

A STEP AHEAD

BERWITZ & DITATA LLP

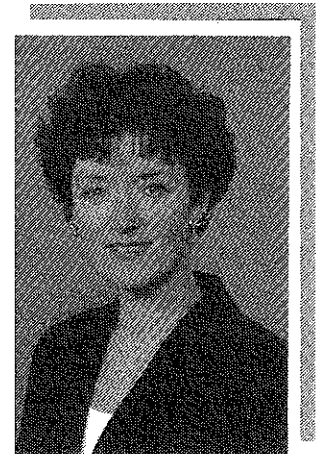
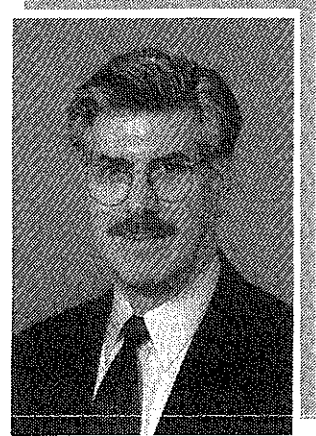
"TRUSTED FAMILY ADVISOR"

Major lifetime events trigger changes in estate planning. Often our clients only think to call us at the sad times in their lives. When illness, incapacity or death of a family member occurs, our clients pick up the telephone to let us know so that we can assist them in handling the new issues - guardianship, probate or trust administration, asset protection and Medicaid planning. We are also remembered when a beneficiary, trustee or executor passes away. But we would like to celebrate the happy events with you, too. At the births of children and grandchildren you may want to provide in some special way for the newcomer. You may have questions about whether the addition of a family member changes the

plan - or you may *want it to*. You may decide to purchase a new home or move from a large home to "more manageable" quarters. Children may marry - or divorce, your assets may undergo significant change (increase or decrease), you may inherit - or suffer business setbacks. We encourage our estate planning and Medicaid planning clients to advise us of these changes because plans need to be monitored periodically to accomplish the goals that have been established.

In order to better serve all of our clients and friends, we are initiating the "Trusted Family Advisor" (TFA) Program which we hope will make us more valuable to you.

Continued on page 3



CHANGES EFFECTING YOUR IRA

Prior to 2001, IRA owners who turned 70½ were required to make an irrevocable election concerning which method would be used to calculate minimum distributions. New regulations finalized

in April 2002 significantly changed these rules. Most importantly, the election which was previously irrevocable can now be changed at any time during the IRA owner's lifetime. Additionally, because of

changes in the life expectancy table which is used to calculate minimum distributions, smaller minimum distributions are now required.

Continued on page 2

NEW HIPAA REGULATIONS

On April 14, 2003 the new HIPAA Regulations took effect. These regulations are considered by some to be the biggest development in health care legislation since the enactment of Medicare in 1965. They apply to each and every health care provider in the nation, including physicians, dentists, nurses and pharmacists. The privacy rules impact access to health care information

What is HIPAA and why does it concern me? HIPAA is the acronym for the Health Insurance Portability and Accountability Act of 1996. This legislation was designed to allow employees to maintain health insurance coverage when they change jobs or terminate employment. This necessitates the transmittal, often electronically, of health care information between

health care providers and health insurers. Therefore, Congress sought to standardize its transmission.

The new regulations require providers to undertake "reasonable efforts to limit protected health information to the minimum necessary to accomplish the intended purpose of the use, disclosure or request." Congress

Continued next page

SELECTING A TRUSTEE

Continued from page 4

He or she need not have legal expertise or training, inasmuch as counsel can be retained to explain the legal terms and assist in the administration of the trust. However, the trustee must be older than eighteen, financially responsible and

have common sense and sound decision-making qualities.

You may appoint more than one trustee but appointing more than two co-trustees is not generally advisable as it may lead to complications and dis-

putes. If a child will be appointed, consider whether this will cause hard feelings among siblings. If your wishes are clearly set forth in the trust document and little if anything is left to the trustee's discretion, arguments can be minimized.

CHANGES IN YOUR IRA

Continued from page 1

If you turned 70½ prior to 2002, contact the custodian of your IRA to confirm that your annual required minimum distribution is based on the new life expectancy table.

Everyone 70½ or older should periodically review the beneficiary designation form on file

with the custodian of their IRA. If your designations are no longer satisfactory, submit a new beneficiary designation form that conforms with your wishes.

It is important to note that, if you have named a primary or a contingent beneficiary who is a minor, incapacitated or

unable to make appropriate financial decisions, a trust can be utilized to manage the account for that beneficiary, and his or her life expectancy can still be the gauge by which minimum distributions are calculated. This may also apply to 401(k)s and other retirement accounts.

"TRUSTED ADVISOR"

Continued from page 1

The TFA Program is simple. Just contact our firm any time you or a member of your family requires the services of an attorney - for any purpose. Pick up the telephone and give Larry & Maureen a call. We hope that you will never need an attorney because of an injury, car accident, medical malpractice, employment dispute, divorce

or Family Court matter, commercial or civil litigation, or landlord/tenant issue. While our practice does not include these types of law, we will refer you to an attorney who has expertise in the appropriate area and who can protect your rights. Of course, we will provide you with representation in any of the areas encompassed by our practice. Such areas in-

clude elder law, guardianship, Medicaid planning and obtaining Medicaid benefits. We also concentrate in estate and retirement distribution planning, probate and trust administration including contested matters.

It is our hope that you will take full advantage of the TFA Program and allow us to be your Trusted Family Advisor.

IMPORTANT NEW HIPAA REGS

Continued from previous page

also enacted severe penalties for violation of these rules. As a result, each time we visit the doctor we are asked to sign new disclosure forms. But that's the least of it. Many health care providers and their staff members are paranoid about releasing health care information.

As long as we are capable of attending to our own needs, and insisting that the information be released when appropriate, the inconvenience of the increased paper work can be overlooked. But what happens if we become incapacitated and it is important

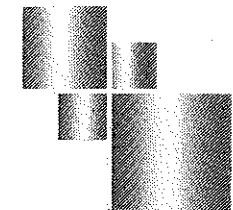
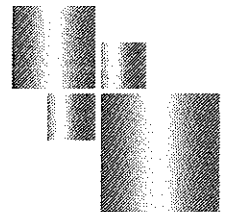
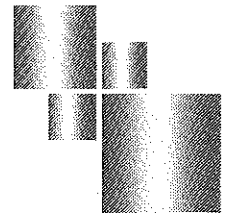
for others to access our medical information? Are our current health care proxies and powers of attorney broad enough? Will information be available that enables our health care providers to discern the best care and treatment under *all* of the existing circumstances? Will our health insurers have the requisite documentation to approve the expenditures?

Even if you implemented your estate plan as recently as this past summer, your *advance directives*, the health care proxy and power of attorney, may

not be particular enough to ensure that your agent will have the authority to secure your medical records or direct their transmittal.

Berwitz & Di-Tata LLP recommends that everyone review these documents as soon as possible to ascertain whether the appropriate protections are in place.

Our clients have already received a Bulletin about the change in the law and how it affects them.



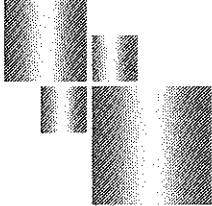
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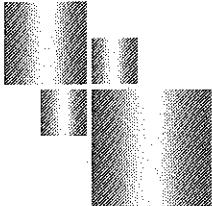
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HOW TO SELECT A TRUSTEE



I'm considering establishing a trust, how do I select a trustee? Should this be a close friend? A family member? My children are grown, or will be soon, can I designate one of them? Can all of my children serve as trustees? Does my trustee need to have particular qualifications?



Sometimes the initial consideration should be whether my trust is one that is expected to be fully administered and distributed shortly after my death or one that will continue for several generations.

If the trust is designed to span generations, continuity and stability

throughout the life of the trust might be an important consideration. In this event, the services of a corporate or institutional trustee may be beneficial. Often, however, where the trust permits the trustee to make discretionary distributions to beneficiaries, we recommend selecting someone whom you know you can rely upon to serve as a trustee or co-trustee. The trust can even be structured to permit a trustee to later select a successor from among individuals who are not presently old enough. This will ensure the selection of the most capable successor to the present trustee.

Many trusts, particularly living trusts, are designed to continue during the life of the "grantors" or creators and then, at their deaths, to distribute assets to children. Others might continue while the beneficiaries are minors. These trusts are not really intended to span generations. A trusted friend or family member can certainly serve as the trustee.

The trustee that you select should be willing to serve in that role. The trustee will have the responsibility to exercise care and judgment in carrying out *your* wishes.

Continued inside page 2