

Elder Law Guys: Moving out of state means more than packing boxes

November 27, 2017 7:00 AM

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It seems that the days when we lived in a single place from the time when we were young adults through the rest of our lives are increasingly rare.

Many families consider downsizing their living arrangements once all the kids move away or after the loss of a spouse. This transition generally makes sense from a financial, social and health maintenance perspective.

While moving one's residence is a big transition, probably one of the last things on your mind is whether you should revise your estate plan. We'll examine some issues related to relocating out of your current state of domicile and how to address them.

So, take a break from folding cardboard boxes and finding the packing tape and consider some things to make the transition easier.

If you already have even a basic estate plan in place — composed of a last will and testament, and financial and healthcare powers of attorney — that's a good start. These documents have specific purposes regardless of the state in which they are prepared.

However, each state may have different local rules for the drafting and signing of the documents. So, your will and powers of attorney may be used in another jurisdiction, but once you've picked out the new window treatments and put the silverware away, you may want to find a local attorney to discuss what changes may be required in your new state.

If your estate plan uses a trust, these documents are typically meant to address multi-state issues. Many trusts allow the trust to change where your property is located as necessary and, also amend the trust agreement to comply with new or changed local laws.

Yet many are drafted with specific purposes that rely upon state or federal laws. If the former is the

emphasis of the trust, then moving to another state will probably require an update.

In either scenario — using a simple or a complex estate plan — one area that frequently requires revising is the appointment of fiduciaries (individuals or entities you pick to act in your best interests).

This could be the executor of your will, successor trustee of your trust or the agent under your powers of attorney. This is common because one of the factors that clients rely heavily upon is the geographic location of the fiduciary.

If you name your sibling as your agent under your power of attorney because she lives in Cleveland (that's unfortunate) and you move to Arizona, it may be inefficient for the Ohio-based sibling to assist from an extended distance.

Most people do not address these issues until after they are settled in, but one specific area that requires advanced planning prior to moving relates to a disabled family member.

People with disabilities relying upon various government programs must plan in advance before relocating. There are at least two reasons: First, most programs funded through Medicaid are administered by each state's own local rules. Some great programs available in one state may not exist in another.

Second, people with disabilities rely upon such programs on a daily basis and any significant interruption because of changing location can be devastating. Therefore, a person living with a disability should attempt to discuss the transition with a qualified attorney in the state to which he/she is moving prior to making the move.

The Special Needs Alliance — a nonprofit dedicated to helping individuals and their families with disability planning — maintains an online database of attorneys across the country (www.specialneedsalliance.org) which should be quite helpful.

Finally, if a disabled person has a court-appointed guardian, that guardian should take into consideration a change in jurisdiction and consult with an attorney on the steps needed to properly notify the court in the new state of the guardian's authority to act on behalf of the disabled person and address any guardianship issues this move may cause.

While moving to another state can be a complicated process, taking steps in advance addressing legal issues will help ease the transition and possibly avoid an interruption of services for a person with a disability.

And don't forget to treat your moving crew to pizza. They work hard all day.

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