

# Accettura & Hurwitz

*Estate & Elder Law*

32305 Grand River Avenue  
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## FALL 2020 UPDATE

planners often choose facilities that only accept Medicare. Since at least 90% of rehab facilities accept both Medicare and Medicaid, it would be a shame to accept a discharge to a facility that you will have to leave when your Medicare days (potentially up to 100 days) run out. **Also, please call us if we haven't seen you since 2011.**

### Please Say Nice Things About Us!

If you are unhappy with our service please contact our office and speak with our office manager, Kim Rapp, and we will do our best to remedy the issue. If you are happy with our service, please visit our Facebook page called "Accettura & Hurwitz: Estate and Elder Law" and/or Google Review and give us a good review so others will know of our good work.

This Newsletter is considered general information and is not intended to constitute individual legal advice. Please contact us if you think the information herein impacts you directly. We look forward to speaking with you soon. Please visit our website [www.elderlawmi.com](http://www.elderlawmi.com)

Very truly yours,

ACCETTURA & HURWITZ

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## FALL 2020 UPDATE

As is our custom, this semiannual correspondence is intended to keep you abreast of developments in estate and elder law. The following is a brief summary of noteworthy developments since our last communication:

### We Are Here For You!

As of this writing the Coronavirus infection rate is rising with predictions of increased hospitalizations and deaths through the end of the year and possibly beyond. It is important that your estate plan be in order in the event of severe illness or worse. We recommend that you pull out your estate plan and review it to ensure that it reflects your current wishes. Do your powers of attorney reflect the person or persons you most want to handle your financial and health care decisions? Have your wishes changed as to who you want to inherit and when? Have you purchased a new home or vacation property that has not been transferred to trust? Are your financial assets funded into your trust? Is one of your children struggling financially? Addicted? Going through a divorce? Now is the time to answer these important questions and to take appropriate action to see that your wishes are properly reflected.

We are available to speak with you by phone to discuss your concerns. We are ready to meet with you in our office, or, if you prefer, we can speak with you by phone or ZOOM. Give us a call.

### A Warm Welcome to the clients of Kent D. Schultz



Long-time Royal Oak attorney Kent D. Schultz recently retired after fifty years of practice. Kent wrote to his clients earlier this year offering them the option of either receiving their file or turning it over to our firm. We are honored that Kent trusted Accettura & Hurwitz to continue his legacy of expert and caring professionalism. We welcome Kent's clients who have already chosen to move their file to our firm and look forward to meeting those of you who chose Accettura & Hurwitz in the future. We are happy to share this photo of Kent and his lovely wife Karen at their granddaughter's 2019 wedding.



**New Royal Oak Office**

We moved our old Royal Oak office to 1022 S. Washington, Royal Oak, MI 48067. The new location dramatically reduces the distance our clients need to walk. It is street level (no more lobby or elevator), has free street parking right outside the front door, and is barrier free. Our new signage makes us easy to find. We hope to see you soon!



**What Happens To My Motor Vehicles When I Die?**

Most folks here in Michigan own or lease at least one car. Some own other motor vehicles like mopeds, motorcycles, snowmobiles, mobile homes, boats or motor homes. Registration and transfer of these motor vehicles is administered by the Michigan Secretary of State (SOS). The various methods of transferring a vehicle at death are discussed below including our NEW Transfer on Death (“TOD”) form that will be part of all estate plans developed by our firm in the future.

**Avoid More Than One Name on Title**

We generally recommend that you own your car in your individual name, not in trust or jointly with others. Ownership solely in the name of the driver limits liability to the driver. Joint ownership and ownership in trust expose other family members to the liability-producing acts of the driver. Joint ownership

and transfer to trust are not needed to avoid probate since Michigan law (MCL 257.236) specifically exempts motor vehicles from probate if the total value of all vehicles owned by the decedent does not exceed \$60,000 (\$10,000 for a mobile home, or \$100k for a titled watercraft).

While not passing through probate, transferring a motor vehicle at the death of the owner presents challenges. It is relatively easy for a surviving spouse to transfer ownership. However, transferring ownership from a single deceased owner can get complicated since the SOS requires the consent of all next of kin.

**Surviving Spouse**

A surviving spouse is the presumed owner of the deceased spouse’s motor vehicles. The surviving spouse may keep the vehicle, add a name, or transfer ownership by completing and submitting Form TR-29 (Certification From The Heir To A Vehicle) to the Secretary of State office along with an original copy of the deceased spouse’s death certificate and the original title. Form TR-29 cannot be used if the deceased owner’s estate is probated or if the total value of all vehicles owned by the deceased spouse exceeds \$60,000. If the surviving spouse chooses to keep the vehicle, he or she may use the plate on the vehicle. There is no transfer fee for transfers to spouses and immediate family members.

**No Surviving Spouse**

The closest next-of-kin (children equally, if no children then grandchildren equally, and if no children or grandchildren then great grandchildren equally) are the presumed owner of an unmarried deceased vehicle owner unless more than one name appears on title. All next of kin must complete Form TR-29. Where there are more than one closest next-of-kin, those who elect not to claim an interest in the vehicle (for example, where one next-of-kin agrees to buy out the others) must complete Form TR-34 (Blank Certification/ Affidavit) stating their intent to waive their interest. While we do not recommend joint ownership, multiple

owners are advised to add “Full Rights To Survivor” to the title. Doing so allows the survivor to use Form TR-29 to transfer title. If Full Rights To Survivor does not appear on the title, an odd and likely unintended result occurs: 50% of the vehicle belongs to the surviving owner and 50% to those next-of-kin.

Forms TR-29 and TR-34 are available at Michigan.gov/sos

**Where There is No Next of Kin**

A person named as beneficiary of a vehicle under a will or trust, whether or not related to the decedent owner, may use probate form PC 598 (Affidavit of Decedent’s Successor For Delivery of Certain Assets Owned By Decedent) to transfer title. Several requirements must be met to use the probate court Form PC 598 procedure:

- Twenty-eight days must have passed since the decedent’s death
- The decedent’s estate (less liens and encumbrances) may not exceed \$15,000 (as indexed for inflation, or \$24,000 for 2020), and
- No probate estate has been or will be opened for the decedent

**Probate**

Motor vehicles must pass through probate when the deceased vehicle owner had assets worth more than \$24,000, or had vehicles worth more than \$60,000, had no next of kin, or had other assets in their own name that require probate. Probate is a court action administered by the Personal Representative (PR) named in the decedent’s Will, or if no Will, by the person with highest priority. The PR is responsible for transferring title. The PR cannot use Form TR-29. Instead, the PR must present to the SOS the “Letter of Authority” issued by the Probate Court. An alternate and abbreviated Petition and Order For Assignment procedure may also be available through the probate court.



**TOD Available for Transfers After Death**

All of the limitations listed above (the dollar limits, relationship to decedent, and probate) can be

eliminated by using our NEW TOD designation already being used in a number of other states.

The Michigan Department of State pursuant to a Freedom of Information Act Request recently revealed that it will accept Transfer on Death “TOD” designations for motor vehicles. Long permitted in other states, the “Transfer on Death” method allows the owner to name the beneficiary who will inherit the vehicle upon the owner’s death. The designation does not appear on the vehicle title. Instead, it is a separate written designation where the beneficiary’s name is preceded by “TOD.” The TOD designation avoids probate without the beneficiary being a co-owner. TOD designations are authorized under Section 6101 of the Estates and Protected Individuals code MCL 700.6101.

We recommend that the vehicle owner’s revocable trust be named TOD beneficiary. Upon the vehicle owner’s death, the successor trustee of the decedent’s trust would re-title the vehicle in the name of beneficiary named in the trust or chosen by the trustee. Naming a trust as TOD beneficiary gives the successor trustee flexibility in deciding whether the vehicle will be sold or given to one of the trust beneficiary’s as part of their share. It also eliminates the necessity of obtaining the signatures of all next of kin, some of whom may have been disinherited. In our view, the ease and flexibility of TOD designations to trust will become the preferred method of transferring motor vehicles in Michigan.

**Call Us Immediately When...**

Call us from the hospital *before* you are discharged to “rehab.” While hospital discharge planners may suggest a facility, it is ultimately your right to choose the nursing home (nursing homes provide both rehabilitation and long-term care services) where you wish to continue your recovery. Hospital discharge

