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July 2020 Newsletter



## Eight Questions to Ask Your Aging Parents

Have you had a conversation with your parents about their plans for the future? It may be something that you have been avoiding for a while, but discussing your aging parents' financial, long-term care, and estate plans with them is a very important thing to do. We know it may be difficult, so we have rounded up eight questions that can help guide you through the conversation.

1. Do you have a health care surrogate in place? A health care surrogate empowers another to make healthcare decisions on behalf of a person who has become incapacitated. Choosing a health care surrogate allows you to choose a trusted individual to make these important decisions should you be unable to do so yourself.
2. Do you trust your health care surrogate? Great care should be taken in selecting a health care surrogate. It should be someone you trust to make critical health care decisions and end of life care decisions on your behalf. It should also be someone you trust to make difficult or unpopular decisions. Additionally, the health care surrogate should be someone you have had discussions with regarding your treatment preferences and belief systems. The health care surrogate should be prepared to enforce your wishes even if your family and the rest of your loved ones are in disagreement.

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3. Do you know who will inherit your assets? It can be very important to consider where your assets are going after you pass away. Assets do not just include those that hold substantial financial value, but also those that hold significant sentimental value. Ensuring that you have included these assets in your estate plan can not only work to ensure your assets go to the people you want them to go to, but it can also reduce the chances of loved ones fighting over who gets what after you die.

4. Is your estate plan up to date? You should revisit your estate plan with some frequency after it is established. You should especially revisit it after major life events take place, such as births, marriages, and deaths. This is to help ensure that your estate plan remains an accurate reflection of your wishes.

5. Do you have a living will? A living will can outline your health care preferences, with a particular focus on your end of life care preferences. It can work to ensure that your health care preferences are honored even in the event you should be unable to communicate your wishes for yourself due to incapacitation.

6. Where are your original estate planning documents kept? If the time arrives when sadly your parent dies or becomes incapacitated, do you know where the original estate planning documents are? The original will is necessary and also required to commence probate. In fact, if you do not have the original, it may be very difficult to probate the estate according to the terms of the missing will. It is best to ensure that these estate planning documents are saved in a safe and secure location where loved ones will be permitted to access them when the time comes.

7. Have you designated beneficiaries on any life insurance policies and financial accounts? Designating beneficiaries on life insurance policies and financial accounts will allow these assets to be distributed to beneficiaries without having to go through probate. You can also designate a pay on death beneficiary on your bank account which means the proceeds of the account will pass directly to the listed beneficiary.

8. Do you have an attorney that you trust? Having a trusted attorney to consult with throughout the estate planning process is the most effective way to memorialize and protect your wishes for yourself and your loved ones for the future.

For all of your estate planning needs, our office is here to provide you with trusted legal support. We are here to protect your best interests and that of your loved ones through comprehensive estate planning. Contact our office today to schedule a meeting with attorney Alan Hougum.

## What is a Domestic Asset Protection Trust and Is it Right for Me?

Did you know that there are ways to protect your personal assets from creditors, divorce proceedings, and lawsuits? Did you know that protecting your assets can actually be a critical aspect of a sound estate plan?

Whether now or in the future, many people are at risk of lawsuits and adverse court judgements. Business owners, working professionals, and others can protect themselves against adverse legal actions with a Domestic Asset Protection Trust. An added benefit is that the trustmaker, or grantor, may be able to guard wealth that will ultimately transfer to their estate beneficiaries.



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A Domestic Asset Protection Trust is an irrevocable trust that is established and operated for the purpose of sheltering assets from judgement creditors in court proceedings. DAPTs are not irrevocable in the traditional sense, however, where they cannot be changed and are managed by third-party trustees. Instead, DAPTs are “self-settled” and “spendthrift,” meaning they allow for trust grantors to be beneficiaries and they prohibit beneficiaries from assigning their interests in trust assets to creditors.

DAPTs were originally created to dissuade people from using Foreign Asset Protections Trusts, also known as offshore trusts. DAPTs are established under state laws and are currently permissible in 17 states. You can still set up a DAPT in a favorable state even if you do not live there. Additional benefits can include:

- Legal stability and ease of access, as opposed to overseas asset protection trusts
- Growing legal recognition in courts and new states
- DAPTs are much cheaper than their foreign alternatives
- State laws typically limit the amount of time creditors can attempt to dislodge DAPT assets

No trust is perfect, and the Domestic Asset Protection Trust is no exception. Drawbacks include the amount of time assets have been placed in trust, and conflicting state laws. Grantors are vulnerable when a short amount of time has elapsed from placing an asset into trust and a creditor’s claim. If too short, creditors could allege a “fraudulent transfer.” Also, if you live in one state, establish the trust in another, and have assets from a third state placed into trust, which laws apply in a dispute? Finding out could get very expensive, though an experienced estate planning attorney can help.

If you or someone you know would like more information, or guidance about a related legal matter, contact a qualified estate planning attorney today. Contact our office today to schedule a meeting with attorney Alan Hougum.



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Attorney Alan Hougum and his compassionate team will help you protect yourself and the people you love with strategic planning strategies, such as wills, asset protection and trusts, powers of attorney, estate trusts, elder law planning, Medicaid crisis planning, Medicaid eligibility and application, probate and estate administration, avoiding probate, charitable planning and giving, special needs, and estate tax planning. Hougum Law Firm, LLC, serves the entire Wausau, Wisconsin area.

Our office is located in Wausau at  
305 S. 18th Avenue, Suite 200, Wausau, Wisconsin 54401. Do you have questions you need answered before or after your appointment? Just let us know! Contact us by email at [info@hougumlaw.com](mailto:info@hougumlaw.com) or call us at 715-843-5001.