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Seniors and Special Needs News - May 22, 2015

1 message

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With help, seniors and people with special needs can keep some of their assets in the family rather than lose their entire life savings to the costs of long term care. They can use these protected assets to enhance their quality of life beyond what long term care alone will provide.

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The Koewler Law Firm
 JAMES L. KOEWLER, JR.



Seniors and Special Needs News

Legal Issues when someone has Dementia: Can Advance Directives be done?

This week's newsletter continues the discussion of Legal Issues when someone has Dementia. The introductory installment (April 30, 2015) put forth the issue of "Who can speak for someone with dementia?" The May 14, 2015 installment discussed the situation where the person with dementia has Advance Directives in place.

In this discussion, "Advance Directives" means a General Power of Attorney and a Health Care Power of Attorney. The purpose of such powers of attorney is to appoint someone to speak for us (to handle our affairs, so to speak) in our place.

This installment will discuss whether it might be appropriate to encourage someone who has dementia to sign Advance Directives. (Such a decision is necessary only if the person who has dementia does not have Advance Directives in place or has Advance Directives that suffer from one or more of the problems discussed last week.)

The first question when considering whether Advance Directives can be done is to determine whether the person's dementia prevents him or her from being legally able to make the decisions necessary to sign Advance Directives. The decision-making ability necessary to choose to sign legal documents, such as Advance Directives, is called "legal capacity." Legal capacity is generally described as the ability to understand what one is doing and to understand the

ramifications of the decision. So, under the "legal capacity" test, if the person's dementia is mild enough to allow him or her to still understand the legal results that can flow from Advance Directives, then the person has the necessary decision-making capacity to sign Advance Directives.

Unfortunately, the test for legal incompetence, a necessary test for guardianship (which will be the subject of a future installment) is not simply the lack of legal capacity. In Ohio (where I practice,) a person is eligible for guardianship only if the person is so "mentally impaired [as to be] incapable of taking proper care of the person's self or property." (Ohio Revised Code section 2111.01(D))

There is a wide gap (in my opinion) between ability to make decisions about Advance Directives and an inability to take care of one's self and one's property. That gap is a "no man's land" of who can make decisions for the person with dementia.

If dementia has taken away from someone the ability to understand the ramifications of Advance Directives, the dementia has probably also taken away the ability to understand the ramifications of health care decisions or money management decisions. In other words, it's "too late" to get Advance Directives but "too soon" to get a guardian. Without an ability to get Advance Directives, prepared, the person with dementia may be the only person legally able to make decisions. The decisions may not be "good," but they come from the only person who can legally make a decision.

Suggest a Newsletter Topic

I try to write something new (and useful) in my newsletter every week. So, I know that I will sometimes have writer's block. I'd like your help, please.

If you have a topic for my newsletter that you'd kindly suggest, I promise to consider it. (I don't promise to pursue it. I just promise to consider it.) I try to write about issues concerning seniors, health care, long term care, special needs, Veterans Pension (aka Aid and Attendance) benefits, and Veterans Compensation benefits. Please keep your suggestions within or near to those topics.

Please submit your suggestion [here](#). If I use your topic suggestion, I'll put the content in both my blog and newsletter.

Thank you for your help.

Social Media Posts from the past week

05-21-2015 #College is a new challenge for people with
#SpecialNeeds <http://ow.ly/N0Bb3>

05-20-2015 Trying to decide if #HomeCare is right for an
#AgingParent <http://ow.ly/MJU00>

05-19-2015 #LongTermCareInsurance can prevent your child from giving up
job to be your #FamilyCaregiver <http://ow.ly/N0wLs>

05-18-2015 What to expect if you complain about #Bedsore on
your #AgingParent in a #NursingHome <http://ow.ly/MJNZJ>

05-17-2015 #EstatePlan, or at least #AdvanceDirectives, are a gift to
your #Family <http://ow.ly/N06IZ>

05-16-2015 #AgingParent must determine whether to give money to adult
children <http://ow.ly/MJT3n>

05-15-2015 #LegalIssues when someone has #Dementia: Were
#AdvanceDirectives done? <http://wp.me/p47F09-b8>

Older social media posts can be found in the [social media post archive](#) on the
firm's website, ProtectingSeniors.com.

The Koewler Law Firm News

5-21-2015 Jim Koewler, as part of Premier Care Providers, made a presentation describing how elder law and special needs law services benefit caregivers to the Lorain County Ohio chapter of the Society of Human Resource Managers at Lorain County Community College in Elyria, Ohio.

5-27-2015 Jim Koewler will discuss the legal issues that seniors face, especially focusing on planning for possible long term care in the future, at HCR ManorCare in Parma, Ohio.

6-9-2015 Jim Koewler will discuss Preventing Senior Fraud at The AbbeWood in Elyria, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

6-10-2015 Jim Koewler will discuss Helping Seniors Pre-Plan their Funerals at UH Parma Medical Center in Parma, Ohio. Continuing education credit is available for social workers, counselors, and nurses.

6-16-2015 Jim Koewler will speak on planning ahead to protect your life savings against long term care costs at a meeting of the University Hospitals Bedford Medical Center SeniorNet at the Atrium of Anna Maria in Aurora, Ohio.

6-23-2015 Jim Koewler will discuss Helping Reluctant Seniors accept the benefits of Long Term Care at Medina General Hospital in Medina, Ohio with the Medina Senior Services Network. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

8-24-2015 Jim Koewler will discuss Advance Directives (General Power of Attorney, Health Care Power of Attorney, Living Will, etc.) at the Soprema Senior Center in Wadsworth, Ohio. Jim will provide help for a limited number of people to prepare and execute their Living Wills.

9-22-2015 Jim Koewler will discuss Money Management for Seniors at Brookdale Montrose, in Akron, Ohio.

Older items of firm news can be found in the [news archive](#) on the firm's website, ProtectingSeniors.com.

Jim's available presentations

- Overcoming Seniors' Resistance to Long Term Care (Continuing Education credit available for social workers, counselors, nurses and Certified Case Managers)
- Preventing Senior Fraud (Continuing Education credit available for social workers, counselors, nurses and Certified Case Managers)
- My Care Ohio and Medicare/Medicaid “Dual Eligibles” (Continuing Education credit available for social workers, counselors, and nurses)
- Navigating Medicaid, Medicare, and the Affordable Care Act (Continuing Education credit available for social workers, counselors, and nurses)
- Government Benefits that can help Pay for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Legal Issues for People with Dementia (Continuing Education credit available for social workers, counselors, and nurses)
- Protect your Life Savings from the Costs of Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Veterans Benefits for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Advance Directives – Powers of Attorney, Living Wills, etc. (Continuing Education credit available for social workers, counselors, and nurses)
- Buying Long Term Care Insurance Wisely (Continuing Education credit available for social workers, counselors, and nurses)
- Planning Ahead to Protect against Long Term Care Costs (Continuing Education credit available for social workers, counselors, and nurses)
- Organizing for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Pre-planning your Funeral (Continuing Education credit available for social workers, counselors, and nurses)
- Protecting your Money when you need Long Term Care and Essential Estate Planning Considerations (with free living wills for the audience)
- What people Know about Long Term Care that is Wrong
- Myths about Long Term Care Costs
- How to help your Parents Manage their Affairs

Upcoming meetings

- 5-22-2015 Eldercare Professionals of Ohio, HCR Manorcare, Mayfield Heights, Ohio, 9:00 a.m.
- 5-26-2015 Summit County Senior Services Network, Anthony Kucko Kertesz Funeral Home, Akron, Ohio, 8:00 a.m.
- 5-26-2015 Professional Networking Group, DeJohn Funeral Home, Willoughby, Ohio, 8:30 a.m.
- 5-26-2015 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.
- 5-28-2015 The Association of Specialists in Aging, Mentor Senior Center, Mentor, Ohio 8:30 a.m.
- 6-2-2015 Aging Services Network of Euclid, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.
- 6-3-2015 Stark Senior Services Network, Canton Baptist Temple, Canton, Ohio, 9:00 a.m.
- 6-3-2015 Richfield Chamber of Commerce luncheon, Days Inn and Suites, Richfield, Ohio, 11:45 a.m.
- 6-3-2015 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.
- 6-10-2015 Medina County Senior Services Network, Heimatland, Brunswick, Ohio, 8:00 a.m.
- 6-10-2015 Summit Senior Sales, Administrators and Marketers Association, Bath Manor, Akron, Ohio, 2:30 p.m.
- 6-11-2015 Lorain County Senior Services Network, The Northridge, North Ridgeville, Ohio, 8:30 a.m.
- 6-12-2015 Eldercare Professionals of Ohio, Village of the Falls, Olmsted Falls, Ohio, 9:00 a.m.
- 6-15-2015 Medina County Senior Services Network's Education Committee, Tres Potrillos, Medina, Ohio, 11:30 a.m.
- 6-16-2015 UH Bedford Medical Center Senior Network, The Atrium at Anna Maria, Aurora, Ohio, 8:30 a.m.
- 6-17-2015 Geauga Professional Association Specializing in Seniors ("PASS"), Geauga County Department on Aging, Chardon, Ohio, 8:30 a.m.
- 6-18-2015 UH Bedford SeniorNet Legislative Awareness Committee, Panera, Warrensville Heights, Ohio, 3:00 p.m.

Newsletter Archive

Past issues of this newsletter can be found in the [newsletter archive](#) on the firm's website, ProtectingSeniors.com.

Contact Jim Koewler

If you'd like to contact Jim, this newsletter has a dedicated [contact page](#) on the

firm's blog site, ProtectingSeniorsNews.com.

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