

Publications

Updating Your Estate Plan – It's More Than Just Document Preparation

Related Attorneys

Victor J. Ferguson

John F. Furniss III

David A. Groenke

Emily S. Pan

Michael G. Schwartz

Mark E. Vannatta

Suzanne R. Galyardt

Karen M. Moore

Bailey R. Drexler

Related Services

Trusts, Estates and Wealth
Transfer

AUTHORED ARTICLE | 1.22.2019

The following article was featured in the January 2019 edition of *Legacy*, the Vorys newsletter focused on wealth planning.

If you've recently updated your estate plan, there may be outstanding tasks that require your attention.

Distribute Health Care Documents

Your health care power of attorney designates your health care agent, who will have the ability to make health care decisions on your behalf when you are unable to make such decisions. Your living will declaration expresses your wishes with respect to life-prolonging treatment in the event you are in a terminal condition or permanently unconscious state.

If the time comes when someone else must make a health care decision on your behalf, you'll find comfort in knowing that the individual you've designated as your health care agent is prepared and understands your wishes. So that your health care agent is in the best position to act on your behalf when the time comes, we recommend the following:

- Provide copies of your health care documents to your designated health care agent and successor health care agents;
- Inform your health care agent of your health care wishes, including your wishes regarding life-prolonging treatment; and
- Provide copies of your health care documents to your primary care physician and other health care providers.

If it has been a while since you have updated your estate plan, it may be a good idea to update your health care documents to make sure that they name your desired health care agent and set forth your health care wishes. You may also need to update the contact information for your health care agent.

Prepare Your Agent

Your durable power of attorney designates your agent, who has the ability to transact business on your behalf during your lifetime, including when you become incompetent. To act on your behalf, your agent will need an original copy of your durable power of attorney, and likely additional information about your assets to effectively exercise his or her authority when the need presents itself.

To ensure your agent is able to conduct business on your behalf at the appropriate time consider the following:

- Maintain an updated list of your accounts and how to access those accounts and provide such list to your agent;
- Speak with your financial advisors about what information and documentation they require for your agent to act on your behalf (now or in the future) and provide them with updated information for their records.

If you have not updated your estate plan in a few years, it may be a good idea to update your durable power of attorney to make sure that it names your desired agent and gives your agent the appropriate powers.

Review Asset Titling and Beneficiary Designations

Have you recently opened a new checking, savings, or investment account, or purchased a new life insurance policy? Did you move to a new home or start a job with new benefits? If you answered “Yes” to any of these questions, or even if you answered “No,” it is always a good idea to review the titling of your assets and beneficiary designations to make sure they coordinate with your estate plan.

Failure to update asset titling and beneficiary designations could result in assets passing to unintended beneficiaries and not according to the wishes you set forth in your will and trust. Another consequence is probate. If your goal is to avoid the probate of your assets, you will want to be sure that your assets are titled properly and that your beneficiary designations are up to date. To avoid probate, your estate planning attorney may recommend titling certain assets in the name of your trust or naming your trust as the “transfer on death” beneficiary. An estate comprising of a variety of diverse assets will require careful attention to make sure asset titling and beneficiary designations are done correctly.

Contact your Vorys attorney if you have any questions about your health care documents and/or your durable power of attorney or how to title assets and designate beneficiaries. You should also contact your Vorys attorney if you would like to update your estate plan.