What Every Chi Psi Gentleman Should Know …

… Don't Add to Someone's Grief Over Your Death

This article was provided by Cliff Massa III, EΔ'71, who chaired The Chi Psi Educational Trust, Inc., from 1991-95.

One of the goals of our Fraternity – and a substantial benefit which Chi Psi offers our members – is providing an education beyond what college provides. About a dozen years ago, we ran some articles in The Purple and Gold *titled "What Every Chi Psi Gentleman Should Know." Parts of those articles became a section of the 2006 edition of* The Chi Psi Story.

Continuing on that theme, the recent deaths of several younger Fraternity leaders brought to light the struggle that family members face at such a time, especially when there is no will.

Brothers shown in the circle at top were pictured in the first "What Every …" article. Taken at the Installation Banquet of a reinstalled Alpha Rho in January 2005, standing was the most senior Brother then present, John C. Frisch Jr., P'50, and the #1 at the time, Thomas Radtke, P'06, striking a pose much like the Bronze sculpture of the late Harold G. "Bones" Lundberg, P'24, mentoring a younger Brother.

During our teens, twenties, and thirties, most young men tend to act like we "are going to live forever" – or at least for a few more decades – so making plans like a last will and testament can wait. That may be a natural human perspective when we are young, but it is a short-sighted approach to preparing for the future. Even worse, it can increase the anguish for your loved ones if you die young.

Have you lost a family member or a friend who was younger than, say, 50 at the time that he or she died? If your answer is "no," then you are a fortunate fellow and I hope that you recognize that fact.

But if the answer is "yes," did you hear if the person had a properly drafted and executed will for managing his or her estate? If you heard lots of complaining, sadness, and unhappiness about what a local judge was doing with the person's assets, chances are that the person died "intestate," meaning that no will was in place.

Basic estate planning is important for everyone. True, it becomes more important after you have been working for many years, developed a savings/retirement plan, bought a house, gotten married, had kids, developed a portfolio of stocks/bonds/real estate and so on. But starting such planning at a young age is important for at least two reasons: (1) to assure that matters are handled like you want them handled if you die young and (2) to get into the habit of updating your will as your circumstances change.

A well-drafted will specifies how your assets are to be distributed. But an equally important feature of a good will is that it names the person whom you want to undertake essential activities such as paying your bills, handling paperwork with courts and tax agencies and managing asset distributions as you have directed. This person is often called an "executor," but the term "personal representative" is used in some states.

You probably think that only you should control what happens to your assets after you die. Fair enough, but you cannot just "think" that. You must act to put a will in place to achieve the results you want. You must comply with how your state requires that you express your directions and how that document is executed. Also, with your asset distributions spelled out, someone must administer such distributions and other matters which the local court and tax agencies require.

So, if you were to die without a clear and properly executed will during the next few months, you will have forfeited the power to make your own decisions about your assets and will have given up the ability to name the person who will manage your estate's affairs. What will happen then? A judge in a local court (often called a "probate court") will take charge of everything. An early action by the judge will be to appoint the executor/personal representative for your estate – possibly from among multiple people who seek that role. Then, because you failed to direct such distributions yourself, the appointed person must distribute your assets using the state's "intestate succession law."

Intestate succession laws can vary from state to state, but the following is a generalized priority list which illustrates how such laws work overall.

1. All of the assets go to the surviving spouse (or assets may be divided between the spouse and any surviving kids).

2. If there is no surviving spouse, then the assets go to surviving kids or their descendants.

3. If there are no surviving spouse/kids/descendants, assets go to surviving parents.

4. If steps 1 through 3 do not work, assets go to surviving siblings.

Things get even more complicated after step 4 and also with respect to "half-siblings" and other particular situations. But whatever the state's particular rules are, you can see that the general policy is to require distributions based on family relationships. Friends are not included. Colleges, churches, favorite charities and other organizations are not included.

But even in the unlikely circumstance that such a list is exactly how you want things to go for the moment,

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"the moment" doesn't last. Also, if you are not married and have no kids, are you in a situation in which you want both of your birth parents to be the beneficiaries? Are there other family relationships/strains/estrangements which you want taken into account in the distribution of your assets? If so, you must make that happen because the state's intestate succession law will not.

So, what do you need to do? You need to find an experienced lawyer, make an appointment and get your specific desires confirmed in a properly prepared and executed last will and testament. Here is a general "to do" list.

1. Getting ready.

a. Prepare a complete list of all of your assets. "Money" assets are important, but look around your home and put everything that you own on the list. Also, prepare a list of all of your recurring expenses – mortgage/rent, utilities, loan payments, credit card payments, etc.

b. Determine whom you want to name as your executor (plus one or two successor executors in case your primary executor is not able to serve). Confirm that the person will agree to serve in that role.

c. Beneficiaries –

i. Confirm that any insurance policies and retirement plan documents have your desired beneficiaries listed properly. ***If not, do that immediately.***

ii. Check with your bank to see if you are allowed to designate who will get your checking account following your death or whether such accounts must go into your estate (this may be the desirable result anyway – discuss it with your lawyer). Even if you can directly transfer such accounts to beneficiaries, keep in mind that your executor may need access to the checking account to continue paying your bills.

iii. Decide whom you want to designate as the beneficiary of all other assets on your list from above. You may want to designate some major assets (like your car or valuable collectibles) for specific people while designating your executor as the one who will follow written instructions which you prepare from time to time about distributing the remainder of your assets; this is an important feature to discuss with your lawyer.

2. Get your will in place.

a. Find a lawyer who practices in your state of residence and is qualified in estate and trust work. You may have a family member or a Brother from your Alpha who is such a lawyer or who can make recommendations.

b. Make an appointment with the lawyer to review all of your information. The lawyer will prepare a draft for your review. Complete that review and give any potential revisions to the lawyer soon so you can execute the final document ASAP. You will be charged for the work, so ask what the fee will be.

c. The more work you do before visiting the lawyer's office (like the steps in item 1), the faster the process will go. Also, good prep work might lower the fee, but a "basic will" without extra features probably will be done for a flat fee.

d. Please don't use a lawyer's fee as an excuse not to do this! The monetary costs for your parents/family of hiring a good attorney to deal with your intestate situation plus the potential for family squabbles will create incalculable additional grief which will far outweigh the fee for executing a proper will now.

3. Protect it.

Once your will is drafted and properly executed, it must be protected so that it isn't lost in a fire, a house flood or something similar. Also, your executor must know where it is. You may be able to file it with the city/county probate court so that it is secured officially – ask your lawyer if this is possible and, if so, if it makes sense for you. And be certain that your executor has a copy as well as any other instructions which the will authorizes you to provide for the executor's future use.

4. Review it.

Review and update your will periodically. New factors over the years such as marriage, birth of a child, income changes, inheritances which you receive, death of a beneficiary, additional beneficiaries becoming desirable, moving to another state and other events are certain to require changes in your first will. Also update the designation of beneficiaries in your insurance policies, retirement plans, bank accounts and so on as needed.

5. Passwords, etc.

In today's electronic data age, it is essential that you provide a means for your executor to get into your phone/pad/computer and any other login and password-protected data storage locations! You may well have info stored in such locations which will be essential to the distribution of your assets and the payment of your debts. As some recent situations have highlighted, "smart phone" companies won't provide help to get into a deceased person's phone. I have seen the results of a situation in which a phone finally "died." Do not put your executor, family and friends in such a situation.

Do not delay getting this project underway. Start taking the steps promptly and see a lawyer ASAP!

Family members and friends will be hurting a lot if you die "too soon." Don't add to their grief by failing to take needed steps now.

Other Important Items to Consider:

1. Advanced Medical Directive *("Living Will"). How much do you want done or NOT done to keep you alive by extraordinary medical means?*

2. Health Care Proxy. *Authorize someone to make medical decisions for you when you are incapable of doing so. This is as important as the will.*

3. Durable Power of Attorney. *Enable someone to act for you in the event that you become mentally or physically incapable of making decisions, paying your expenses, etc.*

4. Living/"Revocable" Trust. *While probably not useful for younger Brothers in general, this can be helpful later in life to ease the administration of your estate as well as to provide someone to act on your behalf if you become incompetent while alive and to keep all administrative and estate asset details out of the public record of probate court.*

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