

Elder Law: Some New Year's resolutions you may want to keep

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By Julian Gray and Frank Petrich

It's that time of year again. Amid all of the holiday festivities and visiting with family and friends, invariably, we will make promises to exercise, stop smoking, drink less and eat healthier. While these are common and well-intentioned resolutions, we thought of a few additional resolutions that are just as important, and just might be easier to keep.

Many of the clients and families we serve are typically in crisis due an event that was both unforeseen and unplanned. Let's review some areas where these crises commonly occur, and some steps that can be taken so that they can be avoided, or at least mitigated.

Start with the family gathering. While the holidays are a time to spread some cheer and to see people we may not often see, they also provide some of the few times throughout the year when entire families are in the same place at the same time. Parents especially should consider an open discussion with their children about their plans as they, the parents, age and how they want things to happen. Everything ranging from "Where is the key to the safe deposit box?" to "What funeral home will handle our funeral?" should become fair game.

Is there someone in the family with special needs? How should those needs best be met, particularly if the parent is the caregiver of that person? If there appears to be an imminent need of long-term care for the parent, which facilities are of interest? While not all subjects may be comfortable to discuss, it's better to discuss them in advance rather than have to act during a crisis and possibly make a decision inconsistent with the intended, but unspoken, plans.

The estate plan. It's analogous to a tetanus shot: If you can't remember the last time you had one, it's probably time to review the plan (or to create one). The last time you prepared your will, the offspring may have been minors or your now-estranged brother with the nosy spouse may have been named as a person in your documents who may have control over your affairs at some point. Do the children know where your "stuff" is and how to get to it if necessary?

Medical care. If your last recollection of preparing a living will or health care directive was when you were being prepped for surgery, it's probably time to actually read the latest information about medical care decisions in Pennsylvania. In addition, it seems everyone is becoming more concerned about privacy these days. If you want a trusted family member to act on your behalf someday if you are unable, you want to be sure that person is actually able to help you and not hampered by the various privacy hurdles that are standard now.

Taxes. There are numerous state and federal taxes that affect the way we plan estates. While there is always a debate in Congress over different income and estate tax issues, there have been significant changes in taxes over the past decade, and a few big ones on the horizon as we enter an election year. In a previous column, we addressed the current and anticipated estate tax climate, but clearly this is an area to watch. Your tax plan should be updated periodically as tax laws (both estate and income) change.

IRAs. As the baby boomers (born 1946 through 1964) continue to retire, more individual wealth in this country shifts to "pre-tax" IRA accounts, which require special planning. For the "Greatest Generation," individual retirement accounts were a small portion of a person's overall wealth, and many people used a simple will to distribute that wealth.

However, IRA assets do not pass through a will and are transferred by beneficiary designation.

In addition, IRA owners can now use different types of protective trusts to transfer IRAs for the benefit of their heirs. So, at the very least, a review of the IRA beneficiary designations is in order. You may also want to considering using a trust to hold an IRA.

Insurance. Many clients own a variety of insurance policies. We'll focus on life insurance, because it is the most common one. Some of these policies were purchased decades ago. Verification of the existence of the policy is the first step.

Was the insurance company purchased by another insurance company? Did the company "demutualize" and issue stock to its policy owners? (If so, ask the insurance company if you own stock and how many shares.) Are premiums still being paid on the policy? If so, why? Will the policy lapse during your lifetime?

Many of these questions can be answered by simply requesting an "In Force Illustration" of your policy from the insurance company or your agent. Finally, review the primary and contingent beneficiary designations, as life insurance does not need to pass through the will.

While good planning addresses all of the above issues, adding any one of these to your list of resolutions is a step in the right direction (and a lot easier than giving up french fries!). Happy New Year!

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