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Focus on Follow Up

This newsletter is dedicated to making sure that our clients have communicated their estate planning wishes to their family and/or their designated agents. As I get close to celebrating 19 years in my estate planning practice, I am learning that many of my clients have never given a copy of their documents to the individual(s) actually designated to act in those documents. If your Agent, Trustee or Medical Advocate does not have a copy of your documents, there is also a good chance that you have never discussed your wishes with that individual and in some cases you may not have obtained their permission to designate them.

If something, such as death or incapacity were to occur, would the individual(s) that you have designated know where to start or what to do? The problem that we have run into over the years involves a situation where a client becomes mentally incapacitated and we subsequently learn that the client failed to provide a copy of the medical and/or financial powers of attorney to the designated individual. Since the designated individual was never made aware of the documents or the permission they were granted, that individual ended up contacting their own attorney for help. If no one knows you have a medical or financial power of attorney, or even a Trust, it is likely that the attorney that is consulted will recommend having a guardian and conservator appointed. Guardianship is getting permission from the court to handle medical decisions and placement decisions for an individual. A conservatorship is getting permission from the

court to handle the financial affairs for someone that is not mentally capable of handling his or her own affairs.

The reality is that the medical and financial Powers of Attorney that were set up by our office gives an individual permission to do everything a guardian or conservator could do...and more! **The petition for a court appointed guardian and conservator was never necessary...and neither was the expense!** It is our hope that upon reading this newsletter, you will review your estate planning documents and that you will personally contact each of the individuals that you have designated to serve and discuss your wishes. You need to make sure that they are not only aware of these legal documents, but that they also have a copy of the documents. If you have never reviewed or discussed your estate planning documents with your designated Trustee, Personal Representative, Power of Attorney and/or Patient Advocate, I would recommend that you take the time to sit down in the very near future with each of these individuals and review the documents with them.

Remember, for many of you, your Trust notebook contains an explanation of each document. Additionally, if you look on my website, there are articles that discuss the difference between a medical and financial power of attorney as well as the difference between a simple Will versus a Trust.

Corporate Trustees

While we are talking about your estate planning documents, many of you were provided with additional paperwork that I frequently refer to as “your homework”. These forms include questions regarding your funeral/burial wishes, specific gifts of tangible personal property, pet instructions, advisor/banker/CPA information, and much more. Many of the clients that have come into my office to review their documents over the years have admitted that they have never taken the time to complete these forms. Although the forms themselves are informational, they assist and guide the individuals that you have designated to serve when you cannot. For example, does your family know whether you want to be buried or cremated, does your family know where you “hide” important financial information, or does your family know if you are an organ donor?

Now is the time to update your files and update your family!

Medical Emergency Card

Another way of advising other individuals or family members of your medical wishes is a simple card that you can complete and place in your wallet for use in an emergency. This card can be located on the Michigan Secretary of State’s website at www.michigan.gov/sos. Click on “Organ Donation”, select “Publications and Forms” and click the link titled “Your Emergency Medical Card”. This is a printable PDF form. You should complete the card, laminate it (if possible) and place it in your wallet.

If you have designated a corporate successor trustee, now may be a good time to touch base with that corporate trustee. Many of the corporate trust departments in this area may have experienced a name change, but most of them still employ many of the same trust officers. It is important that you periodically contact the trust department and make sure that they still have record of your Trust documents (our office would have sent them a copy shortly after your documents were signed). When you contact them, it would also be a good idea to discuss some of the unique or particular provisions in your Trust.

For example, if your Trust provides for income only to a child or grandchild until age 30, the Trustee may want to have notes in the file to confirm why there is such a restriction. Alternatively, if time does not permit a one-on-one meeting, many of you may want to put your thoughts in writing and send the corporate trustee a simple letter of intent and request confirmation that they are still in possession of your Trust documents.

Change in Circumstances - Yours, Your Family’s and Your Designated Agents

We will always remind you to keep us up-to-date on any changes that you have made with regard to your home address, your email address, and/or your phone number. In an effort to keep our costs down and to be as efficient as possible, we have begun emailing this newsletter to approximately two-thirds of our client base (we do not actually email the

newsletter to you...we give you the link to our website). **If you have received a postcard it means you have not contacted us with an email address nor have you confirmed that you do not use email.** Some of our clients have been hesitant to give us an email address and we want you to know that we will only contact you via email one or two times a year. Our primary purpose for having your email is to notify you of our annual newsletter, of an upcoming seminars, and to notify you of any other updates throughout the year. It is a cost efficient way for us to keep our clients up-to-date. With regard to your email address, we will NOT be forwarding lengthy articles to you or sending you political emails or jokes. On the flip side, we would ask that you keep your emails to us limited to matters related to your estate plan or any legal issues that we can assist you with. It is my goal to try and respond to client emails as timely as possible, but keep in mind that if you need an immediate response, you should call the office. We encourage you to use my email to update us on changes in your family's addresses, changes in your Trustee, power of attorney or medical advocate's address, purchase of new property, change of account information and/or change of a financial advisor. If you have non-estate planning issues that we can help you with, we are happy to be contacted on these matters via email as well.

Charitable Donations

If you have made a charitable contribution in your Will or Trust, many of the local charities have asked me to pass this request on to you. The charities would ask that you contact them and let them know that you have provided for them in your estate plan. This would primarily include Wills and Trusts that provide for an immediate gift at death and not a gift to a charity if you have no other surviving heirs.

Typically, if you have provided for an immediate gift to your favorite charity, that provision can be located in Article 3 of your Trust or in Section IV of your Will.

Upcoming Seminars

This year I am scheduled to present various seminars throughout Southwest Michigan. I will be presenting on the topic of Charitable Giving for the Allegan General Hospital Foundation and the Allegan Community Foundation. I will also be scheduling a seminar regarding the new Michigan Trust Code. As of April 1, 2010, this new trust code will have an impact on the laws related to Trusts. Dates, times and locations for each of these seminars will be posted on our website. If you are interested in attending one of our seminars, we would ask that you call our office to confirm your attendance. Sometimes the weather or circumstances requires that we cancel or reschedule and we would want to be able to notify you of any changes.

Michigan Trust Code

I will be posting an article on our website later this year regarding some of the changes to the trust code and how it may impact your Trust agreement, if at all.

Our office continues to offer the following legal services:

- ▲ Chapter 7 & 13 Bankruptcy
- ▲ Drunk Driving
- ▲ Criminal Law
- ▲ Minor in Possession (special focus on college students & young adults)
- ▲ Social Security Disability
- ▲ Workers Compensation