

No DAY BUT TODAY

By: S. Susan King

“I don’t need estate planning because I don’t have a lot of assets.”

“I’ve been meaning to make an estate plan but just haven’t gotten around to it.”

“I don’t want to think about my health care decisions right now.”

These are the three most common reasons that I hear from people who do not yet have an estate plan. I relate to each of these responses because I have used them myself to delay making an estate plan – for my parents.

I talked to my parents about making a plan, of course. They understood the benefits of avoiding probate, designating others to act in their stead if needed, and making their health care decisions clear for their agents to implement. But they were still young and healthy, with modest assets and leading busy lives full with grandkids, church and work. And discussing health care decision and end-of-life options with my parents was difficult not only emotionally but logistically, as my parents’ limited English and my conversational Korean struggled to find the right words. So the years slipped by with the occasional promise to really sit down and talk things over the next time my parents visited.

Then, without warning, my mom suffered a major stroke. She was only 62 at the time. Nothing in her family medical history or current health record indicated a risk for stroke. Her doctor had actually given her a clean bill of health just three months prior to the event. Life outside the ICU stopped for several weeks until my mom finally opened her eyes. We clutched her hand and wept with joy. Then we began the arduous process of adjusting to and accepting a new kind of life. My new “normal” included taking over my mom’s role as the person who handled practically every aspect of my parents’ household. I discovered that my dad knew very little about their finances. He gave his paychecks to my mom, and she took care of the rest. That was how my parents operated for forty years of marriage.

After my mom’s stroke, I experienced first-hand just how difficult it is to take care of someone without the right paperwork in hand. I gritted my teeth in frustration each time I was turned away with a sympathetic “I’m sorry, but without a [Power of Attorney / Authorization for Release], I can’t help you.” Legally, they were right, and no one knew that better than me. I had failed to protect and provide for my parents in this regard. My failure nearly prevented my mom from obtaining much-needed assistance from Medi-Cal, and all because no one had the authority to access a single bank account that was opened in my mom’s individual name.

If my parents had established a revocable or living trust, then the trustee could have had accessed that account. Even if my parents did not have a trust, the attorney-in-fact named in my mom’s durable power of attorney could have accessed that account. Without either, the bank (rightfully) refused to release any information about that account to me or my dad.

Medi-Cal refused to approve my mom’s application because we could not provide full and complete disclosure of her assets. My mom’s health insurance benefits did not cover her hospital stay beyond the one hundredth day, which was quickly approaching. She was too young for Medicare. Without Medi-Cal assistance, private pay was the only option left for my mom’s medical care – at the tune of \$7,500 per month. Luckily, my mom recovered in time to sign an immediately effective power of attorney. If she had not, my parents’ situation would be drastically different now.

I hope that by sharing my personal experience, you and your loved ones can avoid a similar nightmare. “Life planning” constitutes a crucial part of an estate plan. Whether your estate is large or small, you must designate someone to manage your assets and make health care and personal care decisions for you if the need arises. Your agents should also be properly authorized to receive your protected health information. “Death planning” needs vary on many different factors. If you have a small estate, then your estate plan may simply name your heirs or beneficiaries and designate someone to manage your estate, pay your debts, and distribute your assets upon your death. As estates increase in size, other features may be appropriate for your plan to protect and preserve your assets and reduce or postpone taxes that may be payable upon your death. Regardless of the size of your estate, customization of your plan may be appropriate depending on your unique facts and circumstances (*e.g.*, blended families, late or multiple marriages, planned or charitable giving, etc.). **There is no day like today to prepare for the unexpected. Don’t delay.**