

Bad idea to keep estate plan a big secret

By Linda T. Cammuso

For most people, signing an estate plan is a significant event in life. A typical estate plan articulates your wishes regarding your assets, financial and healthcare decisions and end-of-life care. If you have gone through this process, you know the intellectual, financial and emotional investment that you have made in these documents. Next comes the obvious question — what do you do with them?



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People tend to focus on the safekeeping of their estate plan. They try to think of the most secure place to store their documents — places such as a bank safe deposit box, a home safe or strong box or some other protected location. The problem with this common practice of hiding or locking away documents is that they might go

undiscovered when they are most needed.

If you became forgetful, ill or pass away, would your family know where to find your estate plan documents? Would they even be aware that the documents exist?

The following practical steps could make a world of difference:

- Consider allowing your attorney to retain your original estate plan documents. Most estate planning attorneys have protective storage for client originals. This ensures that the originals are safe, and is also an obvious location where your family will think to look. If you do not retain your originals, be sure that any copies you retain in your records indicate where the originals are located.

- Be careful with the use of bank safe deposit boxes for important papers. If your safe deposit box is registered in your name alone, then only you have authority to access the contents. If you lose legal capacity or pass away, your fiduciaries will face a “Catch-22” where they lack the authority to access the box, yet the papers they need to establish their authority are locked in the box. If you’re think-



ing to yourself “that would never happen,” take it from this author, as this happened in literally the first case I worked on in my first day of private practice.

- Be sure to notify the individuals you have chosen as your fiduciaries: the agent(s) under your power of attorney and health care proxy, executor(s) of your will and trustee(s) of your trust(s). These people should be aware of their roles and responsibilities when the day comes.

- Send copies of your health care proxy, HIPAA release form and living will to your

primary care doctor so that they become part of your medical file. If a medical emergency arises and you are not able to direct your medical care, you want the doctors and other clinicians to know who to contact to authorize medical treatment.

- Be sure to destroy or note any old or obsolete documents — such as a will that has been revoked and replaced — so your family will know that they are not the current, controlling documents.

Remember, the purpose of your estate plan is to carry out your wishes in crucial times. A few simple steps can help turn these pieces of paper into a real life accomplishment of your goals.

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