

## Looking Ahead: Transition Project Roll Out

One of our goals for the coming year is helping clients prepare for transitions. Planning for loss of independence and incapacity is one of the most difficult and overlooked aspects of estate planning. The need for action can be unexpected. This brings front and center the 4<sup>th</sup> of our four questions we want all our clients to answer *yes* to: *Do my helpers understand their responsibilities? Or, Do they have a clue?*

Planning for incapacity involves more than signing powers of attorney for health care and financial matters your lawyers prepare—the custodian of your assets may require its own power of attorney! (See notice on page 2 of this newsletter.) A periodic review of the transition from independence to dependence is a must. As a starting point, we recommend developing a summary of critical providers (health, finance, legal, tax) your helpers need to know, including names, phone numbers, email and other contact information. We call the tool we've developed for this purpose the *Helper's Cheat Sheet*. Contact our office if you would like a copy. Complete the *Cheat Sheet* and give it to your helpers. Give your helpers an updated copy every year. Make it a ritual on your birthday or on an annual holiday. We also recommend introducing your helpers to your various healthcare providers and other professional advisors. If they know each other, your transition will be smoother.

Another way we are working to help prepare our clients for transitions is by offering USB Flash Drives (also known as *thumb drives*) with copies of health care powers and durable powers of attorney for all our Lifeplan™ clients and their helpers. The thumb drive can be placed on a key ring. Thus, it is easily available at all times. Think of it as a *plan in your pocket!*

Finally, one of life's most daunting challenges is dealing with memory loss. Caregivers need substantial help from family, friends and professionals, and must navigate a great deal of information from a variety of sources in order to successfully manage this sometimes long and always difficult journey. In October 2016, the 5<sup>th</sup> Edition of the *Dartmouth Memory Handbook*, edited by Robert B. Santulli, M.D., an associate professor of psychiatry at the Geisel School of Medicine at Dartmouth, was published. It includes a collection of articles written by various practitioners, including Tim Caldwell and Renée Harvey, about Alzheimer's disease and planning for incapacity. The handbook is available in paper and on our [website](#). Stop by our office for a complimentary copy.



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## Keeping Up with Funding

**Funding, sometimes called *asset alignment*, is one of the most critical, yet overlooked aspects of estate planning. It determines the effectiveness of your estate plan, whether you are planning with a Will or a Trust.** Many people set up a revocable trust with the goal of avoiding probate. When properly prepared and funded, a trust-based estate plan will avoid the public, sometimes costly, and time-consuming probate court process. If you create a trust for the purpose of avoiding probate, make sure all of your assets are properly titled! One of the most common mistakes in estate planning is the failure to properly title *all* assets!

### Failure to Fund Jointly Titled Assets

For New Hampshire and Vermont married couples with trust-based estate plans, we recommend all of your assets be owned by one of your trusts. Here are some of the reasons .....

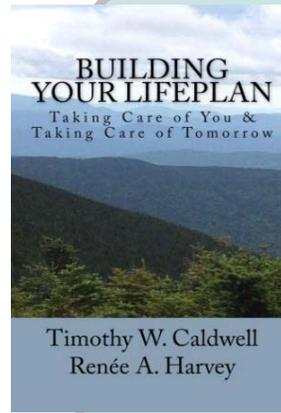
- If you choose not to transfer a jointly titled asset to your trust, then upon the death of your spouse, it is incumbent upon the survivor to retitle the asset to her/his trust.
- If the survivor dies before transferring the asset to her/his trust, probate will be required.
- If you die together, a jointly titled asset will require probate.
- Asset protection from divorce proceedings.
- Asset protection from creditors, predators and irresponsible spending.
- Asset protection from unanticipated taxes.
- Reduces the likelihood of the wrong person benefitting upon your death.
- *An unfunded trust is like a car with an empty gas tank!*

For the above-noted reasons (and more), we recommend the following types of assets be owned by your revocable living trust: motor vehicles, bank and investment accounts, stocks, bonds, promissory notes, business interests and real property.

Estate planning and funding are not one-time events! Maintain your estate plan over the course of your lifetime to achieve the goals you established for your well-being and the care of your loved ones. This means not just properly funding your assets today, but also making sure newly acquired assets are properly titled.

The best time to title an asset in your trust is when you acquire the asset. But, if any of your current assets are not titled in your trust, NOW is the best time to transfer them to your trust!

**Learn how to avoid funding failures at our 2017 Funding Workshops: March 15 and October 18 (trust-based plans) and June 21 (will-based plans).**



**We're published!** Tim and Renée worked hard in 2016 to publish their first book, *Building Your Lifeplan: Taking Care of You and Taking Care of Tomorrow*. Offering a clear, comprehensive guide to estate planning, the book is now available on [Amazon](#) and at our office.

## 2017 Medicare and Medicaid Outlook

In addition to plans to repeal and replace the Affordable Care Act (ACA), many lawmakers have recently stated changes to both the Medicare and Medicaid programs are needed in 2017.

Proposals for overhauling Medicare include raising the eligibility age to 67 and transitioning to a "premium-support" system, which will either pay for private health insurance plans or provide a fixed amount per beneficiary in the traditional fee-for-service program. Proponents say these changes are needed to improve efficiency and quality of care, while critics argue this will impose higher costs on seniors and reduce their benefits.

The proposed changes to Medicaid encourage states to provide better healthcare at a lower cost by giving them greater flexibility in setting eligibility and benefit standards. These changes include converting Medicaid from an entitlement program for low-income, elderly and disabled Americans to a capped program of fixed federal contributions to the states. Critics fear this will force states to push people out of the program, eliminate important benefits, and cut already-low payment rates to providers.

Passing major reforms to these programs while also replacing the ACA, will be challenging. The changes may force us to rethink the way we plan and prepare for our own long-term care.

### A Powerless Power of Attorney?

You just signed a Durable Power of Attorney (DPOA) for financial affairs. Next year you are unable to manage your own affairs due to sudden incapacity. Your named agent steps in and brings the DPOA to the financial institution.

**They may not honor it. Why?** *Because they require their own DPOA!*

This is becoming more and more common. See the NYT May 6, 2016 article, [Finding out Your Power of Attorney is Powerless.](#)

Part of our Transition services includes identifying institutions that require agents to use their own DPOA or other form of authorization.



**Annual Client Meeting:** We are delighted to announce Dr. H. Gilbert Welch as this year's guest speaker at our Annual Client Meeting! Dedicating much of his research to over-diagnosis in cancer screening, Dr. Welch is a nationally recognized expert on the effects of medical testing. Dr. Welch is a general internist at the White River Junction VA, a professor at the Geisel School of Medicine, as well as the author of multiple books, including his most recent one, *Less Medicine, More Health, 7 Assumptions That Drive Too Much Medical Care*, which will form the basis of his talk. We look forward to an engaging and provocative session. **The Annual Client Meeting will be held on May 9, 2017 – mark your calendars!**

## Is Your Plan Up To Date?

(Or, can you answer YES to our 4 questions?)

We are constantly reminded in our work that plans need to be reviewed and, frequently, updated. This is why we want our clients to continually monitor their plans. Our aspirational goal is for all our clients to answer *YES* to these 4 questions:

1. *Do I understand my estate plan?*
2. *Does my plan meet my goals?*
3. *Are my assets titled in a manner that is consistent with my plan? AND*
4. *Do my helpers understand their responsibilities?*

If you are unable to comfortably answer *YES* to *all* these questions, we recommend scheduling a review or attending one of our free monthly workshops. The following is a non-exhaustive list of events or circumstances that could impact your planning:

1. Death of a spouse or partner.
2. Birth of a child or other beneficiary.
3. Divorce or other anticipated change of a beneficiary.
4. Marriage.
5. Retirement.
6. Purchase of real estate, how should it be titled?
7. Anticipation of inheritance – how should it be inherited?
8. Open new investment account, how should it be titled?
9. Purchase of life insurance, who should be the beneficiary?
10. Turning 70 years of age – time to start planning for your retirement plan distributions.
11. Moving to a new state.
12. Permanent disability or incapacity of a beneficiary.
13. Ownership of real property in a state other than your state of residence.
14. Beneficiaries with substance abuse problems.
15. Your declining capacity.
16. Being a beneficiary of an irrevocable trust, should it be amended to minimize income taxes? Should it be terminated to reduce administrative costs?
17. Increases in the estate tax exemption (now \$5,490,000) have outpaced the growth of your estate—married couples may contact us for a memo on this subject.

If your thinking has changed, you have new ideas, or if your or your beneficiaries' circumstances have changed, please review your plan to make sure *you can still answer YES to our 4 questions.*

## The 101 on Organ and Tissue Donation

Organ and tissue donation is an amazing power. Consider these statistics from Donate Life New England:

- More than 120,000 people are on the transplant wait list.
- Every 12 minutes a new person is added to the wait list.
- Every day 21 people die waiting for an organ transplant.
- Becoming a donor can change the lives of over 50 people.
- Last year alone, organ donors saved more than 28,000 lives.

Choosing to become an organ donor is a very personal decision that may be influenced by a variety of factors, including experience with family members or friends, religion or culture, or misconceptions or unfamiliarity with the organ donation process. Some may wish to be an organ donor, but only for the purpose of transplantation and therapy. Others have opted to donate their entire body for the purpose of research and education (which needs to be done directly with a research institution).

As an organ donor, you have the right to authorize all or some of the uses and to specify which organs and tissues may be removed. Organs that can be donated include the heart, lungs, liver, kidneys, pancreas, and small intestine. Tissues that can be donated include skin, bone, ligaments, tendons, fascia, veins, nerves, heart valves and corneas. You are never too old to be considered for organ donation. According to Donate Life Ohio, the oldest donor to date donated a liver at the time of her death when she was 92! Additionally, very few medical conditions automatically disqualify someone from being an organ donor. Even though certain organs or tissue may not be suitable for donation, many times others might be.

If you want to learn more about organ and tissue donation, helpful resources can be found at [www.donatelifenewengland.org](http://www.donatelifenewengland.org).

### *Seeking Advisory Board Members!*

We are looking for a few clients and colleagues to serve on our Advisory Board. The Board's charge is to give us input on how we can do a better job. If you are willing to be on the Board, please contact our office or sign up at the Annual Client Meeting May 9<sup>th</sup>. Thank you.

From all of us at Caldwell Law, Happy New Year!



Top Row (Left to Right): Attorney Timothy Caldwell, Elijah Soko, Jaclyn Hatt, Attorney Renée Harvey, Sheila Smith, Joanne Oscadal, Pamela Lain, James Thaxton  
Bottom Row (Left to Right): Julie Cryans and Candice Gates

### *2017 Special Events Schedule*

- ❖ [Annual Client Meeting: May 9th](#)
- ❖ [Classicopia: May 19<sup>th</sup>](#)
- ❖ Helper Trainings: June 6<sup>th</sup> & November 28<sup>th</sup>
- ❖ [AVA Art Gallery: October 24<sup>th</sup>](#)

Visit our website for more details and to register!

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Have you moved? Has your phone number or email address changed? Call Julie at (603) 643-7577 or email your updated information to [julie@estateandelderlawgroup.com](mailto:julie@estateandelderlawgroup.com). Please also send us the updated contact information for your "helpers."



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