

Planning for Clients' Incapacity: Why Charitable Intentions Matter



The team at the Chester County Community Foundation is honored to work with attorneys, CPAs, and financial advisors to help clients turn generosity into lasting impact. Of course, as you work with your charitable clients, you routinely determine the best way to incorporate philanthropic intentions into wills, trusts, and beneficiary designations. But how frequently do you document clients' charitable intentions explicitly as part of incapacity planning?

Sadly, incapacity is no longer a rare edge case. Longer lifespans, higher rates of dementia, and more complex family structures are increasing the time period during which your clients' decisions may be made by agents, trustees, or caregivers rather than clients themselves. Indeed, courts and advisors are seeing more estate and trust disputes rooted in lack of capacity and undue influence, especially when late-stage changes to an estate plan take heirs by surprise. Notably, a recent industry [overview](#) describes a surge in challenges to last-minute trust amendments, typically framed around diminished capacity or pressure from a third party.

Against this backdrop of a looming incapacity crisis, because charitable goals are values-driven and not necessity-driven, many families default to immediate needs and may ignore a loved one's charitable intentions if they are not clearly documented. This gap is exacerbated by the reality that charitable intent is more easily reinterpreted than most planning objectives. If a file says only "she cared about education," for example, heirs can disagree on what that means or whether it still applies. What's more, a significant charitable gift made late in life without documented context may look suspicious to disappointed beneficiaries, inviting capacity or undue influence claims.

The Chester County Community Foundation can help! As you are putting together incapacity plans for clients, we are happy to provide suggestions for how to clearly document clients' charitable intentions, including:

- Specific bequest language in wills or trusts, including gifts to clients' donor-advised or other types of funds at the Community Foundation;
- Incapacity-ready giving instructions, including continuing annual gifts if capacity declines and the conditions under which an agent under a durable power of attorney can pause them;
- Ideas for aligning intentions across all instruments, including trusts, wills, retirement and insurance beneficiary designations, and business succession plans; and
- A contemporaneous statement of charitable intent to be maintained with the plan files, showing consistency over time and rationale for giving.

The point here is that clarity protects your clients' values and reduces the ambiguity that heirs often seize on in disputes. The Community Foundation team is happy to help your clients' generosity survive cognitive decline, family conflict, and the rising wave of capacity-based challenges. We look forward to working together!

For more information, contact the Chester County Community Foundation:

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The team at the Chester County Community Foundation is a resource and sounding board as you serve your philanthropic clients. We understand the charitable side of the equation and are happy to serve as a secondary source as you manage the primary relationship with your clients. This newsletter is provided for informational purposes only. It is not intended as legal, accounting, or financial planning advice.