Technical College of the Lowcountry
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Beaufort, SC 29901

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LEG 233
Wills, Trusts and Probate

Course Description

This course includes a detailed study of testacy and intestacy, preparation of wills and codicils, and fundamentals of trust and probate administration.

P/Co-Requisites: LEG 135 – Introduction to Law and Ethics and ENG 101 – English Composition I or Approval of the Instructor

Course Objectives:

Upon completion of this course, the student will be able to:

1. Explain the sources of law that have an impact on wills, estate planning, trusts and probate.
2. Describe and differentiate between an intra-vivos and testamentary gift, real and personal Property, types of property ownership and methods of transfer of property.
3. Describe the process of estate planning including a knowledge and application of legal concepts and principles of ethics.
4. Explain intestate succession, the related South Carolina statute, and the order of intestate succession in South Carolina.
5. List and explain the legal requirements of a valid will in south Carolina.
6. Discuss formal, informal, non-probate and ancillary estate administration processes.
7. Explain the requirements for qualification of a personal representative and the duties of a personal representative.
8. Explain the types of tax returns that must be completed for estate administration.
9. Describe the reasons for creating a trust and the various types of trusts that are often created.
10. Describe the legal requirements for establishing a valid trust and the components of the trust agreement.

Course Focus:
Student incorporation of law, content principles, form application, will preparation and ethical principles into paralegal practice.
Text and References

*Wills, Trusts, and Estate Administration.* 8th Edition; 2017 –Hower/Walter/Wright

Student Contributions

Preparation for class and participation in discussion
Preparation of a legal brief
Preparation of a Will draft
Preparation of an estate planning checklist for the purpose of making a will.
Preparation of a legal brief
Preparation of a Will draft
Preparation of a Trust document.
Preparation of a Decalration of Desire for A Natural Death

Course Evaluation

Examination #1  – 25% of grade
Examination #2  – 25% of grade
Examination #3  – 25% of grade
Drafting Assignments: - 25% of grade

ADA Statement

The Technical College of the Lowcountry provides access, equal opportunity and reasonable accommodation in its services, programs, activities, education and employment for individuals with disabilities. To request disability accommodation, contact the counselor for students with disabilities at (843) 525-8228 during the first ten business days of the academic term.

STATEMENT OF NON-DISCRIMINATION The Technical College of the Lowcountry is committed to a policy of equal opportunity for all qualified applicants for admissions or employment without regard to race, gender, national origin, age, religion, marital status, veteran status, disability, or political affiliation or belief.

ACADEMIC MISCONDUCT
There is no tolerance at TCL for academic dishonesty and misconduct. The College expects all students to conduct themselves with dignity and to maintain high standards of responsible citizenship.

It is the student’s responsibility to address any questions regarding what might constitute academic misconduct to the course instructor for further clarification.

The College adheres to the Student Code for the South Carolina Technical College System. Copies of the Student Code and Grievance Procedure are provided in the *TCL Student Handbook*, the Division Office, and the Learning Resources Center.

ATTENDANCE

- The College’s statement of policy indicates that students must attend ninety percent of total class hours or they will be in violation of the attendance policy.

Students not physically attending class during the first ten calendar days from the start of the semester must be dropped from the class for NOT ATTENDING.
Students taking an online/internet class must sign in and communicate with the instructor within the first ten calendar days from the start of the semester to indicate attendance in the class. Students not attending class during the first ten calendar days from the start of the semester must be dropped from the class for NOT ATTENDING.

Reinstatement requires the signature of the division dean.

- In the event it becomes necessary for a student to withdraw from the course OR if a student stops attending class, it is the student’s responsibility to initiate and complete the necessary paperwork. Withdrawing from class may have consequences associated with financial aid and time to completion.

- When a student exceeds the allowed absences, the student is in violation of the attendance policy. The instructor MUST withdrawal the student with a grade of “W”, “WP”, or “WF” depending on the date the student exceeded the allowed absences and the student’s progress up to the last date of attendance or under extenuating circumstances and at the discretion of the faculty member teaching the class, allow the student to continue in the class and make-up the work. This exception must be documented at the time the allowed absences are exceeded.

- Absences are counted from the first day of class. There are no "excused" absences. All absences are counted, regardless of the reason for the absence.

- A student must take the final exam or be excused from the final exam in order to earn a non-withdrawal grade.

- A copy of TCL’s STATEMENT OF POLICY NUMBER: 3-1-307 CLASS ATTENDANCE (WITHDRAWAL) is on file in the Division Office and in the Learning Resources Center.

HAZARDOUS WEATHER
In case weather conditions are so severe that operation of the College may clearly pose a hardship on students and staff traveling to the College, notification of closing will be made through the following radio and television stations: WYKZ 98.7, WGCO 98.3, WGZO 103.1, WFXH 106.1, WWVV 106.9, WLOW 107.9, WYZR 104.9, WFXH 1130 AM, WLVH 101.1, WSOK 1230 AM, WAEV 97.3, WTOC TV, WTGS TV, WJWJ TV, and WSAV TV. Students, faculty and staff are highly encouraged to opt in to the Emergency Text Message Alert System. www.tcl.edu/textalert.asp

Emergency Text Message Alert
Students, faculty and staff are highly encouraged to opt in to the Emergency Text Message Alert System. Participants receive immediate notification of emergency events and weather cancelations via text messaging on their cell phones. Participants can also opt in to receive non-emergency news and announcements. Go to www.tcl.edu. On the homepage, click on “emergency TextAlert at TCL” and fill out the form or go to www.tcl.edu/textalert.asp

BROADCAST LEARNING FORMAT: This class may be taught in a broadcast learning format. Images and word of class participants may be transmitted live or on a delayed basis to other locations. Classes may be rebroadcast due to extenuating circumstance.

COURSE TOPIC OUTLINE/PURPOSE: GENERAL COURSE OUTLINE:

<table>
<thead>
<tr>
<th>Week</th>
<th>Topic</th>
<th>Hour</th>
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<tbody>
<tr>
<td>1</td>
<td>Review of Syllabus and Orientation</td>
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<td>Basic Property Concepts: Classification of personal and real property</td>
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<td>and fixtures; forms of ownership such as tenancy in common, JTROS,</td>
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<td>freehold, leasehold and life estates, tenancy by the entirety and</td>
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<td>community property.</td>
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<td>Chapter 1</td>
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<td>2. Overview of estate planning including the purpose and requirements of wills, basic terminology; concepts of testacy and intestacy; will substitutes and the function of a personal representative and other fiduciaries (Chapter 2)</td>
<td>1.75</td>
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<td>Compare and contrast testacy and intestacy. Discuss the types of wills that are valid in SC and the rational regarding this. Discuss the differences between the following: bequest;</td>
<td>1.25</td>
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<td>3 Explain statutory distribution in South Carolina through analysis and application of the statute; include explanation of spousal rights in S.C.; Terminology of intestacy</td>
<td>1.5</td>
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**Read Chapter 3** - Find and read SC statute on intestate distribution; Discuss order of succession, issues related to succession, terminology of intestacy, and

| 4 Discuss Requirements for the Creation of a Valid Will – Intent, Capacity | 1.0 |
| Formal Requirements Detailed – Discuss SC 62-2-503 (attestation and Self-proving clauses) | |
| Modification Process – Codicil vs New Will | 1.5 |
| Revocation and Rejection of a Will - Discuss Will Contests – Avoiding Will Contests | |
| Preparation: **Read Chapter Four.** Discuss requirements of a valid will in relation to S.C. law, including age, capacity, date, witnesses, signatures | 0.5 |

| 5 Preparation to Draft a Will – Conference with Client | 
| Discuss client interviews including use of a checklist, ethical issues pertaining to the interview and information gathered, types of assets and liabilities, the importance of spousal right to election and rights of children. Review the checklist available in the online materials. Define conditions precedent and subsequent and explain the impact of these conditions. | 2.0 |
| Discuss use of the checklist during the client interview assignment, the application of the information on the checklist for estate planning and drafting a will, and initiate discussion of the assignment to draft a will. | 0.5 |

**Preparation: Read Chapter Five and Six.**

Submit a written brief of this case by the time of class on week 7.

**Look up, read and print or copy S.C. Code 62-2-503.**

| 6 Finish Chapter 6 and Review for Test (chapters 1-6) | 2.0 |
| Final Draft and Execution of a Valid Will: Contents and standard provisions | |
| Review Sample Preliminary Will and other NonTestamentary Documents. | |
| Discuss Power of Attorney, Living Will, Healthcare POA and Where to keep the Will | |

| 7 Finish Chapter 6 and Review for Test (chapters 1-6) | 2.0 |
| Begin discussion of the Declaration of Natural Death (Title 44) and Durable Power of Attorney (Title 62) laws of South Carolina | |
| Review for Test (Chapters 1 – 6) | |

**Preparation: Read Chapter 6 & review the draft of the S.C. form used for appointment of a Durable Power of Attorney for Health Care found online on Blackboard.**
| 7. | **Examination 1** – Exam will cover information in Chapters 1-6, online materials related to Chapters 1-6, all assignments and information relating to S.C. law relating to topics discussed to date, and all information discussed in class to date.  
Introduce the Probate process and Court | 1.5 |
| 8. | **The Participants and The Proper Court - Chapter 7** | |
| 9. | Understand the Participants in the Will and probate process including the Personal Representative, the attorney, paralegal, probate court and other persons and court officers.  
Define probate related terminology; Discuss venue and jurisdictional issues related to probate  
Ancillary jurisdiction, in rem jurisdiction  
Preparation: **Read chapter 7** | 1.5 |
| 10. | Explain the types of personal representatives. Discuss the role of the paralegal in the estate administration process. Explain the process of initiating probate and appointment of the personal representative. Discuss the need for bond.  
Differentiate issues related to testacy and intestacy regarding the administration process.  
Discuss Small Estate Administration, Collection Affidavit  
Preparation: **Read Chapter 8 & 9** | 1.2 |
| 11. | Probate and Estate Administration  
Discuss Small Estate Administration, the forms of Probate and Estate Administration  
Walk Through of Questions and Answers for Commencing and navigating the probate process, including the Collection of Assets, distributions and payment of claims  
Final Account and Closing the Estate ; PR Liability  
Preparation : **Read Chapter 9** | 2.0 |
| 12. | Informal probate Administration  
Making the choice of Formal or informal Probate  
PR Priority for appointment, Notice Requirements, Duties and Powers of the personal representative. Step-by-step procedures for Informal probate  
**Chapter 10**  
Introduction to Tax Considerations | 1.25 |
| 13. | Tax Considerations in the Administration of Estates: (Chapter 11)  
Discuss, Income Tax, Death Tax, Gift Tax, Marital Deductions, UTMA,  
Generation Skipping Transfers, other tax issues and deductions  
Personal Representative’s responsibilities with regard to filing  
The Taxable Estate- Tools used to minimize taxes owed | 1.5 |
| | **Examination 2** - Exam will include information in Chapters 7-11, online materials related to Chapters 7-11, all assignments and information relating to S.C. law relating to topics discussed since Exam #1 (including any information prior to Exam #1 which is an integral part of the subsequent materials), and all information discussed in class. | |
| 14. | **Introduction to Trusts: Chapter 12**  
Introduction to Trusts,  
Essential Elements of a Trust: Settlor, Trustee, Beneficiary  
Termination of a Trust | 1.6 |
Classification of Trusts Chapter 13 – Classifications of Trusts: express, Implied, Spendthrift, Sprinkling, Intervivos, PourOver

Estate Planning and Long Term care (Chapters 14 and 15): Discuss putting all the pieces together to form a complete Estate Plan- Insurance Options (Whole Life, Term life Etc) Long Term Care Options – Insurance, Social Security, Medicare, Medicaid, Personal Funding

Final Examination – Exam will include all information in Chapters 12-15, online materials related to Chapters 12-13, and information discussed in class. Although the final exam will primarily be based on the material covered since Exam #2, any material that is required for understanding material covered since Exam #2 may be included.

Method of Instruction:

Lecture, research demonstrations and assignments

Practical Assignments:

Preparation for class and participation in discussion
Preparation of an estate planning checklist for the purpose of making a will.
Preparation of a legal brief
Preparation of a Will draft
Preparation of a Trust document.
Prepare a Declaration of Desire for A Natural Death

Course Goals

The following list of course goals will be addressed in the course:

1. explore reasons for estate planning
2. contrast intra-vivos and testamentary gifts
3. describe sources of law impacting wills, estate planning, trusts and probate
4. differentiate real and personal property
5. contrast types of property ownership
6. explain probate and probate jurisdiction
7. identify parties essential to wills, trusts and estate administration
8. explain ancillary administration
9. apply S.C. intestate succession law
10. apply per capita and per stirpes concept
11. state S.C. spousal elective share
12. write a brief
13. contrast lineal and collateral relationships
14. identify will advantages and limitations
15. explain escheat
16. provide S.C. will components
17. address will modification and revocation
18. identify legitimate grounds for a will contest
19. use a will development checklist
20. outline attestation, subscription and self-proving clause purposes
21. contrast S.C. Declaration of Natural Death and Durable Power of Attorney
22. discuss trust purposes
23. describe trust legal requirements
24. contrast marital deduction and QTIP trusts
25. identify the following trusts: spendthrift; sprinkling, life insurance, Totten and charitable
26. explain trust termination
27. differentiate revocable and irrevocable trusts
28. address pour-over will use
29. contrast intra-vivos and testamentary trusts
30. apply the Rule Against Perpetuities
31. explain estate planning tax benefits
32. explore the marital deduction impact for each spouse
33. explore use of powers of appointment, the charitable deduction and life insurance
34. describe long term care cost incorporation in estate planning
35. articulate pre-probate and probate personal representative duties
36. explore small estate probate alternatives
37. discuss use of formal and informal probate
38. explain personal representative liability
39. use S.C. probate administration forms
40. distinguish lifetime and estate income, gift and death taxes
41. use state and federal probate tax forms
42. address tax law change impact on estate planning
43. apply ethical guidelines
44. distinguish paralegal tasks and unauthorized law practice
45. discuss paralegal professional association ethical standards
46. prepare a will pursuant to S.C. law

SAFETY ADDENDUM
Purpose. The purpose of this safety addendum is to provide each student with safety guidelines during an incident, emergency, or disaster at TCL. In addition, it provides students guidelines for lockdown procedures, evacuation procedures, and active shooter.

Definitions An incident is any event, potential or actual, that may impact normal operations but has no immediate health or life threatening consideration or serious effect on the overall functional capacity of the College. An event of this nature should be reported to the Office of the Vice President for Administrative Services. Also notify the off-site campus administrator if applicable.

An emergency is any incident, potential or actual, which may endanger life or health or which affects an entire building or buildings, and will disrupt the overall operations of the College. Outside emergency services will probably be required, as well as major efforts from campus support services. Major policy considerations and decisions will usually be required from the college administration during times of crises. An emergency should be reported immediately by directly using 911 if life or health/injury considerations exist and then to the Office of the
President or Vice President for Administrative Services as quickly as possible. Also notify the off-site campus administrator if applicable.

A disaster is any event or occurrence that has taken place and has seriously impaired or halted the operations of the College. In some cases, mass personnel casualties and severe property damage may be sustained. A coordinated effort of all campus-wide resources is required to effectively control the situation. Outside emergency services will be essential. In all cases of disaster, an Emergency Control Center will be activated, and the appropriate support and operational plans will be executed. The disaster should be immediately reported, first by calling 911 and then to the Office of the President or Vice President for Administrative Services. Also notify the off-site campus administrator if applicable.

Types of Emergencies  · Hurricane  · Tornado  · Fire  · Biochemical or Radiation Spill  · Explosion/Bomb  · Downed Aircraft (crash which directly impacts campus operations)  · Utility Failures  · Violent or criminal behavior  · Psychological Crisis

Procedures

Active Shooter


Building Evacuation  1. Building evacuations occur when an alarm sounds and/or upon notification by Security or the Emergency Director.  2. When the building evacuation alarm is activated during an emergency, individuals should exit according to the building evacuation plan and alert others to do the same.  3. Once outside, individuals should proceed to a clear area that is at least 500 feet away from the affected building. Streets, fire lanes, hydrant areas and walkways should be kept clear for emergency vehicles and personnel.  4. Individuals should not return to an evacuated building unless told to do so by Security or the Emergency Director.  5. Individuals should assist persons with disabilities in exiting the building.

Elevators are reserved for disabled persons

Campus Evacuation  1. A uniformed Security Guard, the Emergency Director, or an Emergency Resource Team member will announce evacuation of all or part of the campus grounds.  2. All persons (students and staff) are to immediately vacate the campus, or in the case of a partial evacuation relocate to another part of the campus grounds as directed.