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Do your legal documents need a tune up? Or do mom or dad's?

By Linda Fodrini-Johnson



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birthday or the wedding anniversary for couples. Also, I highly recommend calling your attorney with changes in your life. Check in to see if there have been changes in laws or processes that might affect your legal documents.

Just like our medications, bodies and environment, our legal documents need "tweaking" about every five years or so to assure us that our wishes have been made clear.

Those of us who are reasonably healthy have a difficult time seeing ourselves as having lost capacity. However, on this journey, most of us don't just die - we have a period of dependence before death that can last for many years. At any time, we might not have the capacity or energy to manage our affairs.

Dementia, such as Alzheimer's disease, affects about 50 percent of us over the age of 80. Do you have a specific plan for that illness? I do - because I had the honor of working with so many successful individuals who have weathered that journey. My family knows exactly what I want and don't want. It is in writing.

I also feel strongly about my family finding a professional advocate, someone like me or one of our professional care managers to guide them. I had my attorney put the precise language into my Advanced Health Care Directive and my Power of Attorney for Finances as well.

Each of us has desires and wishes to be followed. We need those details integrated into our legal documents. We also need to have meetings with our family or advocates so they understand what we would like to see if we do lose capacity.

I had a client several years ago with four children, all successful professionals (as was their mother). Before our family meeting, I met with my client privately and she told me her desire was for one of her children to inherit and live in her home, which was designed by a famous architect.

As we plan for the "what if's" of life, most of us have a Living Trust, Advance Health Care Directives and sometimes a Durable Power of Attorney for Finances. You may even have the newer POLST form (Physicians Orders for Life-Sustaining Treatment).

That is all good. Or is it?

My experience over these past 30-plus years working with older individuals (as well as adult children who become the advocate for a parent that has lost capacity) is that these documents were often not activated properly.

In other cases, the person who will take over has not been asked or notified of their responsibility. Documents are often unclear. Frequently, they are too specific or not specific at all - leaving the individual who has to make decisions in a dilemma.

Another common error many individuals or couples make is that they don't have a meeting to discuss the options with those they have named to take over. They need to discuss the care and how they want life to play out if they lose capacity (the ability to make sound decisions).

Life, families, health, finances and communities change over time, impacting your legal documents. Do you review your documents annually? Is everything the same? What has changed? Have there been divorces, deaths or births of new grandchildren? Is that nonprofit you want to bequeath to still in operation, or have you changed your mind about them or want to add another wonderful organization to your list?

I recommend reviewing annually on the month of your

She had never mentioned this to them, and I was permitted to bring up the subject at our family meeting. Two of the children were interested and agreed to flip a coin to see who would be the one to inherit that asset. The details were worked out in their legal documents. Everyone understood, and my client was delighted.

If you are struggling to find the language you need to implant in your documents, a consultation with a professional geriatric care manager can assist you in getting the right words so you can have life your way to the very end.

On Nov. 16, I will be discussing health care directives with a local elder law attorney at Eldercare Services. It is a free workshop but we do ask that you register.

The goals are:

Learn how to maintain your independence on your terms, for as long as possible;

Learn how to properly draft a Trust that outlines what you would like done in the event of incapacity; and

Control how your assets are used for your care.

If you would like to attend, RSVP at (925) 937-2018.

Have life your way!

Reach the reporter at: info@lamorindaweekly.com

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