



Jim Koewler <jameskoewler@gmail.com>

Seniors and Special Needs News - June 19, 2015

1 message

The Koewler Law Firm <Newsletter@protectingseniorsnews.com>
 Reply-To: The Koewler Law Firm <Newsletter@protectingseniorsnews.com>
 To: Jim <protectingseniorsnewsarchive@gmail.com>

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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 Make General Power of Attorney "Durable"

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. To continue the discussion of which Advance Directives to prepare and how to prepare them, today's newsletter will discuss the importance of making the General Power of Attorney "durable."

As we have in prior newsletters, let's first set our terminology (in case you haven't read the prior newsletters.)

- A "power of attorney" is a legal document which appoints one or more people to handle the affairs of another person.
- The "principal" is the person who signed a power of attorney document, aka the person whose affairs will be handled by someone else. In this newsletter series, the "principal" is the

person who now suffers from dementia and (for our discussion of preparing Advance Directives when the dementia isn't "too bad" yet) the person who is having the power of attorney prepared.

- The "agent" is the person appointed through a power of attorney document to act for the principal.
- Note: People often use the term "power of attorney" to mean the agent, as in "I am Dad's power of attorney." Technically, the "power of attorney" is not a person but the legal document. I don't try to be a stickler about the use of terms, and I often refer to a person as the "power of attorney" when talking. In these newsletters, though, I will try to refer to the "power of attorney" as the document and the "agent" as a person.

One of the biggest choices to make when preparing a General Power of Attorney (after deciding whom to choose as agent,) is the decision whether to make the POA durable or non-durable. A non-durable power of attorney loses its effect when the principal loses his or her ability to make decisions.

A durable power of attorney continues in force even if the principal can no longer make his or her decisions. Because we are discussing the legal issues when someone already has dementia, the principal should choose to **make the POA durable**. With someone who already has dementia, our concern is who can help the principal handle his or her affairs as the dementia worsens.

One might wonder why anyone would ever have a non-durable power of attorney. There are a few reasons:

- The principal might have done his or her own general power of attorney from a form in a book or online. The principal, if using a pre-existing form, might not have known the difference between a durable POA and a non-durable one.
- The principal may have gotten his or her POA done by an attorney who didn't know the difference between a durable POA and a non-durable POA.
- The principal might have chosen a non-durable POA, not thinking about possible dementia in the future.
- The principal might have chosen a non-durable POA as a way to appease an adult child who was nagging him or her about setting up a POA but not entirely trusting that adult child. Remember, the principal can change whatever the adult child does in his or her capacity as agent under the POA because the principal doesn't give up power through a POA. The principal merely extends his or her own power to the agent. When the principal loses the ability to monitor the untrustworthy agent through a loss of decision-making

capacity, the non-durable POA loses its effect. (This may be a convoluted reason to have a non-durable Power of Attorney, but don't underestimate the actions that a parent might take to get a nagging child (even an adult child) to stop nagging.)

No matter the reason that someone might have set up a non-durable general Power of Attorney in the past, someone with dementia who is still able to enter into a POA should enter into a **durable** POA before the dementia worsens.

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

06-18-2015 Open letter from the #Mother of #SpecialNeeds children <http://ow.ly/OfOyD>

06-17-2015 Poignant essay by #AgingParent caring for spouse with #Alzheimer's <http://ow.ly/OiP8h>

06-16-2015 #TradeAssociation for insurance marketers creates tool to answer "Is #LongTermCareInsurance worth It?" <http://ow.ly/OiQ30>

06-15-2015 Common questions about #InHomeCare for an #AgingParent <http://ow.ly/OiLn6>

06-14-2015 How is #LongTermCare paid for? <http://ow.ly/OfRKH>

06-13-2015 #Discounts for #Seniors and people over #50 <http://ow.ly/OfNLJ>

06-12-2015 #LegalIssues when someone has #Dementia: Prepare a General Power of Attorney <http://wp.me/p47F09-bX>

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

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.

9-3-2015 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.

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

6-23-2015 Summit County Senior Services Network, Anthony Kucko Kertesz Funeral Home, Akron, Ohio, 8:00 a.m.

6-23-2015 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

6-24-2015 Professional Networking Group, The Gathering Place, Beachwood, Ohio, 4:40 p.m.

6-25-2015 Parma Hospital Senior Resource Network, Pleasant Lake Villa, Parma, Ohio, 8:30 a.m.

6-25-2015 Portage Senior Services Network, Family and Community Services Building, Ravenna, Ohio, 8:30 a.m.

6-25-2015 The Association of Specialists in Aging, Mentor Senior Center, Mentor, Ohio, 8:30 a.m.

6-26-2015 Eldercare Professionals of Ohio, Solon Pointe, Solon, Ohio, 9:00 a.m.

7-1-2015 Stark Senior Services Network, Canton Baptist Temple, Canton, Ohio, 9:00 a.m.

7-1-2015 Richfield Chamber of Commerce luncheon, The Taverne of Richfield, Richfield, Ohio, 11:45 a.m.

7-1-2015 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

7-8-2015 Medina County Senior Services Network, Willowood Care Center, Brunswick, Ohio, 8:00 a.m.

7-8-2015 Summit Senior Sales, Administrators and Marketers Association, Canal Pointe, 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.

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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The Koewler Law Firm
P.O. Box 443
Richfield, OH 44286

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