

2017

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2017

Funeral Representative Form

Last year the governor passed some new legislation regarding end of life decisions, specifically funeral and cremation issues. The new legislation allows you to appoint a funeral representative, whereas in the past this right passed to your next of kin. Over the years, many of you have been concerned about the fact that your "next of kin" may not honor your wishes regarding burial, cremation and placement of your ashes.

With this new legislation, effective June 27, 2016, you are able to designate a funeral representative of your choice. Attached to this newsletter is the funeral representative form. I encourage you to take a look at this form and, if needed, print it off, complete it and place it in your file. If you have pre-arranged or pre-paid for your funeral, burial or cremation, make sure to give a copy to the company where you have made your arrangements.

Related Topic...Do Not Resuscitate Orders (DNR): Many people think that their medical power of attorney or Designation of Patient Advocate document covers a "DO NOT RESUSCITATE ORDER" (DNR). Unfortunately, that is not correct. A DNR order is a separate document. A DNR order requires the signature of the patient and the patient's doctor. If the patient is not competent, the DNR order can be signed by the patient's doctor and the patient's acting Patient Advocate. For more information or to download the form, go to http://www.michigan.gov/documents/mdch/DNR_update_March_14_final_release_453815_7.pdf

**In my 2015 newsletter I provided you with an iPhone app that you can download or a form you can print off and put in your wallet to identify your medical advocates and their contact information. If you have not done that, I would encourage you to go back and revisit that.*

Two Trust Clients...Follow up email to June 2016

By now, many of you who have set up two individual trusts have received a letter from me with signed unrecorded deeds. Both the email we sent out in June and the letter that was enclosed explains the reasons for the return of the deeds to you and the need to take action. If you have received that letter and the unrecorded deeds, but have not followed up with my office, now is the time to act. For many of my clients, the deeds that were returned were over 12-15 years old and in some cases we were holding deeds for property our clients no longer own. Please let this newsletter serve as another reminder to get a hold of our office and get your estate plan and assets up to date.

New Bank, New Investment Firm, New Insurance Company???

If one of your financial institutions has experienced a name change since you set up your trust, do NOT take it for granted that the paperwork you completed with the former institution carried over to the new institution. Many of these financial institutions have been acquired by a new entity or for some they have just experienced a name change.

I recently learned of a situation whereby a client had an investment account with a company for over 25 years. When the client set up the trust 20 years ago, the client put the investment account in the name of the trust. Over the years the investment company experienced several name changes and ownership changes. Despite all the changes with the investment company, the client never moved the accounts and never changed advisor. The client assumed that all the accounts were still in the name of the Trust. It was only at the client's death that the successor Trustee learned that the account has somehow lost the "trust name" and was merely set up in the client's individual name. Since the account was not in the name of the Trust at the client's death, the investment company would not deal with the successor Trustee until a probate estate was opened.

Although I am not aware of the outcome of this matter, stories like this are great examples of why a periodic review of accounts, assets and beneficiary designations are important. This is especially true if your bank, investment firm or insurance company has changed ownership or names. Do NOT assume that the paperwork you completed when the trust was set up is still up to date and on file with the new company. Take a few minutes to pull out your recent statement and confirm ownership and beneficiary designations.

Digital Assets

A new law was passed and became effective on June 27, 2016. This law gives us the ability to name a fiduciary and give that person the right to access your digital assets, which is a very broad term. Many of my newer Powers of Attorney gives the "agent or attorney in fact" authority to deal with digital assets. However, the Power of Attorney becomes null and void at death. The form I have placed on my website will allow you to name a fiduciary that can step in as Agent to deal with your digital assets, both now and after your death. A copy of that form is attached to this newsletter. Keep in mind that this law is very new and we may see updates or clarification of it down the road.

A Change In Circumstances

In each of my annual newsletters, I try to remind all of my clients to contact our office if there has been a change in circumstances. This will allow us to determine if we need to update your estate plan or your file. In my 2016 newsletter I reminded you of the importance of making sure that you had given copies to the individuals named in your medical and financial powers of attorney. I also addressed the importance of reviewing your Will or Trust periodically to make sure that your wishes were current.

In this newsletter, I would like to let you know that if you have moved your file to a new attorney or if you have retained an attorney to update any of your estate planning documents, please notify our office upon receipt of this newsletter. It is a conflict of interest to continue contacting you if you have new counsel.

Common Examples of a change in circumstances: Birth /Death/ Change of employment/ Inheritance/ Change in medical condition/ Change in family relationships/Marriage/ Divorce/ Separation/ Change of address/ Recent disability of a beneficiary/ Updated address or contact information for your trustee, power of attorney or medical advocate/ change in circumstances of a special needs beneficiary/incarceration

Once again, thank you for your business and for all of the referrals you send to my office. I look forward to serving you for many years to come! And as always, don't forget to keep listening to my radio shows on Tuesday mornings at 7:50 a.m. on AM 590 WKZO or Thursday evenings at 5:20 p.m. on the True Oldies Cool 101.

Designating A Funeral Representative

Michigan law allows an individual 18 years and older, and of sound mind, to designate a person to make decisions about funeral arrangements and the final disposition of their body after their death. The person designated is known as a "funeral representative." If you choose not to designate a funeral representative, the right to make these decisions will most likely belong to your closest next-of-kin.

How do I designate a funeral representative? The designation must be in writing, dated, and signed by you in the presence of a notary public and two witnesses. If you are physically unable to sign, the notary may do so for you indicating that "the signature is affixed pursuant to section 33 of the Michigan notary public act."

Whom may I designate as my funeral representative? The person you appoint must be at least 18 years and of sound mind. However, the following people may not be designated unless they are one of your relatives: (1) a person who is an officer, partner, member, shareholder, owner, representative, or employee of a funeral home or crematory that will be providing services after you die, or a cemetery where your body will be buried, entombed, or where your ashes will be inurned; and (2) a health professional or an employee or volunteer at a health facility that provides care during your final illness or immediately before death, or a partner, member, shareholder, owner, or representative of that health facility.

Who may be a witness? A witness should be an adult but may not be the person being designated as the funeral representative or any of the people who are prohibited from serving as a funeral representative, except that a person connected with a funeral home may serve as a witness.

Must my funeral representative follow my instructions? In most cases, the funeral representative will follow the instructions of the person who appointed him or her. However, circumstances can change and, therefore, the law vests final responsibility for these decisions in the funeral representative.

What happens if my funeral representative is not available when I die? It is a good idea to appoint a successor funeral representative in case the first person appointed is not available or declines to act. This can be done at the same time and in the same document as the first appointment.

May the person I designate decline to serve after I die? The person designated as funeral representative must accept the designation either by signing an acceptance — which can be done in the same document as the designation of the person -- or by acting as the funeral representative after the death. The preferable practice is to have the designee sign the acceptance in advance. A funeral representative may also resign from the position.

Can my funeral representative make the arrangements before I die? No.

May I revoke my designation of a funeral representative? The designation may be revoked prior to death in writing following the same requirements as the original designation. It may also be revoked by the subsequent designation of a different person as funeral representative. The designation is automatically revoked after death if the funeral representative refuses to act or cannot be located.

FUNERAL REPRESENTATIVE DESIGNATION

I, _____, being 18 years or older and of sound mind, voluntarily make
(Print or type your full name)

this designation.

The person I choose as my funeral representative is:

Name _____ Telephone Number _____

Street Address, City, State, and Zip Code

If my first choice cannot serve or be located, the person who is my second choice or my "successor funeral representative" is:

Name _____ Telephone Number _____

Street Address, City, State, and Zip Code

The person I have designated as my funeral representative shall have the right and power to make decisions about my funeral arrangements and the handling, disposition, or disinterment of my body, including decisions about cremation. This designation shall revoke any prior funeral representative designation(s) I have made.

SIGNATURE

I sign this document voluntarily, and I understand its purpose.

Date Your signature Date of Birth

Your Telephone Your address (Street Address, City, State and Zip Code)

The foregoing instrument was acknowledged before me on _____, by _____.

Notary Public, _____ County, _____
Acting in _____ County,
My Commission Expires:

Check here if, because of a physical disability, my signature has been affixed by a notary public pursuant to section 33 of the Michigan Notary Public Act.

STATEMENT AND SIGNATURE OF WITNESSES

I have chosen two adult witnesses who are not my designated funeral representative or (1) a person who is an officer, partner, member, shareholder, owner, representative, or employee of a crematory that will be providing services after I die, or a cemetery where my body will be buried, entombed, or where my ashes will be inurned; or (2) a health professional or an employee or volunteer at a health facility that provides care during my last illness or immediately before death, or a partner, member, shareholder, owner, or representative of that health facility.

This declaration was signed in our presence. The declarant appears to be of sound mind and under no duress, fraud, or undue influence. **Sign below and print your name below the line.**

Dated

Signature of Witness

Address (Street Address, City, State and Zip Code)

Dated

Signature of Witness

Address (Street Address, City, State and Zip Code)

ACCEPTANCE BY FUNERAL REPRESENTATIVE

I, _____, accept the designation as funeral representative for
(Name of funeral representative)

(Name)

Signed: _____
Signature of funeral representative

Date

ACCEPTANCE BY SUCCESSOR FUNERAL REPRESENTATIVE

I, _____, accept the designation as funeral representative for
(Name of funeral representative)

(Name)

Signed: _____
Signature of successor funeral representative

Date

ACCESS TO DIGITAL ASSETS

The following authorization shall apply to any named Attorney in Fact under my Durable Power of Attorney, a Successor Trustee under my Living Trust or a Personal Representative under my Last Will and Testament. Said person shall hereinafter be referred to as my "Agent" for purposes of this release and said Agent shall provide proof of their appointment, when requested.

I _____ (Grantor) grant the following power to my Agent regarding digital assets. My agent shall have the authority to access, manage, copy, distribute, deactivate, and delete any of the digital assets, wherever situated, and any digital assets, wherever situated, created by the Grantor. The Agent shall have the authority to obtain, access, modify, control, and delete the passwords, encryption codes, and any other electronic credentials associated with such digital assets. Digital asset shall include (a) electronic devices that can receive, store, process or send digital information, including without limitation, computers, laptop, phones, and tablets; (b) information created, generated, sent, communicated, received or stored on a digital device or system that delivers digital information; (c) rights to own, possess, or use an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information; (d) electronic communication (including without limitation, content, signs, signals, writings, images, sounds, data, or intelligence of any nature) sent by the Grantor, received by the Grantor, sent by any of the above named Agents, or received by any of the above named Agents, wherever stored, including, without limitation, on an electronic device that was owned by the Grantor or in an account of the Grantor at any service provider; and (e) any other digital assets that exist currently or may exist as technology develops

DATE: _____

Grantor:

Witnessed By:

Witness:

Witness: