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ESTATE PLANNING FOR EACH OF THE EIGHT STAGES IN LIFE

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AWARD:

Pozzuolo Rodden Pozzuolo, P.C., is pleased to announce that Joseph R. Pozzuolo, once again, has been awarded the 2024 Martindale-Hubbel AV Preeminent highest possible rating in both legal ability and ethical standards. This rating is used to identify, evaluate and select the most appropriate lawyers by attorneys seeking to refer colleagues as well as individuals looking for legal counsel. This designation is trusted worldwide by seekers of legal services and held only by 10 percent of all attorneys.

ESTATE PLANNING FOR EACH OF THE EIGHT STAGES IN LIFE

As you age and as certain milestones pass, you need to reassess your current estate plan to determine whether your needs and goals are being met. At each stage in your life, questions that you should be asking yourself include:

- 1) Have I acquired any new assets that require planning? This includes not only making sure to incorporate the new assets into your estate plan but also ensuring that the assets are titled properly so that they do not pass in a way you did not intend.
- 2) Do the beneficiary designations on my retirement plans, life insurance, and other accounts accurately reflect who and how I would like those assets to be transferred in the event of my death?
- 3) Has my domestic situation changed? This generally encompasses all changes related to whom you are living with, such as marriage, divorce, and birth of a child or death of a family member.
- 4) Does my current estate plan reflect my goals?

The answers to each of these questions will guide you and your attorney as you create or update your estate plan.

I. Young and Single

Most young, single individuals without children do not need extensive or complicated estate planning but there are certain essential documents which should be prepared. Many young people think they do not have enough assets to need any estate planning but if you are a young professional with a job, you may be worth more than you think. If you have an employer sponsored retirement plan or life insurance, your total worth may well exceed \$200,000 as many employers offer group life insurance that is equal to or a multiple of your yearly salary. It is important to make sure you have executed beneficiary designations for these accounts or policies so that the money goes to your intended beneficiaries.

If you have no will, your probate estate will pass according to the state intestacy laws so if you are single and have no children, the entirety of your estate may pass to your parents. If your parents are at a point in their lives when they are financially secure, they may not need or want your assets in their estate. Furthermore, the assets in your estate would increase the size of your parents' estate and possibly cause them to be subject to additional death taxes. In that case, it may make more sense to have a will prepared to instead leave your estate to your siblings, other family members, close friends or a charity.

Other essential documents for young people are a general power of attorney and an advanced

healthcare directive. When you were still a minor, your parents could automatically make all financial and healthcare decisions on your behalf but once you turn eighteen, you need to designate a person to make these decisions for you if you are ever incapacitated. A general power of attorney is necessary to ensure that your bills continue to be paid and other financial matters are taken care of if you are ever incapacitated and an advance healthcare directive allows you to express your healthcare treatment preferences in the event you are physically or mentally unable to do so at the time treatment is necessary.

II. Single but in a Committed, Long Term Relationship

If your marital status is single but you are in a long term, marriage like relationship, you may want to leave a portion or all of your estate to your significant other. If that is the case, you will need to have a will or trust drawn up to specifically provide for this because otherwise your significant other has no rights to any part of your estate.

Estate planning for unmarried individuals should especially be considered when you are living with your significant other and you are each contributing to the household expenses or a mortgage on a home you purchased together. Furthermore, if you purchased the house with your significant other, the titling of the house will govern who the property goes to in the event of your death. If you purchase the home as joint tenants with right of survivorship, your significant other will receive the entirety of the property but if the home was purchased as tenants in common, your one-half interest in the house will become part of your probate estate. If you have no will, it would then pass according to the laws of intestacy in the state where you live, potentially creating a very tense situation between your significant other and the heirs of your estate.

III. Engaged to be Married

Before you get married, and while the relationship is still strong, is the best time to commit in writing to how you and your future spouse will handle financial matters during your marriage and what your rights and responsibilities will be in the event of divorce. Financial discord is one of the most common reasons for divorce so having a thorough discussion about your finances before getting married is always advisable. A prenuptial agreement is especially advisable if one or both spouses have significant assets acquired prior to the marriage.

A prenuptial agreement is your best opportunity to decide how those assets, and any appreciation in their value during the marriage, will be treated upon divorce. If you fail to enter into a prenuptial agreement and then divorce, you may be forced to give your ex-spouse a significant portion of your assets, such as business or real property holdings, if you were the only spouse working during the marriage or you were the primary wage earner. This could significantly reduce the amount of money you have saved for retirement or what you will have left to leave to your heirs. Additionally, if you have or expect to eventually receive a large inheritance or an interest in the family business, your prenuptial agreement should provide that such an interest would not be subject to equitable distribution during a divorce, even if that is your only asset. In a prenuptial agreement, you can come to a fair and equitable agreement about how such assets would be divided in the event one spouse is working part time, does not

work or stops working full time to raise children, and also whether and how much alimony would be paid in those situations. By discussing these issues ahead of time, you can ensure your estate is not shockingly depleted after a divorce.

IV. Newly Married

Now that you have just gotten married, it is time to update your estate plan. If you have an old will and an old power of attorney and advance healthcare directive, you may want to have new documents drafted in favor of your new spouse. Most states give a surviving spouse the right to at least thirty percent of the deceased spouse's estate, so at a minimum your estate plan should provide for how that right to a portion of your estate will be satisfied.

Regardless of whether you plan to leave all or a portion of your estate to your new spouse, you should also review all of your beneficiary designations on life insurance policies and retirement plans, especially workplace retirement plans. Most of these will probably need to be updated or else they will pass by operation of law to whomever you previously had named as beneficiaries, such as your parents or siblings.

Finally, if you want your new spouse to be able to make financial and medical decisions for you if you are incapacitated, your advance healthcare directive and general power of attorney should be updated.

V. Raising Your Children

The next time most people will need to update their estate plan is upon the birth of a child because you need to have a plan in place in the event one or both parents die before the child reaches adulthood. The two most important issues that must be addressed are: 1) who will raise your children; and, 2) how the costs of raising your children will be paid for.

In your will, you can nominate a person who will serve as guardian of your children if both parents of the children die before they reach the age of majority. This person will still have to be confirmed as guardian by a court, but most judges will defer to a parent's wishes about who will be guardian unless there are any compelling reasons why that person would be unfit to be the guardian. If you fail to name a guardian, your family members will have to petition the court to determine who will be named as guardian, which can be a long, stressful and expensive process for both your children and the family members who want to serve as guardian. This office has handled too many cases where siblings and both set of grandparents are petitioning to become the guardian of wealthy minor children.

Most people leave the entirety of their estate to their children in the event they are predeceased by their spouse. If the children are still minors, someone will have to serve as guardian or custodian of those funds until they are legally able to hold title to property. The problem with bequeathing the property to your children in this fashion is that your children will be legally entitled to the entirety of the funds when they turn 18 or 21, depending on the state where you live. This could potentially be a very large sum of money and most 18 year olds are not mature enough to responsibly manage large sums of money. A better option is to leave your estate in

trust for your children so that you can direct how the funds will be used and provide for your children to receive the funds monthly for their health, support, maintenance and education and outright in increments after attaining the age of maturity so they can become accustomed to managing money responsibly.

VI. Divorce and Remarriage

One of the first things you should do once your divorce is finalized is change your estate plan, that is, write a new will and change the beneficiary designations on all of your life insurance policies and retirement accounts. The last thing you will want after getting divorced is having your former spouse receive any share of your estate when you die. Additionally, you will need to name a new agent under your new general power of attorney and name a new healthcare surrogate under your new advance healthcare directive.

In most states, life insurance beneficiary designations and bequests in favor of a former spouse under a will are automatically revoked upon the final decree of divorce. However, if you have a retirement plan at work, your beneficiary designations will not necessarily be revoked upon the final decree of divorce. Workplace retirement plans are governed by federal law and therefore the state laws that revoke bequests under your will and life insurance designations are of no effect. Some retirement plans specifically provide that designations in favor of your spouse are automatically revoked upon a decree of divorce being entered but even if it does it is still prudent to designate a new beneficiary so that it is clear to the plan administrator who will receive the plan benefits. Once you get divorced, you should immediately update your retirement plan beneficiary designations to remove your former spouse and name a new beneficiary(ies) that corresponds with your updated estate plan.

If you remarry after the divorce from or death of your first spouse and if you have children from the first marriage, you will have some estate planning to do, both before the second marriage is official and afterwards. Before you tie the knot, you should discuss with your intended spouse what your intentions are with your estate plan, especially if you would like to leave the bulk, a portion or the entirety of your estate to your children from the previous marriage. In most states, a widow/er has the right to approximately thirty percent of the deceased spouse's estate in the event that they are not provided for in the estate plan of the deceased spouse and this right is known as the elective share. If it is your intention to leave your entire estate to your children, you and your future spouse should execute a prenuptial agreement wherein you each waive all rights to an elective share in each other's estate or come to an agreement about how you will limit rights in each other's estate.

VII. Middle Aged

If you already have an estate plan, now is the time to review your documents to make sure your goals are being met. If your children are now responsible adults, you may want to name them as primary, co-fiduciaries or back up fiduciaries in your will and trust or name them to serve as your agent under your power of attorney or advance healthcare directive.

This is also a time when you should assess the total value of your assets and determine

whether you are on track to retire comfortably and still meet your estate planning goals. One of the biggest expenses you may have to pay for during your retirement is the cost of long term care, whether it is in home care, an assisted living facility, or a nursing home. Most Americans will need some form of long term care so you need to have a plan for how you will pay for that care. Nursing homes care can cost between \$7,000 and \$10,000 per month. If you do not think you will be able to pay cash for that expense, you may want to explore purchasing a long term care insurance (LTCI) policy or even a life insurance policy that provides for the option of using those benefits for long term care costs. Many companies have exited the LTCI market or have scaled back their products. Further, LTCI prices have increased every year and women now have higher costs because they are living longer and have no caregiver at home. Now the premiums are as much as 40% higher.

VIII. Retirement

When you are ready to retire, you should reassess life insurance needs now that your children are grown and you no longer need to provide for their support. Additionally, if you had taken out a life insurance policy to support your spouse or pay off the family home in the event of your untimely demise, it may not be necessary to hold onto that policy any longer if the cost of the policy will outweigh the final benefit.

Finally, if you will be subject to federal or state estate taxes, you may want to start making gifts to your family to remove assets from your final taxable estate. In 2024, you can give \$18,000 a year to everyone you know and not incur any gift transfer taxes and also reduce your final taxable estate. Depending on whether you will only be subject to state inheritance or estate taxes but not federal estate taxes, you may want to make even larger gifts to remove more assets from your taxable estate.

If you have questions about creating or updating your estate plan based on your current needs and situation in life, an experienced estate planning attorney should be consulted.

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