



Elder Law Guys: 2023 New Year's resolutions; Yuk!

JULIAN GRAY AND FRANK PETRICH

DEC 26, 2022

12:00 PM

Only seven days away from a New Year! Have you started preparing? With a couple of COVID-19 years behind us (and flu & perhaps more COVID in front of us), this is the right time to get and maintain an orderly house, if not just for your sake, but also for your loved ones.

Because we commonly deal with families in crisis due to medical or family issues, we thought that a reminder of some of the more easily addressable issues to minimize that type of trauma would be in order. These items are in addition to ye olde standard resolutions of exercising more, stopping smoking, cutting back on COVID eating and drinking, etc. (and may be even more important).

Your estate plan — A good starting point. Do you have a will or a trust? If you do, when's the last time you reviewed it? Are your kids now adults, with spouses (and maybe second spouses) and kids of their own? Who do you want to get what you have and how do you want them to get it; outright after you die; in the form of a trust to help protect them (or their spouses) from wasting it all? Do the "right" people even know what you have and where they can find that information.

What about a power of attorney naming someone to act on your behalf if you can't or no longer want to do so. Don't leave this to chance. You presumably want a trusted person to handle your affairs. Have you named one, along with her/his potential successors? If not, why not?

Do you have a loved one with "special needs" who is or may be receiving public benefits such as SSI and Medicaid? How will these needs be best met after you're gone; especially if you're the caregiver for that person? Have you looked at a special needs trust to benefit that person with special needs so as they don't lose whatever public benefits they may be receiving, now, or in the future?

Medical care documents — Do you have a health care power of attorney or advance directive for health care? Who do you want to make decisions for you if you are unable to do so? Have you discussed with those individuals what your wishes are? Equally important, are they willing to make these decisions for you if called upon? You need to find out and get it done.

Let one or more people know where your estate planning documents are located so those documents can be accessed by them if you're unable to do it yourself. Are they in a safe deposit box? Does someone know where the safe deposit box is and who has a key for it? Should you have these documents there rather than in a more accessible location?

IRAs — Are you subject to required minimum distributions (RMD's)? Are you taking your RMD's? If not, you are subject to a rather severe tax penalty (the amount not withdrawn is taxed at 50%). Remember that IRAs are transferred by beneficiary designation and not your will.

Review your IRA beneficiary designations on a periodic basis the same as you would your will, power of attorney and health care directives to help insure you've got the right people in the right places. The SECURE Act changes to IRA distributions to beneficiaries alone warrants a major review as to whom you want to be a beneficiary.

As to all of these estate planning documents, the week between Christmas and New Year's is a good time for a to review them to see if they warrant any changes.

Long-term care considerations — Are you concerned about you or your parents' ability to "age-at-home"? Are you aware of the types of alternate living arrangements that might be available or what services may be available for in-home care. Have you or your children made a list of local communities and visited them in advance of any potential need?

Taxes — Every year brings a different tax climate and rule changes; 2023 is no different. Figure out ways to keep up with these changes as they can materially affect your finances and usually not in a positive way.

Funeral arrangements — Who wants to discuss this topic? But discuss you should. Have you made any arrangements and let them be known with anyone to make it easier for your loved ones when the ultimate event happens?

A good time to discuss these things could be the annual holiday family gathering. Talk about these issues with with close family members (and before the real partying begins) in a frank and serious way. Obviously, not every one of these topics has to be discussed with everybody, but, at a minimum, with those who may be affected by them to one degree or another.

As to getting started on these resolutions, remember the Olde Slovenian proverb: "A journey of a thousand miles begins with just getting out of bed!"

Once again, we wish you a happy, healthy & well resolved New Year!

Julian Gray and Frank Petrich are certified elder law attorneys who practice in the Pittsburgh area at Gray Elder Law. Send questions to elderlawguys@grayelderlaw.com or visit grayelderlaw.com.

First Published December 26, 2022, 12:00pm

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