ATTORNEY CHECKLIST (North Carolina)

1. Make sure participant's estate is less than $750,000, including life insurance proceeds. If they have more than this amount, they may need more advanced estate planning. Give participant the Lawyers Referral Service number (800) 662-7660.

2. Remind participant that the bulk of most people's estate is often life insurance and retirement plans. Has he/she named the right person(s) to receive the benefit on life insurance and 401ks? Have secondary or alternative beneficiaries been named? Has the right person changed since joining the Department?

3. Ensure participant is not currently involved in any type of litigation. If he/she is, make sure you or your firm is not conf1icted out.

4. Is the participant married? If so, and Options 3 or 4 are selected, the surviving spouse has a right to "elect" to receive a share of the estate if the spouse is not included. That share may be from 1/2 to 1/6 of the estate, depending on circumstances. This rule may not apply if the couple signed a marital property agreement before or after marriage.

5. Does the participant have children from a current or former marriage/relationship? If so, make sure you define children to include or exclude the children the participant desires.

6. Does the participant have a child with "special needs"? If so, a basic will may not be the right will for them.

7. Under Option 2, a trust is created for the spouse for the spouse's life time. The remainder goes to the children. This option is usually only selected if the participant is concerned that the spouse will re-marry and the new spouse may have access to the participant's assets.

If the participant chooses Option 2, review with him/her who is named as the Personal Representative. The Trustee of the trust created by this option is the same person named as Personal Representative. So if, the participant designates the spouse as the Personal Representative under this option, you need to advise them that their estate may not be protected. If the participant thinks that the spouse will not protect the assets from a new spouse, then they should not put the spouse in charge of the trust. They should pick someone else. The spouse can serve, as the spouse then owes a fiduciary obligation to the children that the children can use to ensure the trust is not misappropriated, but it may not be the best choice.

8. Adopted children: This option includes adopted grandchildren. So, even if the participant has not adopted a child, suppose the participant's natural child adopts a child.

Does that participant want the adopted grandchild to take under the Will? If so, then include adopted children.

9. Stepchildren: Stepchildren are not considered children of the participant under North Carolina law, unless legally adopted by the participant.

10. Guardianship: Under NC law, the surviving parent will automatically get custody of the deceased participant's child, unless his/her parental rights have previously been terminated. Therefore, the participant's choice for guardian comes into effect only if the child's other parent is deceased at the time the Will is probated.

11. Make sure the participant dates and signs the Questionnaire and that the name, address and remaining information is filled in. The Questionnaire is the only record we will have of who takes part in the program and we will use the address on the Questionnaire to send a disengagement letter. We MUST keep a copy of the Questionnaire. Send the completed Questionnaires to Kim Sieredzki.

12. We do not keep a copy of the Will or "file" the Will for them. Advise them to keep the Will in a safe place, such as a safe deposit box or fire proof box, and review it with their Personal Representative.

13. The Will can be revised by a properly prepared codicil, or revoked in its entirety, by the participant at any time.