

# The Problem with Out-of-State Documents

**By: Brandon C. Walecka, Esq.**

Walecka Law, P.C.

774-203-9003

Brandon@WaleckaLaw.com

I am often asked whether moving from one state to another requires someone to redo their legal, estate planning documents. While I obviously do not have knowledge of the laws in every state, my general answer is that if a will, power of attorney, or health care proxy were prepared and executed in accordance with the home state, they should be valid in the new state.

Even with this answer, I always encourage my clients who decide to move out of Massachusetts that they should at least consult a qualified estate planning and elder law attorney in their new state to review the documents they prepared with me to ensure that they comply with the new state's laws. This new attorney may suggest updates or changes to comply with the new state.

Whenever there is a trust involved, whether irrevocable or revocable, I strongly encourage my clients to also have the trust reviewed. Trusts are complex legal documents, which are typically controlled by the home state's laws and can create complications when administered in a different state. Another reason to update your trust is that estate taxes differ by state. The laws of the state where you reside at your passing can have a dramatic effect on the taxes that your family will be responsible for paying at your death. Massachusetts, for example, has a rather low estate tax exemption of \$1 million.

Depending on the estate you move to, this exemption can be much larger or smaller, resulting in significant estate tax that may be avoidable.

Each state is different and therefore each state's laws are different. If you just moved to Massachusetts or plan to move to another state from here, you should seek guidance from a qualified attorney to review your existing plan.

*The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common estate planning tools. This article does not constitute legal advice.*