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Seniors and Special Needs News - July 3, 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 Revoke prior Powers of Attorney

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." To continue the discussion of which Advance Directives to prepare and how to prepare them, today's newsletter will discuss revoking prior Powers of Attorney.

This issue applies to anyone revoking a Power of Attorney not just those that have dementia. For someone with dementia, though, revoking a Power of Attorney has more urgency - more reason for haste - than it does for someone who does not have dementia.

If the principal adopts a new Power of Attorney (whether a General Power of Attorney or a Health Care Power of Attorney,) prior Powers of Attorney are NOT automatically revoked (at least not in Ohio.) So, if a principal adopts a new Power of Attorney, the old one (perhaps more than one) are still legally

valid and active. To avoid these "battling" POAs, the principal should revoke the prior POAs.

Frequently, a new POA will state that it revokes all prior Powers of Attorney. That would seem to solve the problem. It is better to list the prior Powers of Attorney so as to minimize confusion, but as a legal matter, that list may not be necessary. (Of course, because lawyers want to make sure that all bases are covered, it is wise to use language such as "I hereby revoke all prior General Powers of Attorney, including, but not limited to the General Powers of Attorney that I previously executed on January 1, 2000; February 1, 2001; and March 1, 2002." (A principal should not revoke "ALL prior Powers of Attorney" but should, instead, revoke "all prior General Powers of Attorney" or "all prior Health Care Powers of Attorney. A principal should specify which type of POA he or she intends to revoke.)

In addition, the principal can sign a document that revokes prior Powers of Attorney even if the new document isn't itself a Power of Attorney. As discussed in the paragraph immediately above, this stand-alone revocation can be a blanket revocation of all prior Powers of Attorney (General or Health Care,) or can list the Powers of Attorney that it revokes, or can do both.

Seems easy, right? Sign one document, and the out-of-date POAs get revoked. No sweat.

Of course, it's not that easy.

Just because the principal has revoked an old version of the Power of Attorney, the person reading the POA doesn't know that it has been revoked. Revoked POAs don't simply disappear. They don't shrivel up and disintegrate. They don't instantly have "REVOKED" printed on them.

The agent named in a now-revoked POA may not be happy about being replaced. That deposed agent may use the authority in the old POA to take actions with the principal's assets. The bank or investment office or real estate agent (or anyone else, for that matter) has no way to know that the POA has been revoked. (Not many former agents would act out in this manner, but those few that would certainly can hurt their principals.)

To avoid an old POA being accepted as current, there are practical steps (in addition to the legal steps) to revoke an old POA.

The principal should try to retrieve all of the copies of the prior POAs. Retrieving all of them can be a daunting task if there are a number of copies. (Most POAs have a statement that a copy is to be honored just like an original, so retrieval of copies is important.)

After the copies of the prior POA have been retrieved, most of them can be destroyed. I suggest that the principal keep one of them. It should be marked "REVOKED" in prominent letters on each page (especially the front page and the signature page) along with the date of the revocation. I suggest keeping the old POA because it might at some point be necessary to prove that an agent's action prior to the old POA's revocation was valid, and the old POA might be necessary to prove that validity.

In addition, notice of the revocation should be provided to the principal's bank, investment office, etc. (or doctor's office, hospital etc. for a Health Care POA.) Similarly, notice of the revocation should be provided to all prior agents and successor agents. (The notice to so many people makes a stand-alone revocation better than a revocation inside the new POA. The revocation can be copied and sent around without having to send around a large number of copies of the new POA because that new POA might need to be revoked in the future.)

So, with possible revocation in mind, new POAs (and first POAs, for that matter) should not be spread far and wide. They might have to be retrieved later. The principal should keep an original. The primary agent should keep an original. The attorney who prepared it should probably keep an original.

Maybe the first one or two successor agents should have an original. In any event, the principal should keep track of where he or she sends originals and copies so that they can be retrieved later, if necessary.

Yeah, that's a pain in the neck. Sorry, but I it might be necessary to have that list in case you change your POA in the future.

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

07-02-2015 Special ID cards help #Autistic #Drivers independent <http://ow.ly/OiTIV>

07-01-2015 The future #FamilyCareger for an #AgingParent <http://ow.ly/Oj0PP>

06-30-2015 #LongTermCareInsurance triggered by need for help with #ActivitiesOfDailyLiving like these <http://ow.ly/OS6NI>

06-29-2015 Choosing a #NursingHome or #AssistedLiving for your #AgingParent with #Dementia <http://ow.ly/OS9Es>

06-28-2015 How #Technology helps #LongTermCare for an #AgingParent <http://ow.ly/Oj11f>

06-27-2015 #Medicaid proposed rule on #ManagedCare <http://ow.ly/OiK6s>

06-26-2015 Legal Issues when someone has #Dementia – DON'T Make General #PowerOfAttorney "Springing" <http://wp.me/p47F09-ch>

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

7-8-2015 Medina County Senior Services Network, Medina Meadows, Medina, Ohio, 8:00 a.m.

7-8-2015 Summit Senior Sales, Administrators and Marketers Association, Bath Manor, Akron, Ohio, 2:30 p.m.

7-9-2015 Lorain County Senior Services Network picnic, Black River Reservation park, Elyria, Ohio

7-10-2015 UH Bedford Senior Network's Golf Outing, Briarwood Golf Club, Broadview Heights, Ohio

7-10-2015 Eldercare Professionals of Ohio, Arden Courts, Westlake, Ohio, 9:00 a.m.

7-15-2015 Geauga Professional Association Specializing in Seniors ("PASS"), Hamlet Retirement Community, Chagrin Falls, Ohio, 8:30 a.m.

7-20-2015 Medina County Senior Services Network's Education Committee, Tres Potrillos, Medina, Ohio, 11:30 a.m.

7-23-2015 Parma Hospital Senior Resource Network, Emeritus at Brookside

Estates, Middleburg Heights, Ohio, 8:30 a.m.

7-23-2015 Portage Senior Services Network, Family and Community Services Building, Ravenna, Ohio, 8:30 a.m.

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.

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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