



Updating Your Estate Plans When Changes Happen

Jonathan J. David

go60.us Legal Ease Column

July 2012

AUTHORS/ CONTRIBUTORS

Jonathan J. David

PRACTICE AREAS

Estate Planning

DEAR JONATHAN:

My husband died recently. Since my daughter lives in a different state, I have decided to move there to be close to her. Prior to my husband's death, we had just recently updated our estate planning documents. Do I need to do this again now that I am moving to another state?

JONATHAN SAYS:

Most likely, yes. I recommend that once you make your move that you meet with an estate planning attorney in your new locale, so he or she can review the documents you currently have in place and make recommendations as to what you should do going forward. Good luck.

DEAR JONATHAN:

I just completed my estate planning less than a year ago. The person I named as my fiduciary in all of my documents, i.e., my agent under my financial durable power of attorney, my patient advocate under my health care durable power of attorney, the successor trustee under my trust, and the executor under my last will and testament died suddenly of a heart attack. Unfortunately, I did not listen to my attorney's recommendation to name one or two backups. Now what do I do - do I need to prepare all new documents?

JONATHAN SAYS:

No. You should only need to prepare a codicil to your last will and testament and an amendment to your trust, naming a new fiduciary, i.e., executor under the will and successor trustee under the trust. As for your financial and health care power of attorneys, you might be able to prepare an amendment to those documents, but you are probably better served to prepare new power of attorneys which can be identical to your current power of attorneys with the exception of the name of your new fiduciary. When preparing your amendments or new documents, you should think about naming one or two backups to the fiduciary you name so that you have people in place to act if that



person is unable to act for you at the time he or she is needed to act. Good luck.

DEAR JONATHAN:

I am a single woman with a modest estate. I have no family and I have no friends in need. Is there any reason why I should bother preparing a will?

JONATHAN SAYS:

Yes, unless you don't care where your estate ends up after your death. If you don't leave a last will and testament, then your estate will pass according to state law, which typically means your assets will be distributed among various relatives in different orders of priority. If you have no relatives, then your assets will end up going to the state in which you live. So if you want to avoid either of those consequences, my suggestion is that you prepare a last will and testament and name one or more charities who could benefit from your estate.

While you are at it, if you don't have power of attorneys in place, you should prepare both financial and health care durable power of attorneys so that you have someone in place who can manage your financial and personal health care matters if you are unable at any time to act on your own behalf. I recommend that you meet with an estate planning attorney who can further explain the benefits of preparing a last will and testament and financial and health care durable power of attorneys and address any other questions you might have. Good luck.