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Seniors and Special Needs News - October 23, 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 Family conflict in Guardianships

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. The [October 2, 2015](#) newsletter introduced the topic of guardianship. The [October 9, 2015](#) newsletter discussed the guardianship application. Today's newsletter will discuss the family conflicts that can arise (or get worse) during the guardianship process.

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. By making a guardianship application, the would-be guardian has alleged that the proposed ward (frequently a family member of the would-be guardian) is incompetent to handle his or her own affairs. This allegation of incompetence can provide the spark that triggers any bad feelings in the family to explode. This is where the sibling rivalry (or any other family dysfunction) mentioned in the introductory post of this series (April 30, 2015) can raise its ugly head.

Upon learning that the would-be guardian has asked the probate court to find the proposed ward "incompetent," the proposed ward is likely to feel angry.

If the would-be guardian is one of the proposed ward's children, the proposed ward is likely to feel betrayed. Other family members who have influence over the proposed ward and who, at the same time, have their own anger or resentment toward the would-be guardian, can help the proposed ward oppose the guardianship application. If the family members' anger and resentment toward the would-be guardian is large enough, the family members might try to get the proposed ward to feel anger, resentment, and mistrust toward the would-be guardian.

Imagine for a moment the Smothers brothers, Tommy and Dick. (If you're not old enough to remember the Smother Brothers show, look it up on the internet.) One of the long-running jokes was Tommy's complaint to Dick that "Mom always liked you best." (I know that this example is from show business, not reality, but I can't use clients' names in a public article, can I?) Suppose that Mom Smothers really did love Dick best. Now, suppose that Mom was stricken by a disease that causes dementia and has not planned ahead with Powers of Attorney. Dick, being the son emotionally closest to Mom, applies for guardianship. Tommy, who has always resented Mom's favoritism of Dick, tries to turn her against Dick by making her feel betrayed because Dick says she's incompetent to handle her own affairs. (That's what a guardianship application means.) Remember, Mom suffers from dementia. Mom may not remember that she loves both of her sons. She may not remember that Dick has been looking out for her for decades.

Because of her dementia, it might be easy for Tommy to exert undue influence on Mom and turn her against Dick. Tommy might then help Mom oppose Dick's guardianship application, even if Tommy believes that Mom needs a guardian. If this happens, Mom has become the pawn in the sibling rivalry between Tommy and Dick. Unfortunately, this kind of thing happens in real life too.

To be fair, Tommy might feel that Dick is overreacting to Mom's illness.

Tommy may feel that Mom is not incompetent and deserves to be allowed to continue to control her own life. Unfortunately, it's impossible for anyone to know what Tommy and Dick feel in their heart of hearts. The probate court (and the rest of the world, for that matter) can see only Tommy's and Dick's actions.

Because of family relationships (and occasionally, friend relationships,) it may not be just the decision of the proposed ward that determines whether the guardianship application is opposed or unopposed. It can also be a decision by another interested family member or friend influencing (for righteous reasons or for selfish reasons) the proposed ward to oppose the guardianship application. This is the tipping point that determines whether the guardianship process feels like Purgatory or feels like Hell. If the proposed ward does not oppose the application, expect Purgatory. If the proposed ward opposes the application, expect Hell.

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

10-22-2015 #Tax credits for people who have #SpecialNeeds and their families <http://ow.ly/TvYPj>

10-21-2015 #FamilyCaregiver travel with an #AgingParent <http://ow.ly/RPqNY>

10-20-2015 Many #AgingAdults allow their #LongTermCareInsurance policies to lapse <http://ow.ly/TvZ1R>

10-19-2015 Paying attention to the #Patient's needs in choosing #EndOfLifeCare <http://ow.ly/TvZfH>

10-18-2015 #Employers adapting themselves to #OlderAdults as #Employees <http://ow.ly/RPq8l>

10-17-2015 #OlderAdults in the #Workforce <http://ow.ly/RPpQe>

10-16-2015 #Medicare #OpenEnrollment is here. Choose your #Insurance plan wisely. <http://wp.me/p47F09-fP>

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

10-24-2015 The Koewler Law Firm will have a table display at the Cuyahoga Falls Chamber of Commerce Family Health Expo at the Natatorium and Fitness Center in Cuyahoga Falls, 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.

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.

11-03-2015 Jim Koewler will discuss Helping Reluctant Seniors accept the benefits of Long Term Care at O'Neill Healthcare's Assisted Living community in Lakewood, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

11-12-2015 Jim Koewler will discuss Helping Reluctant Seniors accept the benefits of Long Term Care at Mercy Medical Center in Canton, Ohio.

Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

11-13-2015 The Koewler Law Firm will have a table display at the Wadsworth Community Center Field House & Soprema Senior Center in Wadsworth, Ohio.

11-25-2015 Jim Koewler will discuss Ethical Issues in Case Management and Discharge Planning at Medina General Hospital in Medina, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

12-3-2015 Jim Koewler will discuss Veterans benefits that can help pay for long term care at the Donna Smallwood Activities Center in Parma, Ohio. The program is open to the public and organized by the CommuniCare family of companies.

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)
- Ethical Issues in Case Management and Discharge Planning (Continuing Education credit and Ethics credit available for social workers, counselors, and nurses, and requested for 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

- 10-23-2015 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. (may have to be moved)
- 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.
- 11-3-2015 Aging Services Network of Euclid, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.
- 11-4-2015 Stark Senior Services Network, Canton Baptist Temple, Canton, Ohio, 9:00 a.m.
- 11-5-2015 Richfield Chamber of Commerce luncheon, The Taverne of Richfield, Richfield, Ohio, 11:45 a.m.
- 11-4-2015 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.
- 11-11-2015 Medina County Senior Services Network, Liberty Residence II, Wadsworth, Ohio, 8:00 a.m.
- 11-11-2015 Summit Senior Sales, Administrators and Marketers Association, Hickory Ridge, Akron, Ohio, 2:30 p.m.
- 11-12-2015 Lorain County Senior Services Network, The Abbewood, Elyria, Ohio, 8:30 a.m.
- 11-16-2015 Medina County Senior Services Network's Education Committee, Yours Truly, Medina, Ohio, 11:30 a.m.
- 11-17-2015 UH Bedford Medical Center Senior Network, Solon Senior Center, Solon, Ohio, 8:30 a.m.
- 11-18-2015 Geauga Professional Association Specializing in Seniors ("PASS"), The Weils, Chagrin Falls, Ohio, 8:30 a.m.
- 11-19-2015 Parma Hospital Senior Resource Network, Hummingbird Pointe, Parma, Ohio, 8:30 a.m.
- 11-19-2015 Portage Senior Services Network, Family and Community Services Building, Ravenna, Ohio, 8:30 a.m.
- 11-20-2015 Eldercare Professionals of Ohio, Cornerstone of Hope, Independence, Ohio, 9:00 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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