



THE E.P. EXPRESS

FOS's Estate Planning Newsletter
An ounce of prevention. . . .

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ESTATE PLANNING FOR THE "SQUEEZE" GENERATION

ALL GENERATIONS NEED HCPOAS



By Judy K. Janetski,
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Fast-forward fifteen years - our oldest son is in college and our mothers are both widowed and face their own health concerns. Hello "squeeze" generation.

Now, in addition to our own plan, we also needed to make sure our mothers' plans are in order and our new-adult son is protected.

We had our son sign a healthcare power of attorney, important to us if he faced a healthcare situation and needed our help. Otherwise, by law, healthcare facilities couldn't give us health information and we couldn't make health decisions for

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Estate planning documents are often forgotten until something triggers a need. My first "need" came in the year 2000.

My husband and I were planning a trip for our fifth anniversary. Our two young boys would spend the week with their Grandma. We couldn't go away without knowing that a plan was in place for our kids should the "unthinkable" happen. So we created our first estate plan.

As Judy Janetski's article highlights, those of us in our middle years are part of the "squeeze" generation.

We continue "raising" "our young adult children. At the same time, we help, if not directly care for, our parents as they (and we) deal with their aging.

And so we worry. About both generations. Seemingly all the time. What if my daughter is hospitalized at college? What if my mother breaks a hip and needs surgery? Or worse, what if my father has a stroke, and can't communicate with us or his doctors?

The "squeeze" wakes us up at night. We sigh. What can we do?

One critical step we can take is to make sure that our adult children and our parents sign health care powers of attorney (HCPOAs).

An HCPOA gives a third person the authority to act for the signer on medical matters if the signer cannot act for himself. For young adults, the "attorney" commonly is a parent; for older adults, a spouse or adult child.

If circumstances permit, a medical provider in possession of an HCPOA will usually contact the named "attorney" for input and directions, if the signer cannot communicate himself.

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POWERS OF ATTORNEY AREN'T ONLY FOR HEALTHCARE

Judy Janetski's article reminds us that Health Care Powers of Attorney (HCPOAs) are a critical component of an effective estate plan.

They are not, however, the only important power of attorney in the estate planning arsenal.

Equally important is the General Durable Power of Attorney (POA). A POA is akin to an HCPOA, but is for non-medical — primarily financial — matters.

In a POA, an individual appoints someone, often a spouse, family member or trusted friend, as his "attorney," with authority to handle various financial matters.

A POA can be narrowly drawn to apply to only one, or a few specified matters. Most estate planning POAs, however, are broad in scope (hence their "General

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DON'T FORGET: FUND THAT TRUST!

YOUNG TOP RATED

You're done!

After weeks of soul searching, intense discussions, and final document revisions, you sign each of your estate planning documents — your Will, Trust, Power of Attorney, Health Care Power of Attorney, and related documents.

You put down your pen and put up your feet. You say to yourself, "I'm glad that's over with."

But are you really finished?

Many estate plans include a revocable trust which is intended to hold assets until after your death, until their

disposition on your prescribed terms.

Because this trust is not public and does not go through probate, your financial affairs can remain private and you can avoid probate fees.

A revocable trust, however, is only as good as the assets placed in it before death.

Assets must be formally transferred to the trust, using forms changing the assets' "ownership" from yourself to the trust.

A "probate" asset (a house, a financial account) not transferred to the trust at death may have to go through pro-

bate. That would defeat a major purpose of the trust.

Transferring assets to a revocable (as opposed to irrevocable) trust does not deprive their owner of control over them.

A revocable trust's creator (grantor), for example, can change or terminate the trust at any time (while competent) until his death.

Make sure that you've dotted all your "I's" and crossed all your "T's."

Review your trust and related documents with your FOS estate planning attorney.

FOS estate planning shareholder **Allan Young** has been selected as a 2015 Top Rated Lawyer in Trusts and Estates.

Al received the honor from American Lawyer Media (ALM) and Martindale-Hubbell™.

Al was selected as a Top Rated Lawyer based on his high peer ratings for his legal ability and his ethical standards.

Al was also selected as a Top Rated Lawyer in 2014.

Al's award will be highlighted in the 2015 Top Rated Lawyers™ sections of *The American Lawyer*, *The National Law Journal*, and *Corporate Counsel* publications.

Power of Attorney, from page 1

Durable" title).

In a broad POA, the appointed "attorney" can legally deposit checks into the signer's accounts, pay the signer's bills and other financial obligations, and handle the signer's investments.

The "attorney," however, is legally prohibited from using the signer's funds for the "attorney" himself. The "attorney" must act solely for the signer's benefit.

A POA can help a family avoid unnecessary expense, disruption and frustration. If a person becomes unable to manage his affairs without having signed an effective POA, the court will have to appoint a conservator for him. That conservator may not have been chosen by, and may have a much different financial approach than, his "charge."

A POA, of course, is only effective when signed by a legally competent person. A person with Alzheimer's disease, for example, might be able to create a legally effective POA in the illness' early stages, but not as the symptoms become more severe.

The breadth and scope of most POAs dictate that a POA should be created only under the supervision of a competent attorney.

Particular care must also be taken in choosing the POA's "attorney" — the person given the powers under the document. For that reason, only a very trusted, financially knowledgeable person should be named as the "attorney." A devoted daughter who is a CPA, for example, may be a better choice than a forgetful husband with little money sense.

POAs, like HCPOAs, are only one piece of an effective estate plan. Because they terminate at the signer's death, they should be drafted in conjunction with all other estate planning documents.

Contact your FOS estate planning attorney to create or review your estate plan, including your POAs.



DON'T LOSE THOSE INVISIBLE ASSETS

Your house. Your car. Your spouse's favorite recliner. The dining room table where your son-in-law asked for your daughter's hand in marriage.

These are all tangible, visible assets. So are the funds in your bank accounts (let's take the bank's word that they're there).

But what about your invisible assets? Those assets that float around the web?

For example:

ITunes account. Your life's history in music, podcasts and books. You want to share it with your children. Of course, they're not interested...for now.

Uploaded photo account. You spent hour after hour collecting decades-old photos, scanning them into the computer, and uploading them to a restricted photo-

sharing website. You've now got your family's photo history all in one place. For your family to cherish, and then supplement with their own photo histories.

Genealogy account. You've traced your father's side back to the Pilgrims, and your mother's side back to Ellis Island. "Ancient" birth reports, marriage certificates, diplomas, enlistment records. You've got them all.

The Cloud. You're not really sure what's up there (or how it got there). Even so, it must be important, or it wouldn't be up there in the first place.

These and similar web-based assets may not have great financial value (though you never know...), but their personal or sentimental value may be priceless.

You may want to pass them on from generation to generation, just like your great grandmother's candlesticks. Or your Hank Aaron baseball.

You can't pass on these assets, however, if your heirs don't know they exist or, if they do, where they are or how to access them.

So get to work. Make a list, with content descriptions, of your web-based assets. Keep it updated. Include each account's log-in/password. Give the list to a trusted confidant or your FOS attorney.

You'll be secure in knowing that your son may eventually appreciate your love of Thelonious Monk. And it will give you an excuse to corral the family, listen to Mel Tormé, and look at old pictures of crazy Aunt Phyllis and Fred, your first hamster.

HCPOAs Continued from page 1

An HCPOA also ensures that the "attorney" can obtain information about a loved one's medical condition.

Given the HIPAA laws, absent a written designation, medical providers may not disclose a patient's medical information to third-parties.

An HCPOA also allows the signer to designate his treatment wishes in advance. Resuscitation? Feeding tube? Life support? The HCPOA can disclose preferences regarding these and other issues.

An HCPOA, of course, is worthless if it isn't disclosed to the right professionals. So, once signed, copies should be given to family members, health care providers, and estate planning attorneys.

Once this essential protection is in place,

everyone involved can rest easier. And we can go back to worrying about "normal" things.

Like whether our children's college grades will land them a job or whether their first apartment will ever see a broom.

Like whether mom really went to the eye doctor or dad is eating that third cheeseburger (with extra cheese).

And hopefully, we can worry a bit about ourselves. And whether WE have our own HCPOAs. How can we care for our loved ones if we don't take care of ourselves?

Your FOS attorney stands ready to help you lessen the mid-generation "squeeze" by drafting appropriate HCPOAs for you and your loved ones.

Estate Planning Continued from page 1

him if he couldn't. Even if just to assist with an insurance claim or billing issue.

For our mothers, we needed to confirm the appropriate documents were prepared and their location. Health care and durable powers of attorney were the most important. We now know that someone can communicate and act for them, if they can't.

My husband and I have a will, a trust, and durable and health care powers of attorney. As I am faced with life's changes, I'm glad we decided to give those documents another review.



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MORE TALES OF THE WILL-LESS AND FAMOUS

This newsletter periodically describes the estate planning catastrophes befalling public figures who die without having wills, trusts or other estate planning documents in place.

Famous people. They're just like us.

Take our 16th president, Abraham Lincoln.* Lincoln may have written the *Emancipation Proclamation*, but he did not write a will.

Or consider Stieg Larsson, the author of the best-selling *Girl With the Dragon Tattoo*, which was adapted into a very popular movie.

When Larsson died in an accident, he had not written a will. As a result, all of Larsson's assets went to his father. None went to Larsson's life-long partner.

Singer/songwriter John Denver ("Rocky Mountain High") fared no better. Denver died when the plane he was piloting crashed.

Because Denver did not have adequate estate planning documents in place when he died, his family and his estate were tied up in probate court for more than five years.

Famed artist Pablo Picasso's

estate was as jumbled as his cubist paintings. As a result of Picasso's inaction, his estate spent approximately \$30 million to settle his affairs and eventually distribute his assets among his six heirs.

Even those of the cloth put off or forget to create estate planning documents. The Rev. Martin Luther King is one example. Dr. King had no will when he was assassinated.

Few people die as unexpectedly and tragically as, for example, Dr. King or President Lincoln. However, no one knows when death will come.

So, everyone should have up-to-date wills, trusts (if appropriate), and powers of attorney in place — in case the unexpected happens.

Dying without estate planning documents — dying intestate — means that the state, and not you, will determine who receives your assets, in what amounts, and at what tax rates.

Take control. Protect your family. Contact your FOS attorney to create or update your estate plan.

*Source:
www.mindatrest.co.uk