When families in California start asking about nursing homes, trusts, and the house, what they are really asking is blunt: "Are we going to lose everything?" I hear this from adult children in their forties and fifties and from retirees who thought Medicare would cover long-term care and are stunned to learn it does not.

The law does give you tools to protect a home and preserve an inheritance, but the details matter. The type of trust, the timing, and the way your overall estate is structured all affect whether your house is at risk.

This is a California-specific overview, with a focus on Medi-Cal long-term care rules and practical estate planning choices. It is not a substitute for legal advice about your particular situation, but it should help you walk into a lawyer's office with sharper questions and a clearer sense of the trade-offs.

First, the core question: can a nursing home "take" your house?

Strictly speaking, the nursing home itself does not take your house. The risk usually comes from two directions:

1. Private pay: You are paying out of pocket for care at $9,000 to $14,000 per month in California, and you eventually have to sell or borrow against the house to keep up.
2. Medi-Cal: The state may seek reimbursement for long-term care costs after you die, using what is called "estate recovery."

When people talk about "the nursing home taking the house," they are really describing one or both of these.

A trust can affect:

- Whether your house counts as an available resource when qualifying for Medi-Cal.
- Whether your house is exposed to estate recovery after death.
- Whether your children can keep or quickly sell the home without going through probate.

To understand what a trust can and cannot do, you need to separate three ideas: eligibility, recovery, and control.

How California Medi-Cal treats your home

For long-term nursing home care, Medi-Cal is the main public program in play, not Medicare. Medicare covers short rehabilitation stints under narrow conditions. It does not pay for ongoing custodial care.

Medi-Cal has two key sets of rules that matter here:

- Financial eligibility rules while you are alive.
- Estate recovery rules after you die.

Is the home counted for Medi-Cal eligibility?

For an applicant who lives in the home or has an intent to return, a primary residence is usually treated as an exempt asset for eligibility purposes, up to certain equity limits under federal rules. California has been loosening asset rules in recent years, but for long-term care Medi-Cal, the treatment of the home as an exempt asset still matters, especially if you are single.

However, "exempt" does not automatically mean "safe for the children." It simply means the home does not disqualify you from getting Medi-Cal. Estate recovery and the way title is held can still affect whether the house remains in the family.

Medi-Cal estate recovery in California after 2017

California significantly narrowed its Medi-Cal estate recovery program for deaths on or after January 1, 2017. This change is easy to misunderstand, but crucial.

For those later deaths, the state generally can only recover:

- Against assets that pass through the decedent's probate estate.

That shift matters a lot. If your house passes using a living trust, a transfer-on-death deed, joint tenancy, or certain other non-probate transfers, it is usually outside the scope of California's Medi-Cal estate recovery.

The catch: your planning needs to be done while you still have capacity. And the structure has to be clean, consistent, and properly funded.

Revocable living trust: does it protect the house?

Most Californians who say "my house is in a trust" mean a standard revocable living trust.

Revocable trust and Medi-Cal eligibility

For long-term care eligibility, a revocable living trust generally does not shield the house or other assets. If you can revoke the trust and take the property back, Medi-Cal treats those assets as available to you.

So, if the concern is "How to avoid Medicaid 5 year lookback" or California's own lookback rules, a revocable trust alone is not the tool. Transfers into your own revocable trust are essentially ignored for that purpose. They are not gifts and do not create a disqualification period.

From a day-to-day perspective though, a revocable trust is still valuable. It centralizes your assets, makes it easier for your successor trustee to manage things if you become incapacitated, and can keep your estate out of probate.

Revocable trust and Medi-Cal estate recovery in California

This is where California's post-2017 law change gives a surprising benefit.

For deaths in 2017 or later, assets that pass through a revocable living trust typically do not go through probate, and therefore are usually not subject to Medi-Cal estate recovery in California.

So can a nursing home, via Medi-Cal, reach your house if it is in your revocable living trust?

In many post-2017 cases:

- The house still counts for eligibility purposes while you are alive.
- After you die, if the house passes directly from your revocable trust to your beneficiaries and no probate is opened, the state usually has no estate recovery claim against that property.

There can be exceptions, and the state's position can evolve, but for many families, a standard living trust is now one of the simplest tools to keep the home out of Medi-Cal's reach after death.

This leads into a broader question clients often ask: "Is it better to have a will or a trust in California?" For anyone who owns real property and cares about avoiding both probate and Medi-Cal estate recovery, a properly funded revocable living trust is usually the better option.

Irrevocable trusts and the "5-year rule" confusion

When people go online and read about "Medicaid planning," they quickly encounter references to "the 5 year rule for a trust," "the 7 year rule on inheritance," or "how to avoid Medicaid 5 year lookback." Much of that material is written with East Coast or Midwest rules in mind.

Two separate concepts often get blended together:

1. The Medicaid transfer penalty period, frequently called the "5 year rule," which reviews gifts and certain transfers made before you apply for Medicaid nursing home coverage.
2. Rules in some other countries, such as the UK, that involve a "7 year rule on inheritance" for tax purposes.

California uses federal Medicaid rules, but historically had a 30 month lookback for long-term care Medi-Cal. The state has been in the process of updating its Medi-Cal asset and lookback policies, and the details are technical enough that any serious planning should be done with a lawyer who works in this area regularly.

From a planning perspective, the key idea is that putting a house into an irrevocable trust for the benefit of children can be treated as a gift, which may trigger a period of ineligibility for Medicaid-type long-term care benefits. The length and timing of that penalty are what many people refer to when they talk about a "5 year rule on trusts."

Is an irrevocable trust better than a revocable trust?

"Which is better, a revocable or irrevocable trust?" depends on what problem you are trying to solve.

- A revocable trust is flexible, easy to update, and ideal for probate avoidance, incapacity planning, and family management. It does not normally protect assets for long-term care eligibility.
- An irrevocable trust can, if designed correctly, remove assets from your reach for eligibility and creditor purposes, but at the cost of control, tax flexibility, and sometimes family harmony.

I rarely recommend that a California homeowner rush into an irrevocable trust purely to protect the house from nursing home costs unless there is a clear plan, plenty of time before care is likely needed, and a strong understanding of the trade-offs. Giving away control of your primary residence in your seventies can create more risk than it solves.

When is your house generally safe from Medi-Cal recovery?

For a typical California homeowner, the house is relatively well protected in situations like these:

1. You are married, your spouse remains living in the house, and only one of you is in a nursing facility.
2. Your home is held in a properly funded revocable living trust, you die after 2017, and the house passes directly to heirs without probate.
3. Title passes automatically to a co-owner at your death through joint tenancy or community property with right of survivorship, subject to wider estate planning considerations.
4. You used a California transfer-on-death deed that was correctly executed and recorded, and still valid.
5. There are specific hardship or exemption factors for the heir, such as an adult child who is disabled and living in the home.

The subtleties matter. For example, clients often ask, "Can I lose my home if my husband goes into a nursing home?" If the healthy spouse continues to live in the shared home, Medi-Cal rules provide significant protections, but you still want the rest of your estate plan squared away to avoid later problems after both spouses have died.

Probate in California: why it keeps coming up

The whole question of "Can a nursing home take your house if it's in a trust?" crosses paths with probate because of how California defines the Medi-Cal estate.

Do all wills in California have to go through probate?

Not all, but many do. If someone California Estate Planning dies owning real estate titled solely in their name, and it is not held in a trust or governed by a non-probate transfer, the estate will almost always require a probate proceeding if the gross value exceeds California's relatively low small-estate threshold.

That is one reason probate is a constant topic. Families discover:

- Court supervision is slow and public.
- Statutory attorney's fees and executor's fees in California are tied to gross estate value, not net. A $800,000 house with a $600,000 loan is still treated as an $800,000 asset for fee calculations.
- Beneficiaries may wait a year or more before receiving property. This is part of why "Why do you have to wait 10 months after probate?" gets asked. The estate needs time for creditor claims, tax clearances, and asset sales.

If you do not file probate when required, the estate can drift into legal limbo. Title to the house may be unmarketable, property taxes and insurance can become a problem, and disputes within the family grow. The answer to "What happens if you don't file probate in California?" is usually: nothing good.

A revocable living trust, beneficiary designations, and certain bank titling choices are the main tools to avoid this.

Wills, trusts, and the most common inheritance mistakes

The legal documents are just tools. The larger question is how to avoid the most common inheritance mistake: assuming that signing something once will carry your family through the next 15 to 25 years without updates.

Here are some of the biggest mistakes people make with their will and trust, based on what actually shows up in disputes:

1. They sign a will but never address title. The home stays in their name as an individual, not the trust, and the family is dragged through probate anyway.
2. They ignore beneficiary designations on retirement accounts or life insurance. An ex-spouse, estranged adult child, or long-closed charity remains the named beneficiary.
3. They name the wrong person in charge. A child who is financially irresponsible is made trustee "because she is the oldest." This clashes with the question, "Can a trustee also be a beneficiary?" Yes, they can, and often should be. The real issue is their judgment and recordkeeping skills.
4. They fail to coordinate taxes. They leave retirement accounts and problem assets in ways that cost the beneficiaries unnecessary income tax or capital gains tax.
5. They never talk about their wishes. Tensions explode when the first child walks into the house after the funeral and starts loading furniture into a truck.

When clients ask, "What are common mistakes people make with trusts?" I often answer that the document is rarely the whole problem. Funding, follow-through, and family dynamics usually matter more.

What not to put in a will or a trust

The line between what belongs in your will or trust and what should be handled some other way is often blurry. Still, there are some patterns.

Commonly cited examples of three things to avoid putting in a will:

- Overly detailed funeral or burial instructions if timing is tight. People may not read the will until after the service.
- Long personal letters mixed into the legal document. Those are better attached separately so the will does not need to be rewritten.
- Instructions that conflict with beneficiary designations or joint titling. Courts usually honor the title or contract over what you "meant" in your will.

As for a trust, you should think twice before loading it with:

- Retirement accounts that are better left with carefully chosen beneficiary designations, unless a trust is truly needed for those funds.
- Vehicles that change frequently, unless your attorney has a specific strategy for them.
- Certain tax-sensitive assets where putting them in the wrong kind of trust might trigger unwanted income or property tax consequences.

"Which bank accounts avoid probate?" is a related question. Payable-on-death designations, joint accounts with right of survivorship, and accounts titled in the name of your trust can all bypass probate if set up correctly. The flip side is that you can accidentally disinherit someone if you are not careful with those designations.

The worst assets to inherit, and how to think about taxes

Clients sometimes ask, "What are the six worst assets to inherit?" or "What are the worst assets to inherit?" The point is not to make a precise list, but to understand categories that cause headaches.

High on that list are:

- Traditional retirement accounts with large untaxed balances, such as pre-tax IRAs. Under modern federal rules, many beneficiaries must drain these within 10 years of death, accelerating income tax.
- Highly appreciated assets in certain irrevocable structures before death, where the normal step-up in basis at death may be limited or lost.
- Complex limited partnership interests or small business shares with no market and no clear path to a sale.
- Timeshares with high ongoing fees and little resale value.

People also want to know, "How much tax do you pay if you inherit $100,000?" The unsatisfying but accurate answer: it depends on what form the $100,000 takes. In California, there is no separate state inheritance tax, and most inheritances are not taxable as income. However, distributions from inherited retirement accounts are usually taxed as ordinary income when withdrawn. Gain on later sales of inherited assets can be taxed for capital gains, depending on basis.

Separate from that is the question, "Do trusts avoid inheritance tax?" In the United States, what most people call "inheritance tax" usually refers to federal estate and gift tax or to state-level inheritance taxes. California does not currently have a state inheritance tax. A trust by itself does not magically avoid federal estate tax. It is the combination of trust structure, lifetime gifting, and overall estate size that matters.

Trusts can, in certain designs, help avoid or reduce some taxes, such as income taxes on future appreciation or estate taxes for very large estates. For most California homeowners, the primary practical tax concerns are capital gains and income tax on inherited retirement accounts, not estate tax.

Specific estate planning concepts people mix up

Because the vocabulary can be confusing, it helps to sort out a few specialized rules that often come up when older trusts are reviewed.

The 5 by 5 rule in estate planning and the “5 of 5000 rule”

If you see a trust provision giving a beneficiary the right each year to withdraw the greater of $5,000 or 5 percent of trust principal, that is often called the “5 by 5 rule” or “5 of 5000 rule in trust” language. It is rooted in federal tax rules that treat such powers in a particular way for estate and gift tax purposes.

Older California trusts used these clauses frequently, especially in credit shelter or bypass trust planning for couples with larger estates. Many families now inherit these documents without understanding why that clause is present. If you see it, do not panic. Talk to a lawyer about whether the tax reasons for it still matter, and whether the trust can or should be modified under modern law.

The “2 year rule” and “7 year rule” that are not really California rules

I often hear questions like “What is the 2 year rule after death?” or “What is the 2 year rule for trusts?” and, as mentioned earlier, “What is the 7 year rule for trusts?” In many cases, people are reading about foreign tax rules, old life insurance guidelines, or lender policies and trying to apply them to California probate and trust law.

In California, more relevant timing rules include:

- Creditor claim periods in probate.

- Income tax filing deadlines for estates and trusts.
- IRS rules for inherited retirement accounts, such as the 10 year payout period under federal law.

Rather than chasing generic "2 year" or "7 year" rules on the internet, it is better to identify the specific asset and the specific legal system involved.

Is it wise to put your house in a living trust?

For most California homeowners, yes. It is usually wise to put your house in a living trust, so long as the trust is drafted thoughtfully, titled correctly, and coordinated with your wider plan.

People also ask, "What are the disadvantages of putting your house in a trust?" or "What is the downside of a living trust in California?" The downsides are real but usually manageable:

- Upfront cost and paperwork. A well drafted California estate plan that includes a living trust often runs somewhere in the low-to-mid four figures, depending on complexity. That answer overlaps with "What is the average cost for estate planning in California?" Because fees vary by region and complexity, you might see a basic package for a married couple in the $2,500 to $5,000 range, with more intricate tax or asset protection work costing more.
- Funding errors. If you forget to deed the house into the trust, or refinance and the lender retitles the house back in your individual name and no one notices, you can undo the benefit. This is one of the quiet "What are common mistakes people make with trusts?" traps.
- Ongoing maintenance. You should review the plan when you move, refinance, divorce, remarry, or have major shifts in family health or finances.

Compared to the cost, delay, and public nature of probate, those disadvantages are usually acceptable. The key is that the trust is customized, not a boilerplate document that ignores your actual property and family situation.

Choosing beneficiaries wisely

It is normal to ask, "Who should I not name as a beneficiary?" and "What is the best way to leave inheritance to your children?" There is no single answer, but some patterns repeat in California families.

Consider avoiding outright, no-strings bequests to:

- Children or grandchildren with serious addiction or mental health struggles who may be harmed by a sudden lump sum.
- Beneficiaries on means-tested public benefits, such as certain disability programs, where a direct inheritance may cut off their support. A properly drafted special needs trust may be better.
- People you do not actually trust to manage money but feel guilty about leaving out.

When you ask, "What is the best way to leave your house to your children?" you are really weighing:

- Do the kids want the property, or will they sell it immediately?
- Is there one child who lives there or contributes more to your care?
- Are you concerned about divorces or creditors in your children's lives?

Sometimes, the best approach is to leave the house to a trust for the children, managed by a neutral trustee, with clear instructions on whether they can buy one another out, how long the house can be held, and how expenses will be handled. Other times, using a transfer-on-death deed or simple trust distribution to children who get along is enough.

The worst approach is usually a half-measure, such as “Can I sell my house to my son for $1 dollar?” That technique tends to trigger gift tax reporting, property tax reassessment, capital gains problems for the child, and potential Medi-Cal complications. A clean, well designed trust or estate plan is far better.

A brief word on small benefits and final logistics

Families often stumble over small but emotionally charged details.

The “$10,000 death benefit” refers in various contexts to older life insurance policies, small employer benefits, or certain pension-linked payments. These are typically governed by beneficiary designations, not your will or trust. Keeping those updated is as important as the big dollar accounts.

Right after a death, families ask, “What not to do immediately after someone dies?” From an estate planning perspective, the key cautions are:

- Do not start giving away or selling property before someone is clearly authorized as executor or trustee.
- Do not close bank accounts or retitle assets without understanding how they are held and who has legal authority.
- Do not ignore small deadlines. Certain benefits, insurance claims, and tax elections are time sensitive.

Gather documents, secure the property, and make a calm appointment with the lawyer who drafted the plan, or with a reputable probate and trust attorney if no plan exists.

Estate planning in California, especially when nursing home care is in the picture, is not about clever tricks or single “magic” documents. It is about understanding how Medi-Cal, probate, taxes, and family dynamics intersect, and then using familiar tools like wills, revocable trusts, and carefully chosen beneficiary designations to steer things where you want them to go.

A house in a trust is not a force field. But used correctly, that trust can mean the difference between your children negotiating a chaotic probate while worrying about a Medi-Cal claim, and your children quietly recording a deed, settling a few bills, and moving forward with their lives while preserving the home you worked for.