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Seniors and Special Needs News - July 17, 2015

1 message

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Fri, Jul 17, 2015 at 9:05 AM

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: Consider a Right of Disposition Designation

Today's newsletter continues the discussion of Legal Issues when someone has Dementia. The introductory newsletter (May 1, 2015) put forth the issue of "Who can speak for someone with dementia?" The May 15, 2015 newsletter discussed the situation where the person with dementia has Advance Directives in place. The May 22, 2015 newsletter discussed the legal issues in determining whether a dementia sufferer can choose to have new Advance Directives prepared. The May 31, 2015 newsletter discussed options in preparing a Health Care Power of Attorney. The June 5, 2015 newsletter discussed how to decide whether to prepare a Living Will. The June 12, 2015 newsletter discussed the General Power of Attorney. The June 19, 2015 newsletter discussed the importance of making the General Power of Attorney "durable." The June 26, 2015 newsletter discussed whether to make General Powers of Attorney "springing." The July 3, 2015 newsletter discussed revoking prior Powers of Attorney. The July 10, 2015 newsletter discussed Do Not Resuscitate orders. To continue the series on legal issues when someone has dementia, today's newsletter will discuss the Right of Disposition.

The Right of Disposition is a short name for the right to make decisions about and arrangements for someone's funeral and the disposition of that someone's bodily remains. In other words, the person who has control over a deceased person's funeral has the Right of Disposition.

In Ohio (where I practice,) the Right of Disposition is controlled by Ohio Revised Code section 2108. If the deceased person did not make a written designation to put someone in charge of his or her final arrangements, the Ohio statute has a system to determine who is in charge. (It's not terribly different from the statutory system in state law that sets out inheritance from someone who didn't leave a will.) Under Ohio law, in the absence of a written designation, the right of disposition goes to (in order):

- Spouse,
- Children,
- Parents,
- Siblings,
- Grandparents,
- Grandchildren,
- Lineal Descendants of Grandparents,
- Guardian when the person was living,
- Personal Representative for the Estate, or the Funeral Director who has the remains or anyone else willing to take responsibility, or
- The Public Official for the person's public benefits if the person was indigent.

Under the law, there is always someone who has the Right of Disposition. So, why bother to designate anyone?

Many people, late in life, grow close to someone but they never marry. Often, widowed men and women have a long relationship (perhaps intimate, perhaps not.) Sometimes, the family of one of these people do not accept the relationship with the new person. (Usually, it's the children that do not accept the new person because they don't want a "replacement" for their deceased parent or they see this new relationship as their living parent being "unfaithful" to the deceased spouse.

If someone grows close to someone else late in life, he or she might want to give the right of disposition to that new "partner" (for lack of a better term.) If, by operation of law, the children have the Right of Disposition, the children may exclude the person who was their parent's late-in-life partner. (Remember, the children might not have approved of the relationship.) Imagine the partner not being able to say "goodbye." (Until the recent Supreme Court decision, this was a frequent issue for same sex couples because they could not marry in Ohio.)

Designating someone to have the Right of Disposition isn't a necessity. For someone who has a partner or close friend in a late-in-life relationship, it might make the difference in having a chance to be there for the funeral.

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

07-16-2015 #HealthInsurance for federal employees doesn't cover #Autism the same way all over the country <http://ow.ly/OTIDV>

07-15-2015 What it's like to be #FamilyCaregiver for an #AgingParent with #Alzheimer's <http://ow.ly/Oj1EV>

07-14-2015 What to expect when applying for #LongTermCareInsurance <http://ow.ly/OSfAk>

07-13-2015 #HospitalCare from #Medicare can help #AgingAdults screen #Hospitals and #Clinics <http://ow.ly/Pz28u>

07-12-2015 Planning ahead for #NursingHome and other #LongTermCare costs <http://ow.ly/OTJ4Q>

07-11-2015 #ElderAbuse is a common problem for #AgingParents <http://ow.ly/OTyTN>

07-10-2015 #Legal Issues when someone has #Dementia – Consider a #DoNotResuscitate order (#DNR) <http://wp.me/p47F09-cl>

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

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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