



Steps to Consider When the Death of a Loved One is Imminent

We often hear from the children (or other family members) of a client. “Mom is dying,” they might tell us, “and we need to know what legal steps we should get working on right away.”

The easy answer: legal concerns are probably not as important as being present, being supportive, gaining closure, staying connected. We’re sorry to hear about your mother, our client, but family is more important than the lawyers. Keep us posted but stay with your mother.

That said, there are a few things that can be addressed, time and circumstances permitting, when death of a loved one is imminent. And, of course, if the dying person is able to direct, or at least participate in, the process, there are more things to be considered. Among the items on a short checklist to get ready for the inevitable:

- Review the existing will (and, if there is one, trust) to make sure not only that it reflects the person’s current thinking, but also that it is understood by everyone. This is a good time to share the dispositive provisions with the whole family, even if they have been kept private until now.
- Are there tax issues to be addressed? Minimum distributions from IRAs, for example, or last year’s income tax return may need to be taken care of. If heirs are

in higher tax brackets and the minimum distribution is large, it might make sense to get the current year’s distribution accomplished, as well. Are there capital losses on investments that could be taken to offset income or gains? If so, the income tax benefit will be lost if not recognized before death.

- Where are original life insurance policies, stock certificates and other important papers? Making survivors hunt for those documents may slow down the process after death.
- Is there a “personal property list” identifying individual items that will go to specified recipients? We highly recommend that every client complete such a list, and it should not be put off until it is too late, or too hard, to get it done.

It may not be too late to consider establishment of a living trust (if that step has not already been accomplished). The primary value for most people is avoidance of probate, and there are other options available, as well. Of course, changing account and property titles and changing the estate plan requires that the individual must be both competent and willing.