

CALDWELL LAW

ESTATE PLANNING & SETTLEMENT

Taking good care of tomorrow...

Newsletter: January 2023

Reviews and an Update or Two

REVIEWS are important in all aspects of life. We are continually encouraging our clients to check their plans and ask themselves: can I answer “yes” to these 4 critical questions:

1. Do I understand my estate plan?
2. Will my plan take care of me and the people I love?
3. Are all my assets properly titled? and
4. Have I explained to my helpers what I want them to do for me?



Estate plans involve many moving parts. We focus on the legal side but inevitably our reviews spill over to other aspects of our clients’ planning. Life Insurance is one of those areas. Many of our clients have owned life insurance for years. When asked what it’s for, a frequent response is “we’ve always had it.” In other words, this aspect of our clients’ plan has not been reviewed for a long time. Recently two of our clients tripled their coverage with no increase in premium. In both cases, the policies had lain “dormant” for several years. It was only when a qualified insurance professional was asked to review the policies that new, better options were revealed. Reviewing policies can lead to more coverage or lower premiums (sometimes both). Reviewing a policy can also lead to selling a policy that is no longer needed—rather than letting it lapse or taking the “cash value” of the policy—even in the case of “term” policies.

If you are interested in a policy review or want to determine if you could sell your policy, please let us know and we will put you in touch with a qualified colleague.

Medical Aid in Dying (MAiD)

Late this summer Lynda Bluestein, a Connecticut resident and her Middlebury Vermont doctor, Diana Barnard, with the assistance of Compassion and Choices, a national non-profit, working to bring

medical aid in dying to every state, challenged Vermont’s residency requirement of its Medical Aid in Dying Law, Act 39. The lawsuit was filed in the US District Court for the District of Vermont on August 25, 2022. We have corresponded with one of Compassion and Choices attorneys about the case and he expects they will be able to resolve this either through settlement or at the summary judgment phase of litigation. We will keep you posted as the case develops. Meanwhile, the New Hampshire Alliance for End of Life Options (NHAELO) is working to craft a medical aid in dying law for New Hampshire. They have a monthly newsletter and welcome grassroots organizers. www.nhendoflifeoptions.org Recently, Patient Choices Vermont has published a [Clinician’s Guide to Medical Aid in Dying Under Vermont’s Act 39](http://www.patientchoices.org/clinicians-guide.html). See also www.compassionandchoices.org

Retirement accounts

Shortly after the SECURE Act was signed into law in 2019, the House and Senate began working on follow-up legislation designed to stimulate participation in qualified retirement plans. This legislation is generally referred to as ‘SECURE 2.0.’ Against all odds it has now been passed by the House and Senate and was signed into law by President Biden on 12/29/22. Included among the many new aspects of the law are:

- An increase in the age for RMDs to age 73 (up from 72)
- Catch-up contribution adjustments for taxpayers aged 60-63
- The transfer of 529 plans to Roth IRAs

And remember, if you want to make charitable gifts and you are 70.5 years of age, or older, consider using your IRA to satisfy those gifts.

- Distribution must be direct to charity.
- Distribution cannot exceed \$100,000/year.
- Distribution can count towards RMD.
- Distributions to donor advised funds & supporting organizations do not qualify.

Organ, Tissue & Body Donation – Did you know...?

My wishes for organ, tissue, and body donation. This is a section in every Advance Directive our office prepares. *Did you know this is a form of charitable giving?* We want you to know more about this.

The Numbers:

- over 115,000 men, women and children are on the national transplant waiting list.
- over 5,000 live in New England.
- every 12 minutes another name is added to the list.
- an average of 22 people die each day awaiting transplants.

The Donations:

- organs = kidneys, liver, lungs, heart, pancreas, intestines, hands, face.
- tissues = corneas, middle ear, skin, heart valves, bone, veins, cartilage, tendons, ligaments.
- blood stem cells, cord stem cells, bone marrow.
- blood, platelets.

The Myths:

1. **“I’m too old to donate. Nobody would want my organs.”** *Not true!*

There is no defined cutoff age for donating. The decisions are based on strict medical criteria at the precise time of donation. Not age. Cecil Lockhart, 95 years young of West Virginia, donated his liver successfully to woman in her 60’s on May 4, 2021.

2. **“I’m not in good health so my organs cannot be used.”** *Not true!*

Very few medical conditions automatically disqualify a donor. Certain organs may not be suitable but other organs may be. Please do not assume your organs are unsuitable for others.

3. **“If I agree to donate my organs, the doctors won’t work as hard to save my life.”** *Not true!*
Doctors focus on saving your life – not somebody else’s life. Donation is only pursued as an option after all life-saving measures have failed. Read the Hippocratic Oath.

How does organ and tissue donation differ from body donation or what is known as an anatomical gift?

- Whole body donation = whole body must remain intact; no organ or tissue donation and no autopsy allowed.
- Full body donation = some organ and tissue donation allowed but no autopsy allowed.

These donations benefit medical advancements in disease research, bio skills training, surgical device development, and hands-on techniques.

The Stats and Important Information:

- every donor can save up to 8 lives.
- every donor can enhance over 75 lives.
- individuals 50-64 years of age are the largest donor group.
- 90% of the population support donation but only 60% are registered to do so.
- visit New England Donor Services [www.neds.org] to learn more about registering as an organ and tissue donor.
- visit a school of medicine to learn more about registering your anatomical gift. [www.geiselmed.dartmouth.edu]

Did you know how philanthropic your body can be?
Underscoring indicates a donation which can be made during the donor’s life, as opposed to after their death.

Estate and Gift Tax Notes:

- ❖ The Annual Gift Tax Exclusion for 2023 is \$17,000.
- ❖ The Estate and Gift Tax Exemption for 2023 is \$12.92 million.

Revocable Trust vs. Irrevocable Trust: Which Is Best for You

Should you use a revocable or irrevocable trust? It depends on your needs.

A revocable trust provides flexibility because you can make revisions and maintain control over the trust assets. This type of trust also provides a way to ensure the continued management and preservation of your assets, if you lose capacity and after your death. In addition, it can avoid the necessity of a probate court proceeding.

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With an irrevocable trust, you give up many rights—sometimes all—to the assets after they are transferred to the trust. The ability to alter, change, or cancel an irrevocable trust is limited. Assets are transferred from your individual name to the name(s) of the Trustees of the trust.

The main advantages of irrevocable trusts are they can protect assets from creditors and assets transferred to the trust are removed from your estate. The estate tax may not be important to you if your estate is within the federal (and state) gift and estate tax exemption. Vermont has a state estate tax—the exemption is currently \$5.0 million, as does Maine (\$6.41M), Massachusetts (\$1.0M (adjusted for inflation)) and New York (\$6.58M). The federal exemption for 2023 is \$12.92 million. It will continue to increase until the end of 2025. On December 31 of that year, the exemption will revert to \$5.0 million—adjusted for inflation—which will likely make the exemption approximately \$7.0 million. For folks wishing to use their exemptions prior to 2026, an irrevocable trust may be just the ticket. On a related tax matter, the annual exclusion for 2023 is \$17,000. Make those gifts now!

Another benefit of transferring your assets to an irrevocable trust is it can make them “non-countable” for Medicaid purposes. Transfers to an irrevocable trust, like transfers to individuals and charities, are subject to the 5-year Medicaid look-back period. If the transfer is made within five years of an application for Medicaid it will result in a penalty period. Nonetheless, an irrevocable trust can be a powerful tool in planning for long-term care—the key is planning in advance to avoid “crisis” planning.

Your Stuff: Why Asset Alignment Matters

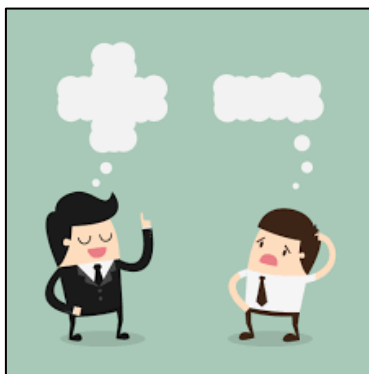
As a client of Caldwell Law, you have probably heard us talk about the importance of properly titling your assets. Maybe you have attended one of our monthly titling workshops where we address client questions and talk about estate plans failing due to improperly titled assets. Or perhaps you have received emails, letters, or phone calls from us reminding you to update the way in which certain of your assets are titled. We hope you have taken steps to ensure what you own is owned in a way that aligns with your estate plan! But why is it we focus so heavily on this process of asset alignment? It all comes down to how you own your **stuff**—your assets.

Everyone has stuff. Some of it may be physical stuff you can pick up or touch; stuff like a car, a house, a bicycle, a rug, an art collection, or a family heirloom. Some of it may be financial; a cash account, an IRA, a 401(k), or a brokerage account. Some people may even have intangible or intellectual assets; royalties from a book, patents for an invention, or master recordings. Many of us, if not most, now have digital assets such as online bank accounts, social media, cloud storage, maybe even cryptocurrency.

Because the combination of your assets is unique to you, there is no one size fits all approach to asset alignment. At the time of estate plan creation, we ask our clients to make a complete inventory of their assets and how they are titled, and then to revisit that inventory every year.

Generally speaking we recommend: (1) consolidate your assets (how many bank accounts do I need?);

(2) retitle assets as needed; (3) confirm title to each asset (“trust but verify”); and (4) track annually.



We recommend this because estate plans cannot be fully effective without proper attention to how you own your assets.

For example, if you create a trust and you don’t take the time to make sure your assets are owned by the Trustees of the trust, your trust won’t work the way you intended. This could lead to unnecessary probate administration, expose your assets to risk, and make it more difficult

for your Executor to settle your estate.

The importance of asset alignment goes beyond trust-based plans. Let’s say you have a will that gives one of your accounts to a particular person. But the account has an old transfer on death clause (TOD) in place to a different person you never removed. In a situation like this, your bank will honor the TOD over the will every time, making your estate plan ineffective!

Remember: spending the time to make sure all your assets are owned the way they should be, and are titled in a way that works with your estate plan will save you from unneeded stress and worry in the future. If you are ever unsure of what to do, please give us a call!

Be on the Look Out!

Please keep an eye on your email spam folder in the coming weeks; as messages from us might end up there by mistake!



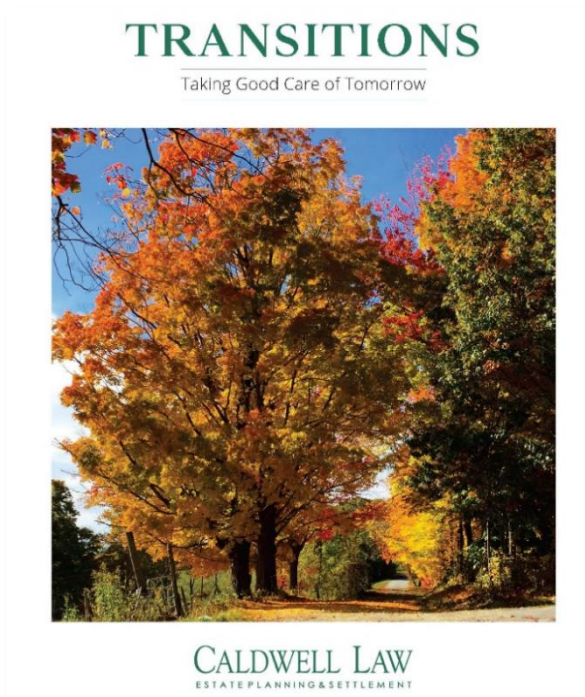
Significance of Updating Your “Powers”

The importance of the Client Update Program (CUP) for our Lifeplan Clients held every 2-3 years. Every 2-3 years you are contacted by us and asked to pick a date for your CUP meeting. At every CUP health care and financial powers are updated, trusts and wills are reviewed, and may also be updated. “Helpers” (agents, Trustees and executors) are confirmed and reminded of their roles. Things change. Things get out of date. They get “stale.”

Recently, a long-time Traditional client’s daughter contacted us and told us about a certain bank in the area that would not accept her father’s Power of Attorney because it was over 5 years old. You might think: “Well, if it is old, okay.” It was dated 2017...just barely five years old at the time. The bank wanted a new power, but dad was incompetent. Happily, after cajoling, the bank accepted a certified copy of the old power. But the bank made the family jump through hoops. Next time we may not be so lucky, and a guardianship will be required.

There is nothing in the law that says a 5-year-old power is ineffective. However, more and more financial institutions are making their own rules and they are different for every institution. Please remember this as you receive your invitations from Caldwell Law in early 2023 to come in and update your Powers and anything else that needs to be changed or updated. It will save your family a lot of anxiety in the event they need to act on your behalf in the next few years—and who knows, it may be time to change your agents—it is always time to talk to them!

Caldwell Law 2023 New Publication



We are excited to present our Team

If you have a question, want to schedule a meeting, or simply want to stop in for a piece of chocolate or a cup of coffee, we are always happy to see you!



Front Row: *Sonja Bailey*, Traditional Coordinator, *Kristine Newbold*, Prospect Coordinator. Back Row: *Tim Caldwell*, Attorney, *Renée A. Harvey*, Attorney, *Jackie Hatt*, Drafting Coordinator and Office Manager, *Pam Brackett*, Settlement Coordinator, *James Thaxton*, Attorney, and *Tom Weir*, Titling and Lifeplan Coordinator.

Not Pictured: *Pamela Lain*, Trustee Services Coordinator. *Sheila Smith*, Comptroller and *Mariel Villarta-Anzures*, Administrative Assistant.

2023 Annual Workshops

Intro. to Estate Planning Workshops

3rd Thursday each month, 4:00 - 6:00 p.m. via Zoom

Long-term Care Planning (LTCP) Workshops

2nd Wednesday each month, 2:00-4:00 p.m. via Zoom

How to Settle Your Estate Without Dying

June 27th and Nov. 29th, 2:00 - 4:00 p.m. via Zoom

Third Tuesday Titling Tutorials

3rd Tuesday each month, 12:00-1:00 p.m. via Zoom

2023 Monthly Client Luncheons

12:00 - 1:00 p.m., via Zoom or in person

January 11th – Digital Asset Review

February 15th – Completing your Asset Report

March 15th – Life Story Interviewing

April 19th – Hospice Care and Spiritual Meditation

May 17th – Advance Directives

June 21st – Organ Tissue and Body Donation

See more monthly events on our website!

2023 Annual Events

Classicopia – April

Annual Client Meeting – May

AVA – October

For additional events, information or to register, please visit our website estateandelderlawgroup.com or call us at 603-643-7577