

## Death and Dying – What Every Financial Services Professional Needs to Know

At the very beginning of each new client relationship, I say to a client,  
"Someday, you and I might have to talk about death –  
not as an abstract or a "maybe someday thing"  
but as a very real event which will happen very soon to you or a member of your family.

I'm bringing it up now – so that – if and when that time comes –  
I'll have your permission to speak freely, and with candor."

### THE IRONY OF IGNORANCE

It's ironic that death, the biological center of the personal service involved in estate planning is rarely, if ever, covered in any detail in legal, accounting, or other professional schools or continuing education courses. Pitifully little formal thought or discussion is given - inside or outside the classroom - to one of the most important events every single being must face, to what is in fact the most human and central of all factors in the estate planning process.

Ask yourself when you last attended a seminar or conference in which the subject of death or dying was discussed at any length. Death and dying – the non-tax aspects – and what every life insurance agent, financial planner, attorney, CPA, trust, and charitable development officer should understand – are largely ignored by those institutions, instructors, and teachers who are charged with educating and training financial services professionals.

I first wrote about the psychological aspects of death and dying in 1976 in an article entitled, "Death-Sensitization for the Estate Planner" published in the April issue of what was then the Journal of the American Society of Chartered Life Underwriters. I suspect few individuals practicing today have read that article, which became the basis for chapters in my books, Tools and Techniques of Estate Planning (a totally reconfigured 13th Edition is about to be released).

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If you look in most other books or articles on estate planning, there's been little commentary on the subject.

For these reasons, I have synthesized my earlier works – and the efforts of numerous scholars and authorities on the subject of death and dying – to share with you my thoughts – and those of others whose books and articles will be cited at the conclusion of this work.

## WHY THE WORD DEATH IS UNSPOKEN

Because it is an unknown, death is associated with a bad act, a frightening happening. We deny death by discussing it – if at all – in euphemistic terms. At those rare times when the topic of death is raised in an estate planning discussion – or when a professional must deal with a dying client, concerns about the professional's own mortality are raised toward consciousness. Childhood fears of separation are reawakened. Much of this extends from the societal taboo concerning the recognition of man's mortality.

Talking about one's own death is even more sensitive and terrible.

## WHY YOU NEED TO KNOW

A young attorney walked over to a table where his wealthiest and best known client, a very successful restaurant owner and real estate developer, was having lunch with a good friend of his, a prominent probate judge. The client started bragging to the judge about what a fine job the attorney had done drafting the client's will and planning the client's estate. The judge looked up at the attorney and asked,

*"Young man, are you really that good?"*

Trying to be humorous, the attorney shot back,

*"I guess I must be. It seems that once I draw a will, my clients seem to live forever." I never get to probate their estates.*

Not to be outdone, the judge retorted,

*"Well then, son, how do you know what you are doing will work?"*

Although the judge's quip was clever, perhaps he missed a most important point. A client doesn't have to die and an estate does not have to be completed for the estate planning process to have been successful. Estate planning can – and should be – an end unto itself! One of the most important objectives of planning an estate is the client's reduction of fear and anxiety about the impact of death and dying.

In fact, consider this: The great psychological satisfaction the client should derive from the experience – the peace of mind and sense of triumph that the client deserves to have over the inevitable physical event of death - is the only payoff the client himself/herself will receive from engaging in estate planning! After all, in most cases, the client will not – by making a will or purchasing life insurance, or creating testamentary trusts – personally avoid family feuds, be more financially secure, or even save estate taxes.

My point here is that we professionals need to be more consciously aware and sensitive to what the client needs and wants personally out of the estate planning process – and make sure he or she gets it. Death is resented most because it represents the absolute in loss of control. So the opportunity that active involvement in the estate planning experience gives the client a significant, growing, and healthy encounter with one's own death helps resolve subconscious fears and frustrates the worst consequences of death's sting and surprise – by giving the client a measure of control over that seemingly uncontrollable event.

As practitioners in a people-serving profession, we must be consciously aware that our actions and efforts have consequences that go beyond property distribution, beyond tax savings, and even beyond helping to provide the financial security of our client's survivors; what we do – what we say – and how we interact with our clients affects not only those who live after the client is gone – but also the client. And for that reason, we must make a greater effort to meet the psychological needs and goals of our clients themselves, particularly with respect to death and dying.

## WHAT WE CAN LEARN FROM MOBY DICK

Herman Melville's classic novel of the sea begins with the story of a sailor's reminiscence of will making:

"It may seem strange that of all men sailors should be tinkering at their last wills and testaments...After the ceremony was concluded upon the present occasion, I felt all the easier; a stone was rolled away from my heart. Besides, all the days I should now live would be as good as the days that Lazarus lived...I survived myself..."

Melville obviously had a keen understanding of the constructive nature and therapeutic impact on death anxiety of the will-making process.

## **FREEING CLIENT'S ENERGY FOR LIFE-RELATED MATTERS**

The relationship between death and life suggests a second reason the planning experience is an end unto itself and worthy of a planner's deep consideration. The more our clients worry about death and its consequences, the less energy they have to really live. If our clients expend psychic strength maintaining the denial of their mortality, they have that much less to use for meaningful living. They will come to the end of their lives – never having really lived!

Philosophers, psychiatrists, and religious scholars have long stressed that an individual's values in life are affected strongly by the way he/she has – or has not – dealt with subconscious feelings about death and dying. And only by giving meaning to death can one give meaning to life. Sages tell us that only by understanding and coming to terms with the limited scope of one's time can our existence be dramatic and intense – and in this way a human's mortality is a positive thing.

What is important is not how long we live – but how we live. Coming to terms with our mortality is essential for us to maximize the creative possibilities of life, to live life to the fullest, and to recognize the importance of “making a positive and meaningful difference.”

Openness between an estate planning professional and a client can greatly enhance the client's ability to live well. By helping our client come to terms with death and create an atmosphere in which a person would be willing to die, it is easier for the client to learn to see his life in relationship with others in a clearer perspective and to make lifetime interpersonal relationships more meaningful. I'm saying that we must help our clients understand that, rather than repress fears of death, they should use as an antidote for death an extensive love of life. Proper estate planning will help reduce our clients' anxiety about death and its impact and free their emotional energies for life-related activities.

## **PIECES IN THE ESTATE PLANNING PROCESS PUZZLE**

Why do clients make lifetime gifts? Why do they care enough to reduce their spendable incomes and pay money to have a will and trust drafted? What makes a person buy life insurance and pay premiums rather than purchase single life no refund annuities?

I think that there are four major reasons:

First, just as it would be wrong, immoral and unseemly, to neglect parental or support duties, so is it immoral to neglect post-death obligations. Providing for survivors is, to many of our clients, a moral imperative.

Second, guilt is a powerful impetus to the estate planning process. In many respects some individuals make up for neglect – or for what they feel is less than adequate lifetime care – with money or other property. These are people who attempt to pay back a spouse or child in property for the times they were too busy at the office or on the golf course to be with their families.

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Third, and on a higher level, financial security devices such as wills, trusts, and life insurance provide a means of doing something to stabilize and assure the future of the client's family (or a charity) and by doing so rob death of its ability to threaten the client with the specter of his own hungry children (or an important charitable objective unmet).

But perhaps the most powerful force that drives the testamentary process for many is the step it enables a person to take toward immortality. Some scholars have called this the concept of "post-self." Essentially, it recognizes that each of us – at some times in our lives – through some act or action – engage in cognitive and emotional maneuverings in the present – to survive, to continue to live – to have a measure of impact and influence – after the event of our physical deaths.

## WHY ME?

You may be wondering at this point, why must the estate planner be involved in such thoughts, such feelings, such discussions. Aren't these the duties or bailiwicks of other professionals? Shouldn't thoughts of and discussions about death and dying be reserved for the medical profession, or social scientists, or the clergy?

The answer is, by both definition and default, the burden rests on us. Death and dying is something that happens in hospitals and hospices, hidden away from the mind and the eye of the public. Societal taboos have caused the dismissal of the subject of death from the public mind.

And isn't a discussion of the urgency and significance of action necessary to the accomplishment of the financial security that the client seeks when he/she enlists our services? Who else could do this? Who else should do this? This, in turn, shifts the responsibility to those of us who are, by our intimate relationship with the client, by our access and necessary knowledge of details of a client's hopes, dreams, and fears, (and in many cases our privities to details of a client's life spoken or known to almost no one) positioned to help our clients in ways that few, if any others, ever will be.

Regardless of the reasons, as advisors we must recognize that our clients – even those in the prime of life – have powerful thoughts and reactions to death. An essential part of the estate planning process relates to a healthy resolution of those strong feelings.

## FIRST HEAL THYSELF

It is impossible for us to help our clients until we first resolve our own feelings and anxieties about death. Not until we know and can deal with our own hidden or perhaps never-surfaced thoughts concerning death and dying can we construct policies and priorities based on the needs and desires of our clients – rather than our own defenses.

There are many thoughts embedded in the minds and hearts of clients that beg to be shared with other human beings. But because we are unwilling to talk directly about death, we often close off the

openness necessary to the flow of feelings and information. A discussion of death – even the use of the very word – is typically kept to a bare minimum – or surrounded with euphemisms – by the attorney or trust officer in the will making process – or by the insurance agent in a sales interview.

Don't think your feelings, your fears, or your anxieties go unnoticed or without effect. Your values and attitudes are communicated – both verbally and nonverbally – to your clients regardless of whether or not you intend that message to be heard or felt. Your annoyance, impatience, lack of interest, or personal anxiety affects your clients more – much more – than you realize. Your method of handling your own feelings sometimes conveys that you cannot, do not want to, or are unwilling to listen to the hearts and souls of others.

## WHAT'S IN IT FOR ME?

There are great rewards for the planner who is open and receptive and who can draw out the inner feelings of a client about death and dying long before it happens. A healthy and strong client is less frightened and better able to deal with the interpersonal and financial implications of death “when it is still miles away than when it is right in front of the door.” It is also easier for the client and the client's family to discuss such matters in times of relative health and well-being. Appropriate arrangements for children and others are more rationally made while the head of the household is still functioning.

There are great and abundant rewards to the estate planner. If we are strong enough to examine our own reactions more closely and take an honest look at ourselves, our own growth and maturity is nurtured. When we learn to elicit feelings – and learn to really listen to them, we reduce the powerlessness – and often frustration and anger – of those toward whom we profess to offer human caring.

## THE ESTATE PLANNING INTERVIEW: AN OPPORTUNITY TO TOUCH, TO FEEL, TO HELP!

The estate planning interview is for most the first time in life when your client will be confronted with his property, beloved ones, his mortality, and the relationship of each to the others. It is an opportunity to come to grips with and eliminate much of the uncertainty involved with the mysterious machinery of probate.

There is no choice in the estate planning process but to meet the impact of death head on. Our clients must recognize and internalize the possibility and consequences of unexpected sudden (e.g. an accident), in some cases rapidly approaching death (e.g. a client with cancer), and the inevitability of certain death as part of the normal process of life.

Clients must be brought face to face with the effects of the orphaning of children, the potential for family strife, the problems inherent in projects left unfinished, and the psychological and financial burdens of liabilities – and promises – outstanding. They must understand the urgency and significance of action! If they do not, we have failed – and failed them.

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## HUMAN COUNSELING AS A PROCESS

A reduction in tension and anxiety about death and its consequences doesn't just happen: it must be part of a carefully thought out process on the part of the estate planner. The desired result will not occur if the experts, the attorney, CPA, CFP, CLU, ChFC, trust officer, charitable development officer, and others consider the estate planning interview as a mental tug-of-war or a display of power involving on the one side the "high priest" estate planner who holds the chalice of knowledge and rules and on the other the client who becomes willing to accept those rules because of ignorance, apathy, or a sense of helplessness, overwhelmed by the enormity and seeming impossibility of the task. This psychology can only result in an arrangement that the client probably will not understand or perhaps even want. How can the client be properly served by or buy into a relationship based on absolute dependence?

## WHAT WE NEED TO DO

What the financial services professional must do is to involve the client and turn what might otherwise be a cold, impersonal gathering of data into an opportunity for human counseling. It is relatively easy for us to identify issues. It is not so difficult a task for us to face problems. Our challenge, what we need most to learn, is how to face a face!

Listen to the client. Study not only what the client and his/her family says, but what is not said. Try to understand what the client's body language (e.g. the shrug of a shoulder, the positioning of the hands, physical tension on the face, lifting of the eyebrows, rolling of the eyes, or a fleeting frown) really means. Summarize what you've been told and reflect on how that is reinforced – or denied – by what you have seen, felt, and really heard.

Become sensitive to the client's world. Accept his/her feelings and try to understand them – even if they do not comport to your own. Communicate honestly and humanely. Be open, involved, and willing to enter the client's world. To do this, you must be willing, not only to tune into the client's feelings, but also to your own.

## OBJECTIVES OF THE ESTATE PLANNING INTERVIEW

Your goal as a member – or perhaps leader – of the estate planning team – is to help your client come to his own realizations and conclusions. To accomplish this, you must discover how the client feels about life – and death – and the values and relationships that death will affect or destroy. In your data gathering, you must search for feelings and attitudes as much and as deeply as you mine for information. All too often, an estate planner fails, more because of a failure of perception than a restricted range of facts, an incomplete understanding of the person rather than of the person's "things."

Search for the client's system of needs, modes of expressing or revealing himself, his ideas about life, feelings and practices relating to family and career. Most importantly, you must develop an appreciation of how a client contemplates property, people, life, death, and how he or she views each of these in relation to the other.

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## THE ROLE OF PROPERTY AS BREAD, CANDY, CARROTS, AND STICKS

It is vitally important that you understand the role property plays both during lifetime and in the testamentary process. I'm saying that "our client's thoughts and emotions are deeper, more puzzling realities than taxation or legal rhetoric." Clients are complex and worthy of our behavior examination.

Viewed at its most surface level, a client's thoughts about property could be considered nothing more than statements on a ledger sheet. But on the level that we should operate, property is both an expression and an extension of the client, a part of the way he or she defines himself – and one of the best indicators of who and what a person really is.

Some people see their assets as bread to give themselves and others sustenance, candy to sweeten life, carrots to entice people to do things or become different, and sticks to withhold sustenance or sweetness in order to deny and punish.

Consider the impact on a person when he is stripped of his possessions. He is attacked at the deepest layers of his personality; there is less left since something important has been taken away. If you have ever gone through basic training in the armed forces, you will never forget that first morning when your hair is shaved and you no longer have a choice of clothes or personal possessions (not to mention actions). A dear friend in his 60s underwent the first operation and first hospital stay in his adult life. He was shaken by the loss of identity that occurred when his clothing was taken away and replaced by a hospital gown.

The items on a client's desk, perhaps mementos of difficult business careers or awards for service – have no meaningful intrinsic value – but are important because they are an idiom of the owner's personality.

If we accept the premise that to some degree property – what we choose to keep – what we choose to give away – and to whom and how we give it – represents who and what we are and what we think of those to whom we have or have not given, then when a person makes a gift – during lifetime or at death, it is not such a leap to consider that those gifts are a part of the giver.

I am saying that a person who gives is transferring his own nature and substance since the property carries with it the life and personification of the giver. Our attitude toward giving is one of the clearest expressions of the relationship between us and the people and organizations we give to - and the things – the wealth and objects – that we own.

As stated earlier, we use property in the exercise of love, power, guilt, remorse, resignation, and hope. Our needs, feelings, thoughts, and actions grow and attach in different manners to different kinds of properties. A home, for instance, represents a protective attachment to our families. A business may represent the continuation or perhaps completion of a multi-generational goal, and a tie to both past and future.

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As planners, we must incorporate the role of personification of property into the estate planning process. We must understand that our clients – in buying life insurance, in drawing wills, in creating trusts, in making charitable gifts - are as interested in preserving and promoting values – as they are in transferring value.

## WHAT IS DEATH AND WHAT DOES IT MEAN?

It is important to recognize that death has multi-faceted meanings and effects. In the most general sense, death is the logical terminal point for the continuing and constantly accelerating, process that begins the moment we are born.

Death belongs to life as much as birth does. Perhaps that definition should set the stage for how we live: "We must realize that we might die at any moment yet live as though we were never going to die." Many philosophers and social scientists look upon death as a vital part of life. If one is not able to die, they ask, is he really able to live? Death, therefore, "is an important interface – part of a larger process which is somehow related to what it is to be human."

Death attaches to each individual's soul, psyche, relationships, and property – but does so in different ways for different people. The meanings of the word "death" will therefore fluctuate from person to person.

To some, death brings realistic concerns about financial distress. With the extreme treatment and horrendous costs of hospitalization, assisted living, and nursing home care, death is often accompanied by the loss of a lifetime of assets and the assumption (often by family members) of huge financial as well as emotional and physical burdens. It brings the death of dreams.

Death to many conjures up images of loss of the dignity of independence. Guilt, anxiety, and fear color our perceptions of dying. Death is frightening because of its uncertainty; we don't know how or when it will occur or what it will bring. To many of our clients – death will sever important relationships – sometimes relationships involving long-term mutual obligations.

## DYING TO KNOW MORE?

We know much more about dying than we do about death. Most estate planners, at some point in their professional lives, will be faced with a client who has been told time is limited or who may even be on his or her deathbed. It is important to understand the feelings such a person might experience.

Some dying individuals have said that dying is partially reliving the past. Some have been preoccupied with the illness. Some just go on living. Some have expressed that their view of impending death was very much like rest: "In the end, a dying man needs to die like a sleepy man needs to sleep."

To some, dying and death represent failure. The thoughts of dying and death generate fear of losing time, physical decay, the cessation of thought, irreversibility, and the loss of pleasure. To still others, the process of dying is seen as a deprivation, a threat, a punishment, and a devouring of their persons.

## PROBLEMS OF DYING INDIVIDUALS

People who are dying experience a tremendous range of problems – from the purely practical ("How do I get to and from the hospital?") to the deeply internal emotional experiences of intense sadness, anger, and guilt. Perhaps the worst of all is the loneliness: "I felt interrupted, left dangling, dying alone. I feel isolated, excluded, no one is with me, there's no one to hear me." The vast change in life-styles often makes dying alien and lonely, mechanical and dehumanizing.

## HOW THE DYING CLIENT EXPRESSES GRIEF

Expect that all dying clients (and those that will survive them) will express grief but in different ways and at different times. How each family member comes to terms with impending death and moves through the various stages of grief is to varying degrees strongly influenced by the basic personality of the dying individual and how he or she lived life. Shock, disorientation, expression of volatile emotions, guilt, feelings of loss and loneliness, and periods of relief and reestablishment are common.

A dying professor expressed feelings of panic (he was terrified he had lost control of his fate), anger and despair that decisions were being made without either his knowledge or consent, and he gradually found himself passively accepting those decisions. He was furious that he was (or felt) dehumanized, an object instead of a person. He had a great need to talk, to share his feelings and vent his frustrations. He was also deeply depressed from feelings of guilt and inadequacy as a husband and father.

The most widely known author on the subject, Elizabeth Kubler-Ross, author of the book, *On Death and Dying*, said there are essentially five stages through which a dying person passes (although they can occur in any order at any time). In an estate planning context, these are:

**Denial:** This is a temporary defense. The typical "It's can't happen to me" reaction most young people have to the thought of death is a good example of denial. Denial serves as a healthy and necessary way of dealing with the uncomfortable and painful act of impending death. The problem is that denial makes last minute planning quite difficult. I was once faced with a client who, because he was in complete denial about his rapidly failing heart, could not understand why he had to make certain business and personal decisions – and because I had not resolved my own feelings about death and dying at the time – could not confront him in a way that moved him to take the needed steps to save his business.

**Anger:** As my father lay dying, he said many regrettable things – directed without reason - to my brother, my father's doctors, and even to his advisors and friends. These expressions of anger vary in intensity and direction and often puzzle and hurt those to whom they are aimed. But these words should be viewed only as a means of a dying person's need to express powerful emotional trauma and not taken personally.

**Bargaining:** You'll often hear phrases such as, "Let me live for one more year and I'll...(be a better father, husband, friend) (give money to my...)." This of course, is an attempt on an emotional level to postpone what is inevitable on the intellectual and physical levels.

**Depression:** Depression is a reaction that is a common response to the actual loss of health or ability to care for one's self. It is a preparatory measure to the impending loss of life.

**Acceptance:** Often, but not always, the final stage is acceptance; the dying person is void of feelings and expresses merely an increased desire and need for sleep. At this point, the person's family often needs more help, support, and understanding than the client.

## INTERACTING WITH A DYING CLIENT (AND THEY ALL ARE)

I started this discussion by stating that the estate planning process should be an end unto itself and if properly accomplished should give all of our clients a feeling of greater control, a sense of usefulness, and the satisfaction of completing unfinished business. These goals are particularly important in the case of a client who has been told – perhaps because of the diagnosis of cancer or a failing heart or degenerative disease – that he or she has only a limited time to live.

Yet the testamentary process, the purchase of life insurance, the making of a will, the drawing of powers of attorney or medical directives or creation of trusts – even for the young and healthy client – is a novel, death-confronting, and taboo-defying. (And for the dying client, possibly overwhelming – unless seeds were planted early on in the relationship to open the door to uncomfortable and threatening but necessary discussions and decision making).

Your mission, should you choose to accept it, is to help all of your clients affect change through choice. Your job is to increase your client's dignity by empowering each of them with as much control over their fears and dreams as possible. But it is not enough to give your clients a voice. You must give them a listener. Only in that way can they be active participants in the decision making process. And you must be a neutral outside listener, one who is not personally emotionally over-involved.

Hopelessness and depression are the result of a perception, real or imagined, that we are helpless, that we can no longer act on our environment. So each step you take to bring the client into the problem-solving process helps relieve your clients' fear of death, reduces feelings of helplessness, and increases the quality of their every day of remaining life.

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## COMPLETING UNFINISHED BUSINESS

View and present estate planning as an unfinished project. Give your clients a developmental task with which he, she, or they are involved. Give your clients value and meaningful ties to life – and let them know that what they are doing – even if they are in the final stages of life – can be for those they love – as relatively important as all previous tasks in life.

In the case of a dying client, help the family interface. Assist them in helping the client maintain his autonomy and dignity by encouraging him to participate – and face death in his own way.

If it is true that death ceases to be an absurd and intolerable scandal only when a person knows he has given meaning to his life, as an estate planner, you must do what you can to give each client a sense of pride, a feeling of worth, and the knowledge that he has resolved much of his unfinished business.

## RESOURCES

In addition to almost 40 years of experience in the process of estate planning, I have drawn heavily on many sources in the thoughts and words above. You will find the works of the following individuals to be of great help: Thomas L. Shaffer, Ignace Lepp, Simone deBeauvoir, E. Kubler-Ross, Stewart Alsop, Jack Lynch, Ed Schlesinger, and Gerald Graffner.

Three books which you'll find particularly helpful are Plotnick and Leimberg, **How to Settle an Estate**; Armstrong and Donahue, **On Your Own**, and Caine, **Being a Widow**.

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