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Seniors and Special Needs News - July 24, 2013

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 - Consider a Will

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. The July 17, 2015 newsletter discussed the Right of Disposition designation. To continue the series on legal issues when someone has dementia, today's newsletter will discuss the Will (or Last Will and Testament).

Please remember, the last several week's installments have discussed the decisions and preparations that someone can make when he or she has dementia but the dementia isn't advanced. The dementia hasn't yet taken away the person's decision-making capacity. Today's discussion of a Will continues in that same vein.

A Will may not seem as though it's important to the care that a dementia sufferer might require in the future or to the handling of that dementia sufferer's medical and legal affairs as the disease progresses. That impression is correct. The Will isn't important for a dementia victim's medical or legal affairs related to the disease. The Will might, though, be important to the person's peace mind.

Someone with dementia is likely to have few or no financial assets when he or she dies. The medical and custodial services of long term care that dementia requires could use up the person's savings and income before his or her death (especially if the person did not get help from an elder law attorney.) Alternatively, the person's assets might be protected from the costs of long term care (usually through the help of an elder law attorney,) but the sheltered assets rarely belong to the dementia sufferer after they've been sheltered. So, either way, someone with dementia should not expect to have financially significant assets at the time of death. So, one might ask, what good is a Will to someone with dementia.

First, some people facing what will be their final illness want to avoid worrying if their "affairs are in order." No matter how little someone with dementia might expect to have when they die, they still might want to make provisions for what there will be at that time. It can help anyone (suffering from dementia or not) feel as though he or she has done all in his or her power to look out for loved ones whom they will leave behind. Often, there is a cathartic value in such preparations.

Second, the value of a will isn't just financial. It is true that most people think of a Will as divvying up the bank accounts, land holdings, corporate ownership, automobiles, and valuable antiques that belonged to someone who has passed away. For many (perhaps even most) families, though, the Will is how items of sentimental value find their new homes. Almost no heir cries when receiving a stock portfolio. Many heirs cry, however, when they receive Great-Grandma's wedding band, the antique desk that belonged to a beloved uncle, or some other piece of the family heritage. These sentimental or historical family heirlooms don't mean much to the bankers and credit card companies that served our parents and grandparents, but they often mean a great deal to us, our children, and our grandchildren. One cannot place a dollar value on a shared family heritage or a sentimental memory.

To make it easier for someone to designate heirs on sentimental items, in some states, a formal Will isn't necessary. Some states allow a simple list of items and heirs that does not need witnessed or notarized or whatever other method might be required to authenticate a formal Will. Preparation of this informal list can have the same cathartic effect as a Will.

To be sure, it is better to have a Will than not to have one. Plenty of people (with or without dementia) failed to prepare Wills thinking that their assets would not justify the trouble. Often, these people overlooked some of their assets or assumed a wildly low value for some of their assets. Other people

have inherited assets late in life, after dementia has taken away their decision-making ability, and it was too late to create a Will. To avoid these problems, a simple Will is a good idea (even if a list of heirs for the sentimental items is prepared separately.)

A simple will should designate an executor or executrix. (Executor is male, like steward. Executrix is female, like stewardess.) It should also name one or more successors, in case the designated executor or executrix can't serve or can't complete the job.

A Will should also the ability to dispose of (sell, give away, etc.) any assets that aren't already designated in the Will or in the list of personal/sentimental items. Disposition of real estate should specifically be listed in the powers of the executor or executrix. Including these powers can, in some states, help the executor/executrix avoid seeking probate court permission to dispose of these assets. (The necessity to seek court permission adds costs and delays to the probate process.)

A Will should also include a "residual beneficiary" clause. A residual beneficiary is the heir (or heirs) designating who gets anything from the estate that isn't specifically listed somewhere. The beneficiary, though, isn't really the important part of this clause (expect, perhaps, to the beneficiary or beneficiaries.) The important part of the clause is the "residual" part. The "residual" part, because it catches any asset that wasn't specifically listed elsewhere, keeps the previously-overlooked asset (like a forgotten bank account) or the late-in-life acquisition (like an inheritance received after the dementia had advanced) from being lost in limbo, without an instruction what to do with it.

In summary, even though a dementia sufferer may not expect to have significant financial assets, a Will can be valuable. It can provide peace of mind and the cathartic feeling of having things settled. It can also provide for sentimental or historical items. Finally, it can make preparations for surprises that might happen after the dementia has advanced.

Even a dementia sufferer should consider a Will if he or she still can.

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

07-23-2015 #SpecialNeeds children learn how to ride
#Bicycles <http://ow.ly/PQAat>

07-22-2015 The roles of different family members is #FamilyCaregiving for
#AgingParent <http://ow.ly/OS7TN>

07-21-2015 How people benefit from #LongTermCareInsurance <http://ow.ly/PQlxt>

07-20-2015 When is it time for #AssistedLiving or a #NursingHome for an
#AgingParent? <http://ow.ly/POblw>

07-19-2015 Some #NursingHomes treat your #AgingParent better than
others <http://ow.ly/PMNgm>

07-18-2015 #Scams aimed at #Veterans <http://ow.ly/PMjZd>

07-17-2015 #LegalIssues when someone has #Dementia – Consider the
#RightOfDisposition <http://wp.me/p47F09-cR>

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

7-30-2015 Jim Koewler will discuss the how elder law attorneys can help people who need long term care and people who have special needs as part of a panel presentation at Altercare of Wadsworth in Wadsworth, Ohio.

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.

9-3-2015 Jim Koewler will discuss Helping Reluctant Seniors accept the

benefits of Long Term Care at Stow-Glen Retirement Village in Stow, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

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

10-28-2015 Jim Koewler will discuss Preventing Senior Fraud at Southwest General Medical Center in Middleburg Heights, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

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

7-24-2015 Eldercare Professionals of Ohio, Walton Manor, Cleveland, Ohio, 9:00 a.m.

7-28-2015 Summit County Senior Services Network, Anthony Kucko Kertesz Funeral Home, Akron, Ohio, 8:00 a.m.

7-28-2015 Professional Networking Group Picnic, 1:00 p.m.

7-28-2015 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

7-30-2015 The Association of Specialists in Aging, Mentor Senior Center, Mentor, Ohio, 8:30 a.m.

8-4-2015 Aging Services Network of Euclid, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

8-5-2015 Stark Senior Services Network, Canton Baptist Temple, Canton, Ohio, 9:00 a.m.

8-5-2015 Richfield Chamber of Commerce luncheon, Days Inn and Suites, Richfield, Ohio, 11:45 a.m.

8-5-2015 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

8-12-2015 Medina County Senior Services Network, Hospice of Medina County, Medina, Ohio, 8:00 a.m.

8-12-2015 Summit Senior Sales, Administrators and Marketers Association, Summit Villa Care Center, Tallmadge, Ohio, 2:30 p.m.

8-13-2015 Lorain County Senior Services Network, Oak Hills, Lorain, Ohio, 8:30 a.m.

8-14-2015, Eldercare Professionals of Ohio, Westlake Village, Westlake, Ohio, 9:00 a.m.

8-17-2015 Medina County Senior Services Network's Education Committee, Tres Potrillos, Medina, Ohio, 11:30 a.m.

8-18-2015 UH Bedford Medical Center Senior Network Mixer, Village of Marymount, Garfield Heights, Ohio, 4:00 p.m.

8-19-2015 Geauga Professional Association Specializing in Seniors ("PASS"), Geauga County Department on Aging, Chardon, Ohio, 8:30 a.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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