

# WHAT YOU SHOULD KNOW ABOUT YOUR LEGAL HEALTH

## **Introduction**

As with your physical health, you can avoid problems by periodically checking your legal health. Areas to consider include contracts, consumer rights, estate planning, insurance coverage, retirement planning and wills. You should review your legal papers about once a year to see if the relevant plans and documents reflect your current needs.

Such an annual legal checkup may uncover problems that can be corrected before they cause trouble. For example, if you see that your property insurance is inadequate because of increased home values, you might decide to increase your homeowner's insurance to protect yourself from possible losses. Or, at the birth or death of a loved one, you may want to reevaluate your will or life insurance policy.

You can conduct a self-check, or a lawyer can perform the legal checkup for you. Like the physician and dentist who perform your health checkups, a lawyer knows how to diagnose legal problems and prescribe cures.

During the legal checkup, you can review your family situation, finances, real estate ownership, employment, investments and business interests. If remedial action is needed, your lawyer can recommend additional services such as changing your will, preparing a durable power of attorney for elderly parents or preparing a lease for rental property.

This pamphlet reviews a few legal problems commonly uncovered by legal checkups. Your lawyer can help you resolve these and other legal problems. The legal work is often relatively inexpensive, especially compared to the costly disasters that could result from unanticipated problems.

## **Marriage**

Couples sometimes enter in prenuptial agreements or separation agreements to avoid disputes in the event of divorce.

Such contracts can deal with property rights, support, child custody and visitations. You may be able to enter into such agreements before or during marriage. Unmarried couples living together sometimes use a contract to specify their expected rights and responsibilities, and may enter agreements similar to the ones used by married couples.

Separation agreements routinely specify who, in the event of divorce, will have custody of children, and stipulate the frequency and duration of visits by the other spouse. Prenuptial and separation agreements can also address various contingencies such as selling your home and valuing one another's interest in pension plans. Such contracts might also require that a spouse pledge property to be forfeited for failure to comply with the agreement.

## **Divorce**

You should consult your lawyer if your marriage is ending. You will need sound professional advice to determine child custody, financial support and make a fair division of the property of the marriage. Your lawyer can also seek protection if your spouse threatens to assault or harass you, take your children in violation of custody or visitation rights, or hide property belonging to the marriage.

## **Wills and Estate Plans**

Good legal health usually includes having an estate plan with a valid will. Without a will, your property may not be distributed as you desire, extra expenses and taxes may be incurred, and some family members may inherit your property against your wishes.

Trusts are another estate-planning tool. A trust is a document that allows you to transfer property to loved ones using a trustee to carry out your instructions. Trusts created in a will are called testamentary trust. Trusts created in a will are called testamentary trust. Trusts can also be created by a contract called a living trust. Living trusts can be useful estate-planning tools for everyone, not just the rich. A living trust can help you avoid probate and keep your affairs private.

Review your estate planning documents whenever important life changes take place—when you marry, have a child, move to a new state or lose a loved one. Be sure your estate plan keeps pace with the value of your

property and changes in the tax laws. Revisions can be made with a new document or an amendment to an existing one, but you should never try to make a change by writing or crossing out on your old will or trust.

### **Buying and Selling a Home**

Beware of common pitfalls when buying and selling a home, most people's largest investment. For example, the home buyer should avoid unfavorable provisions in the sales contract, such as failure to provide for the return of the deposit if there are major defects in the home. The seller should watch out for onerous provisions in the listing contract and sales agreement, such as requirements to pay an agent's commission even if a sale is not completed. If you are buying or selling, check with a lawyer before you sign a contract. The lawyer can review the contract, handle negotiations and arrange for documents that protect your interests and complete the sale.

### **Injuries**

Accidental injuries can occur in your home, apartment or car, at your workplace or stores, offices and medical centers. You and your family members may be entitled to compensation from those who contributed to the injury—the driver of another vehicle, the owner of an unsafe building, the provider of improper medical treatment, the manufacturer of a defective product or the employer with unsafe working conditions. Compensation for injuries can include reimbursement of your medical expenses and monetary damages for disability, lost income, and pain and suffering. Whether or not compensation can be recovered from the responsible party, you may be covered under your own insurance policies. Your lawyer can explain your rights and help you recover compensation from responsible parties and insurance companies in the event of such injury.

### **Employment**

Legal difficulties sometimes arise in the workplace. For example, your job application may have been rejected because of your age or race, or you may have been denied a promotion because you refuse the romantic advances of a supervisor. You may have been fired illegally for refusing to break the law, failing to work on your sabbath or because of the results of a drug test.

The laws that protect employees against discrimination and unfair job actions have expanded, but frequently have strict procedures and time limits for filing claims. If you fail to take prompt action, you may lose your rights.

Your lawyer can evaluate your situation and tell you your rights. He or she can also explain legal procedures, including arbitration under a labor contract, pursuing a claim with the Equal Employment Opportunity Commission or filing a lawsuit. If a lawsuit is unavoidable, your lawyer can evaluate your chances of winning and estimate the court costs and legal fees.

### **Bankruptcy**

If you are having trouble paying bills, your lawyer can advise you about your options, including credit counseling, deferred payment plans and loans. You can also obtain advice about consumer protection and bankruptcy laws. If bankruptcy is the best option, your lawyer can prepare your bankruptcy forms and serve as your advocate during the bankruptcy proceedings.

### **Tax Planning**

Gifts, contributions, medical and business expenses, investments, and other expenditures can have important tax consequences. Also, births, deaths, marriage, divorce and other events can affect your tax situation. Your lawyer can advise you how to minimize your taxes and prepare the legal documents needed for your tax planning.

### **Your Lawyer**

Your lawyer can help you to avoid legal problems and solve them when they are unavoidable. He or she can give you valuable advice during major events in your life: marriage, divorce, buying and selling a home or responding to an accident.

Sometimes the solution is simply the preparation of a document to protect your rights or establish your preferences. At other times, a problem may require that your lawyer start a lawsuit to protect or defend your rights.

It is important to see your lawyer early: before a

problem occurs, or if there is already a problem, before it becomes more aggravated and costly. For example, if you are seriously injured in an auto accident, contact a lawyer promptly so that evidence can be gathered from the accident site and witnesses interviewed before memories fade. If you are buying or selling a home, be sure to see your lawyer before signing a contract.

A regular checkup of your legal health can be just as important as your physical and dental examinations. Legal checkups remind you of your rights and duties, detect problems, and can result in you taking action before trouble starts. Good legal health will protect your family, your home, your vehicles, your valuables and your investments. It can also provide peace of mind.

### **1. Automobiles**

- A. Accidents
- B. Arrests
- C. Buying a car
- D. Drunk driving
- E. Lemons
- F. Rental cars
- G. Repairs
- H. Traffic tickets
- I. Warranties

### **2. Business Interests**

- A. Contracts
- B. Corporations
- C. Home business
- D. Investments
- E. Partnerships
- F. Proprietorships

### **3. Children**

- A. Adoption
- B. Disability
- C. Name change
- D. Guardian
- E. Trust

### **4. Credit and Consumer Rights**

- A. Air travel rights
- B. Bait and Switch advertising
- C. Billing errors
- D. Credit report errors
- E. Debt collection harassment
- F. Investment frauds
- G. Loans—equal access and disclosures
- H. Health spas
- I. Mail order fraud
- J. Product safety
- K. Vacation homes
- L. Warranties

### **5. Elderly Parents**

- A. Guardians
- B. Durable power of attorney
- C. Incapacity and disability
- D. Medicare and medicaid
- E. Nursing homes
- F. Trusts

### **6. Employment**

- A. Benefits
- B. Discrimination
- C. Firing
- D. Health insurance
- E. Pensions and profit sharing
- F. Unemployment compensation
- G. Union contract

### **7. Estate Planning and Gifts**

- A. Asset list
- B. Disinheritance
- C. Executor
- G. Life insurance
- H. Notification list
- I. Retirement planning

- D. Funeral arrangements
- E. Joint tenancy
- F. Lifetime gifts
- J. Trusts—living and testamentary
- K. Wills

### 8. Health Care

- A Anatomical gifts
- B. Employer health insurance
- C. Living will
- D. Medical malpractice

### 9. Housing

- A. Buying and selling a residence
- B. Financing home ownership
- C. Inspections
- D. Home improvement contracts
- E. Rental agreements
- F. Real estate agents
- G. Vacation property

### 10. Important Papers

- A. Auto title
- B. Birth certificate
- C. Deeds
- D. Contracts
- E. Employment agreement
- F. Insurance policies
- G Leases
- H. Living together agreement
- I. Living will
- J. Marriage and divorce papers
- K. Military discharge papers
- L. Power of attorney
- M. Promissory notes
- N. Separation agreement
- O. Stocks and bonds
- P. Will

### 11. Important Information

- A. Burial instructions
- B. Social security number
- C. Location of bank box key
- D. List of credit cards and bank accounts
- E. Name of executor, lawyer and insurance agency

### 12. Injury

- A. Auto accidents
- B. Compensation
- C. Defective products
- D. Medical malpractice
- E. Notify insurer
- F. Reimbursement of expenses
- G Workers compensation
- H. Workplace accidents

### 13. Insurance

- A. Amount of coverage
- C. Insured values's and deductibles
- B. Beneficiaries
- D. Named insured
- E, Types of coverage— automobile, business, health, homeowner, life, tenant

### 14. Marriage and Divorce

- A. Collecting alimony and support
- B. Child custody and visitation
- C. Dividing and valuing property
- E. Marriage contract
- F. Property settlement
- G. Obtaining a divorce

D. Living together agreement

**15. Retirement**

- A. Annuities
- B. Government pension
- C. Life insurance
- D. Private pension
- E. Social security

This pamphlet provides general information. Laws develop over time and differ from state to state. This pamphlet does not provide legal advice about specific legal problems. Let us advise you about your particular situation.

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