the beneficiaries' assets from both themselves and creditors. These trusts usually have an independent trustee which has complete discretion over the distribution of assets of the trust.

- **Special Needs Trusts**

  Special needs trusts are tools that enable a person to leave property to an individual with special needs. Many individuals with special needs receive government benefits. If they were to suddenly inherit money, they would be disqualified in most cases from those benefits until the inheritance was spent. Special needs trusts protect those individuals' government benefits while allowing them to have money for any extras they may need.

- **Married (Credit Shelter) Trusts**

  Married couples sometimes include trusts in their wills, or separately, for the benefit of their spouse, typically for two reasons: (1) taxes, and (2) property protection. In previous years, marital trusts were needed for some couples to take advantage of estate tax exemptions, and they may be needed in the future as the laws are expected to change. Marital trusts can also protect property from a spouse to ensure that it ultimately goes where it needs to go. For example, a husband with grown children from a previous marriage may decide to let his wife use his property after he passes, but puts it into a trust so that after she passes away it goes to his children.

What is a Revocable Living Trust?

A properly drafted Revocable Living Trust (RLT) is a powerful estate planning tool that allows you to remain in control of your assets during your lifetime, have them managed during incapacity, and transfer them to your loved ones at death in an efficient and private manner according to your wishes.

Advantages:

- **Immediate transfer of assets after death without court interference.**
- **Allows for the management of your affairs in case of incapacity, without the need for a guardianship or conservatorship process.**

If properly funded, there is no need to undergo a potentially expensive and time-consuming public probate process.

Save Time, Save Money.

Sometimes referred to simply as a Living Trust, an RLT holds legal title to your assets and provides a mechanism to manage them. You would serve as the trustee and beneficiary of your trust during your lifetime. You also designate successor trustee(s) to carry out your instructions for how you want your assets managed and distributed in case of death or incapacity.

In order for the Living Trust to function properly, you need to transfer many of your assets to your Living Trust during your lifetime. The fact that it is "revocable" means that you can make changes to it or even terminate it at any time.

A Living Trust is a legal document that provides for the management and distribution of your assets. Creating a Revocable Living Trust and transferring your assets to the name of that trust will generally not affect your ability to control such assets. During your lifetime when you are mentally competent, you have complete control over all of your assets. As the trustee of your trust, you may engage in any transaction that you could before you had a Living Trust.

In short, a well thought out estate plan using a Living Trust can provide your loved ones with the ability to administer your estate privately, with more flexibility in an efficient and low-cost manner.

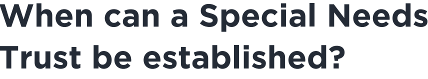
Special Needs Trust

What is the purpose of a Special Needs Trust?

While you can certainly bequest money and assets to those with special needs, such a bequest may prevent them from qualifying for essential benefits under the Supplemental Security Income (SSI) and Medicaid programs. However, public monetary benefits provide only for the bare necessities such as food, housing and clothing. As you can imagine, these limited benefits will not provide your loved ones with the resources that would allow them to enjoy a richer quality of life. Fortunately, the government has established rules allowing assets to be held in trust, called a Special Needs or Supplemental Needs Trust for the benefit of a recipient of SSI and Medicaid, as long as certain requirements are met.

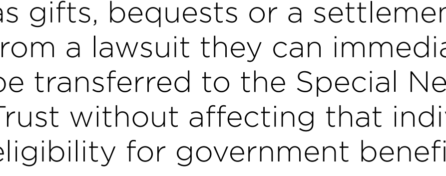
Who can establish a Special Needs Trust?

While Special Needs Trusts are typically established by parents for their disabled children, any third party can establish a Special Needs Trust for the benefit of a disabled beneficiary. It is important to seek the assistance of competent counsel when creating a Special Needs Trust because a poorly drafted Trust can easily be subject to "invasion" by the government agencies that provide benefits.



When can a Special Needs Trust be established?

Generally, a Special Needs Trust should be established no later than the beneficiary's 65th birthday. If you have a disabled or chronically ill beneficiary, you may want to consider establishing the Special Needs Trust at an early age. One benefit of having the Trust in place is that if the disabled beneficiary becomes the recipient of funds such as gifts, bequests or a settlement from a lawsuit they can immediately be transferred to the Special Needs Trust without affecting that individual's eligibility for government benefits.



Our family is wealthy. Do we still need to create a Special Needs Trust?

Yes, you should still establish a Special Needs Trust to protect your disabled beneficiaries from potential creditors. For example, if your disabled beneficiaries are ever sued in a personal injury action, the assets in the trust would not be available to the plaintiffs. Furthermore, because the funds in the Special Needs Trust are not countable as available assets for purposes of determining government benefit eligibility, more of your money can be used for those supplemental expenditures that will allow your disabled beneficiary to enjoy a higher quality of life. Otherwise, much of your assets will be used to pay for private care benefits that are extremely expensive and can drain even significant sums of money over time.

Estate Tax Planning

Without careful planning, much of your life's legacy could be lost to estate taxes. While a simple will can provide for the transfer of your estate to your loved ones, it does not have special provisions for advanced estate tax planning.

The Federal Estate Tax: Expemptions and Rate

Federal estate tax laws were updated as part of the Tax Cuts and Jobs Act (TCJA) in December 2017, more than doubling the exemption starting in 2018. The amount is adjusted each year for inflation. The exemption amount for 2023 is $12.92 million. This means that each individual can transfer up to $12.92 million in assets free of federal estate taxes. The provision is slated to expire after 2025 returning the exemption to pre-2018 levels. Laws may change before 2025, which would affect these provisions and current estate plans.

The taxable value of the estate is calculated by adding up all the assets owned by the individual and subtracting from that total any of his or her liabilities. Additional deductions can be taken for qualified charitable deductions as well as administrative and legal costs involved in settling the deceased's estate.

The tax rate for estates exceeding the exemption amount is 40%. The rate is applied to the taxable estate value that is in excess of the exemption amount. Individuals and families with significant net worth might still have taxable estates even if they take full advantage of their respective exemptions. For these individuals, there are a variety of advanced planning techniques that can be crafted to help reduce the estate tax burden, such as strategic gifting plans, life insurance trusts, personal residence trusts and grantor retained annuity trusts.

The Federal Estate Tax: Understanding Portability

In addition to the individual exemption, married couples enjoy an unlimited deduction for transfers to one another. While this is great news for many couples who choose to leave their estate to each other, without proper planning, it can result in a forfeiture of some of the individual estate tax exemptions after the passing of the second spouse.

To address this issue, the current estate tax law allows for "portability" of individual exemptions between spouses. Stated another way, estate tax portability enables the surviving spouse to utilize the unused portion of the first-to-die spouse's estate tax exemption. Portability is not automatic and in order to take advantage of it, an estate tax return must be filed with the IRS within 9 months of the passing of the first spouse, even if there are no taxes due at the time.

An alternative to relying on portability is to utilize a special planning tool referred to as a credit shelter (marital) trust (also referred to as a bypass or A-B trust). If properly established, such trusts work much in the same way as portability, but do not require filing of an estate tax return after the passing of the first spouse.

A number of states impose separate estate or inheritance taxes. While the rates are typically much lower than the current federal rate of 40%, the exemption amounts are smaller as well.

Probate & Estate Administration

When a loved one passes away, his or her estate often goes through a court-managed process called probate or estate administration where the assets of the deceased are managed and distributed. If the assets of the deceased were owned through a well drafted and properly funded living trust, it is likely that no court-managed administration is necessary, though the successor trustee needs to administer the distribution of the deceased's assets. The length of time needed to complete the probate of an estate depends on the size and complexity of the estate and the local rules and schedule of the probate court.

The probate process for each estate is unique, but usually involves the following steps:

- **Filing of a petition with the proper probate court**
- **Notice to heirs under the will or to statutory heirs (if no will exists)**
- **Petition to appoint Personal Representative (in case of a will) or Administrator for the estate**
- **Inventory & appraisal of estate assets by Personal Representative/Administrator**
- **Payment of estate debt to rightful creditors**
- **Sale of estate assets**
- **Payment of estate taxes, if applicable**
- **Final distribution of assets to heirs**

Does probate administer all property of the deceased?

Probate is primarily a process through which title is transferred from the name of the deceased to the names of the beneficiaries.

Certain types of assets are "non-probate assets" & do not go through probate. These include:

- **Property in which you own title as "joint tenants with right of survivorship." Such property passes to the co-owners by operation of law and does not go through probate.**
- **Retirement accounts such as IRA and 401(k) accounts where there are designated beneficiaries.**
- **Life insurance policies.**
- **Bank accounts with "pay on death" (POD) designations or "in trust for" designations.**
- **Property owned by a living trust. Legal title to such property passes to beneficiary or heir without having to go through probate.**

The cost and duration of probate can vary substantially depending on a number of factors such as the value and complexity of the estate, the existence of a will and the location of real property owned by the estate. Will contests or disputes with alleged creditors over the debts of the estate can also add significant cost and delay. Common expenses of an estate include fees charged by the personal representative, attorneys, accountants, court, appraisal and surety bonds. These typically add up to 5 to 7 percent of the total estate value. Most estates are settled though probate in about 9 to 18 months, assuming there is no litigation involved.

Family Limited Parternships

A Family Limited Partnership (FLP) is a special legal vehicle that can preserve a family business for future generations while helping to shelter assets and reduce overall gift and estate taxes. FLPs are commonly used as part of business succession planning, business continuity plans, and often serve as an integral component of an estate plan for high-net-worth individuals.

A Family Limited Partnership is typically established by married couples who place assets in the FLP and serve as its general partners. They may then grant limited-partnership interests to the children of up to 99% of the value of the FLP's assets. When this occurs, the assets are removed from the general partners' estates, thus saving on future estate taxes. The general partners keep control of the FLP and its assets, even though they may own as little as just 1% of the asset's value.

Limited partners may receive distributions from the FLP, and enjoy certain tax benefits such as:

- **Asset protection. The partnership's assets are shielded from the limited partners' creditors.**
- **Interest in the FLP is easily divided among family members.**
- **Ownership of the business can transfer to the younger generation, while allowing the senior generation to continue conducting operations.**
- **When properly established and maintained an FLP can reduce the value of gifts to your children and grandchildren. The value of each limited partnership interest which you give away decreases the value of your taxable estate and, consequently, any tax which your heirs would have to pay upon your death. The gifts are made using the annual gift tax exclusion, so you may not have to pay any gift tax on the transfer.**
- **Since limited partners do not have the ability to direct or control the day-to-day operation of the partnership, a minority discount can be applied to reduce the value of the limited partnership interests which you are gifting.**

With these significant tax benefits, it's no surprise that many FLPs have attracted scrutiny from the IRS. Many have run into various problems due to mistakes or outright abuse. Care must be taken to ensure your FLP is properly established and operated.

Planning for Incapacity

What is a Durable Power of Attorney?

A Durable Power of Attorney is a document that empowers another individual to carry on your financial affairs in the event you become disabled or incapacitated. Without a Durable Power of Attorney, it may be necessary for one of your loved ones, including your wife or adult child to petition a court to be appointed guardian or conservator in order to make decisions for you when you are incapacitated. This guardianship process is time consuming, expensive, often costing thousands of dollars and it can be emotionally draining for your family.

There are generally two types of durable powers of attorney: a present Durable Power of Attorney in which the power is immediately transferred to your attorney in fact; and a springing or future Durable Power of Attorney that only comes into effect upon your subsequent disability as determined by your doctor. When you appoint another individual to make financial decisions on your behalf, that individual is called an agent or attorney in fact.

Who Can Establish a Power of Attorney & Who May Act as an Agent?

Generally, any individual over the age of majority and who is legally competent can establish a Power of Attorney (POA).

In general, an agent, or attorney in fact, may be anyone who is legally competent and over the age of majority. Most individuals select a close family member such as a spouse, sibling or adult child, but any person such as a friend or a professional with an outstanding reputation for honesty would be ideal. Appointing a bank trust department as your financial POA is also an option to consider.

What is Health Care Power of Attorney?

The law allows you to appoint someone to decide about medical treatment options if you lose the ability to decide for yourself. You can do this by using a "Health Care Power of Attorney" or Health Care Proxy where you designate the person or persons to make such decisions on your behalf. You can allow your health care agent to decide about all health care or only about certain treatments. You may also give your agent instructions that he or she has to follow. Your agent can then make sure that health care professionals follow your wishes and can decide how your wishes apply as your medical condition changes. Hospitals, doctors and other health care providers must follow your agent's decisions as if they were your own.

What is a Living Will?

A Living Will informs others of your preferred medical treatment should you become permanently unconscious, terminally ill, or otherwise unable to make or communicate decisions regarding treatment. In conjunction with other estate planning tools, it can bring peace of mind and security while avoiding unnecessary expense and delay in the event of future incapacity.

Notes

Pioneer Trust & Estate Services professionals are ready to partner with you and your family.

Give us a call today!

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