

PLANNING FOR YOUR FUTURE

An open letter to our Estate Planning clients

By Bernard A. Krooks, Certified Elder Law Attorney

Dear client:

It has been wonderful working with you. We are pleased that your estate plan is completed. Please remember to get in touch with us if there are major life changes. In any event, you should probably touch base with us periodically just to check on what is new — either in your life or in the world of estate planning.

In the meantime, we would very much like it if you would help us out. It will make things much easier for us (and for your family) if you will take these additional steps:

Please talk with your family. The best way to minimize disappointment and disputes after your death is to let everyone know what to expect in advance. Be prepared to discuss issues with your family, too. You may even make changes to your estate plan based on those conversations — we will be happy to have follow-up discussions as needed. There is no legal requirement that you either share or withhold copies, but there are good practical reasons to let them in on the plans.

Recently we had a client who carefully prepared her advance medical directives. She told the son she named as her agent what she wanted, and she completed all the documents correctly. When she fell ill, her daughter (who had not maintained much contact) could not believe her mother would want to refuse medical care. She initiated legal proceedings to force continued aggressive treatment. She was not successful, but the cost and heartache were both considerable — and brother and sister no longer speak to one another. Perhaps mom could have avoided that outcome if she had discussed her wishes with both children.

Coordinate your beneficiary designations. If your will leaves everything to your children equally, but your life insurance names only your oldest daughter as beneficiary, your daughter gets the proceeds regardless of your will. Is that what you intend? If so, make it clear. If not, change the beneficiary designation to reflect your intentions.

In a recent case in our office, a mother told her three children that they and her long-time companion were named as equal beneficiaries on her IRA account. When she died it turned out that the companion was the only beneficiary. Did mom intend that result, or was it an oversight? An excellent relationship with the grieving companion is endangered by this outcome. If, in fact, mom wanted to split the account among the four people most important in her life, that will not be the result.

Don't tinker with your beneficiary designations, documents or titles. If someone at your bank says you should make all your accounts into "Payable on Death" (POD) accounts, please talk to us first. If we have helped you name a trust as beneficiary on your IRA and your accountant tells you that's a mistake, please talk to us before you change it back. Please do not put your children's name on your house, or your bank account, "just in case." We prepared your documents to take care of "just in case," and your changes may undo the value and effect of the documents we prepared for you.

Prepare a list of assets and directions. It really helps if you have left a roadmap for the person who handles your estate. You know perfectly well where the life insurance policy you bought in 1955 is located, and how often the statement from that little bank in Ohio arrives. Your daughter does not, and if she is handling your estate she will spend countless hours looking for those kinds of information. You can make her job much easier if you give her some clues and direction. She also will need to make decisions about your funeral; your obituary and even what (if any) music will be played. If you have told her what you want, her job will be so much less stressful, and the other family members can hardly criticize her for following your directions.



Incidentally, we would really like it if your online login and password information was available somewhere. Whoever handles your estate (whether after your death or after you have become incapacitated) will be able to check (and close) your e-mail account, get up-to-date information from your online bank and brokerage services, and complete many steps that take much longer if they must be done solely by mail. There is a balance to be struck, of course; you need to keep that information confidential while you are still alive and capable, but available to the one person who needs it when you are not able to pass it along in person. Let us know if you need help with this project; we might have some ideas about how to manage the competing interests.

We hope you enjoy perfect health and that your estate plan turns out not to have been needed. This is one instance in which it is good if it turns out you didn't need to expend the funds. But please help us so that if something should happen, we can make your estate plan work the way you intended.

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