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## Seniors and Special Needs News - October 2, 2015

1 message

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Fri, Oct 2, 2015 at 9:23 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 Guardianship

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. The [July 24, 2015](#) newsletter discussed the Will (aka Last Will and Testament.) The [August 1, 2015](#) newsletter discussed Beneficiary Designations on IRAs, bank accounts, etc. The [August 7, 2015](#) newsletter discussed whether to pre-plan a funeral. The [August 14, 2015](#) newsletter discussed how to choose a final resting place. The [August 28, 2015](#) newsletter discussed pre-planning the funeral ceremony itself. The [September 4, 2015](#) newsletter discussed when and how to pay for the pre-planned funeral. The [September 11, 2015](#) newsletter discussed medical insurance choices. The [September 18, 2015](#) newsletter discussed long

term care insurance. The [September 25, 2015](#) newsletter discussed seeking the help of an elder law attorney. Today's installment will discuss guardianship.

So far this series has discussed what can happen when the person with dementia has advance directives in place (i.e., has appointed someone to make decisions for him or her through Powers of Attorney documents) and the actions that should be taken if the person does not have advance directives in place but still has the legal capacity to make his or her decisions. Today's installment will discuss what may be necessary if the person with dementia does not have advance directives and does not have legal decision-making capacity.

When the person's disease has taken away the decision-making ability and the person has not prepared advance directives appointing someone else to make decisions, the next legal alternative is guardianship. Unfortunately, guardianship is not often a pleasant experience. I describe it as Purgatory at its best and Hell at its worst.

In Ohio's guardianship process, the would-be guardian applies to the probate court asking to be named guardian over a proposed ward. The would-be guardian can be family member, a friend, or a professional guardian (someone who earns a living acting as guardian, usually for several people.)

If the would-be guardian is a family member or friend, the would-be guardian probably has reason to believe that the proposed ward cannot handle his or her own affairs. If the would-be guardian is a professional, the proposed ward has probably been referred to the probate court by a social worker or other similar professional. A hospital social worker may refer a patient to the probate court, for example. Similarly, an investigator from Adult Protective Services may refer a proposed ward to the court. Anyone who has knowledge (and usually experience) in the needs of people who have limited legal decision-making ability, such as a police officer, a paramedic, a nurse, a doctor, etc., can make a referral. If there is not a family member or friend who agrees to act as guardian (and receives court approval to act as guardian,) the court may ask one of the professional guardians who routinely work with the court to apply to be guardian.

The decision on guardianship is a 3-step process (in Ohio, anyway.) The probate court must determine whether the proposed ward is "incompetent."

The probate court must determine whether there are "less restrictive alternatives." Finally, the probate court must decide whether the applicant is the appropriate person to be guardian. (There is an expedited process for when a guardianship is necessary quickly, like for an accident victim who suddenly loses the ability to handle his or her affairs. In Ohio, the expedited process can result in an emergency guardianship or an interim guardianship, but both of these are only temporary. If the need for a guardianship will be long-term or permanent, an emergency or interim guardianship may be replaced by a "regular" guardianship after the full guardianship process is completed.)

## **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**

10-01-2015 Radio discussion of #Autism and the choices among treatment, management, and prevention <http://ow.ly/RPhzO>

09-30-2015 #FamilyCaregiver is a tough job. A #DysfunctionalFamily makes it harder. <http://ow.ly/RPjKE>

09-29-2015 Buying and maintaining #LongTermCareInsurance <http://ow.ly/RPaa5>

09-28-2015 #NursingHome contracts with #Arbitration clauses <http://ow.ly/ROctu>

09-27-2015 Differences between #Medicare & #Medicaid explained <http://ow.ly/ROFsU>

09-26-2015 #Ohio adopts unfair policies to withhold #Medicaid coverage <http://ow.ly/ROEKK>

09-25-2015 #Legal Issues when someone has #Dementia – Seek out an #ElderLaw Attorney <http://wp.me/p47F09-d5>

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

### **The Koewler Law Firm News**

9-30-2015 Jim Koewler discussed Preventing Senior Fraud at University Hospitals Parma Medical Center in Parma, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

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.

10-28-2015 Jim Koewler will discuss Helping Reluctant Seniors accept the benefits of Long Term Care at Westlake Village in Westlake, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

10-30-2015 Jim Koewler will present Legal Lessons for Life at Marous Construction in Willoughby, Ohio.

Older items of firm news can be found in the [news archive](#) on the firm's website, [ProtectingSeniors.com](http://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, and nurses)
- 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)
- What people Know about Long Term Care that is Wrong (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)
- 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)
- Elder Law: A Primer (Continuing Legal Education credit available)
- Legal Lessons for Life
- Protecting your Money when you need Long Term Care and Essential Estate Planning Considerations (with free living wills for up to 20 audience members)
- Myths about Long Term Care Costs
- How to help your Parents Manage their Affairs
- Legal Lessons for Life

### **Upcoming meetings**

10-6-2015 Aging Services Network of Euclid, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

10-7-2015 Stark Senior Services Network, Canton Baptist Temple, Canton, Ohio, 9:00 a.m.

10-7-2015 Richfield Chamber of Commerce luncheon, Days Inn and Suites, Richfield, Ohio, 11:45 a.m.

10-7-2015 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

10-8-2015 Lorain County Senior Services Network, 8:30 a.m.

10-9-2015 Eldercare Professionals of Ohio, Ames Family Hospice House, Westlake, Ohio, 9:00 a.m.

10-14-2015 Medina County Senior Services Network, The Avenue at Medina, Medina, Ohio, 8:00 a.m.

10-14-2015 Summit Senior Sales, Administrators and Marketers Association, Heather Knoll, Tallmadge, Ohio, 2:30 p.m.

10-15-2015 UH Bedford SeniorNet Legislative Awareness Committee, Panera, Warrensville Heights, Ohio, 3:00 p.m.

10-19-2015 Medina County Senior Services Network's Education Committee, Tres Potrillos, Medina, Ohio, 11:30 a.m.

10-20-2015 UH Bedford Medical Center Senior Network, Montefiore, Beachwood, Ohio, 8:30 a.m.

10-21-2015 Geauga Professional Association Specializing in Seniors ("PASS"), Brooks House Assisted Living, Hiram, Ohio, 8:30 a.m.

10-22-2015 Portage Senior Services Network, Family and Community Services Building, Ravenna, Ohio, 8:30 a.m.

10-22-2015 Parma Hospital Senior Resource Network, UH Parma Medical Center's Health Education Center, Parma, Ohio, 8:30 a.m.

10-23-2015 Eldercare Professionals of Ohio, Crossroads Hospice, Valley View, Ohio, 9:00 a.m.

10-27-2015 Summit County Senior Services Network, Anthony Kucko Kertesz Funeral Home, Akron, Ohio, 8:00 a.m.

10-27-2015 Professional Networking Group, Brentwood Healthcare Center, Sagamore Hills, Ohio, 8:30 a.m.

10-27-2015 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

10-29-2015 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](http://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](http://ProtectingSeniorsNews.com).

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