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Seniors and Special Needs News - January 15, 2016

1 message

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Fri, Jan 15, 2016 at 9:02 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 Terminating a Guardianship

This week's newsletter continues the discussion of Legal Issues when someone has Dementia. The introductory installment ([April 30, 2015](#)) put forth the issue of "Who can speak for someone with dementia?" The [May 14, 2015](#) installment discussed the situation where the person with dementia has Advance Directives in place. The [May 21, 2015](#) installment discussed the legal issues in determining whether a dementia sufferer can choose to have new Advance Directives prepared. The [May 30, 2015](#) installment discussed options in preparing a Health Care Power of Attorney. The [June 4, 2015](#) installment discussed how to decide whether to prepare a Living Will. The [June 11, 2015](#) installment discussed some of the basic issues in preparing a General Power of Attorney. The [June 18, 2015](#) installment discussed the importance of making the General Power of Attorney "durable." The [June 25, 2015](#) installment discussed the importance of NOT making the General Power of Attorney "springing." The [July 2, 2015](#) installment discussed revoking prior Powers of Attorney. The [July 9, 2015](#) installment discussed Do Not Resuscitate orders. The [July 16, 2015](#) installment discussed the Right of Disposition designation. The [July 23, 2015](#) installment discussed the Will (or Last Will and Testament.)

The [July 31, 2015](#) installment discussed beneficiary designations on life insurance policies, IRAs, annuities, etc. The [August 6, 2015](#) installment discussed whether to pre-plan a funeral. The [August 14, 2015](#) installment discussed choosing a final resting place. The [August 27, 2015](#) installment discussed pre-planning a funeral ceremony. The [September 3, 2015](#) installment discussed when and how to pay for the pre-planned funeral. The [September 10, 2015](#) installment discussed medical insurance choices. The [September 17, 2015](#) installment discussed long term care insurance. The [September 24, 2015](#) installment discussed obtaining the services of an elder law attorney. The [October 1, 2015](#) installment introduced the topic of guardianship. The [October 8, 2015](#) installment discussed the guardianship application. The [October 22, 2015](#) installment discussed the family conflicts that can arise during a guardianship proceeding. The [November 13, 2015](#) installment discussed the determination that someone is legally incompetent as part of the guardianship proceedings. The [November 19, 2015](#) installment discussed the concept of Less Restrictive Alternatives in guardianship proceedings. The [December 4, 2015](#) installment discussed choosing the best guardian. The [December 11, 2015](#) installment discussed the difficulties that might arise for a family member acting as guardian. The [December 18, 2015](#) installment discussed the difficulties that a family might face if a professional guardian is appointed for a loved one. Today's installment will discuss the termination of a guardianship.

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. The guardianship can be terminated if the ward has few enough assets that a guardianship of the estate seems no longer necessary or advisable.

When considering the termination of a guardianship, the probate court must find that the termination of a guardianship is in the best interest of the ward before terminating. I must admit that I feel this "best interest of the ward" seems, to me, an impediment to the termination of almost all guardianships except where the ward has gotten "better" and is no longer incompetent or has passed away. For a ward that remains incompetent, the termination of a guardianship takes away the person who can make health care decisions for the ward. That seems, to me, an overriding reason not to allow a

guardianship to terminate.

If the ward passes away, the guardianship ends automatically. The guardian will need to prepare a final accounting of the now-deceased ward's business affairs, but the ward's demise ends the need for a guardian.

Also, if the ward no longer needs a guardian, the probate court can end the guardianship once the court is comfortable of the ward's renewed ability to handle his or her own affairs.

A guardianship can, theoretically, be terminated upon a demonstration that less restrictive alternatives have been put in place since the commencement of the guardianship. (This one is unusual because the probate court has every reason to wonder why these alternatives were not in place before the guardianship application.)

A guardianship that became necessary because the ward repeatedly tried to elope from a care community can be terminated if the ward's health deteriorates, taking away the mobility necessary to elope. (A termination for this reason is unusual because the deterioration of the ward's health that took away the ward's mobility also makes the life expectancy short, making a change in the guardianship status seem not worth pursuing.)

A guardianship can also be terminated if the ward's assets fall to a low level (in Ohio, that amount is \$25,000.) At that level, a ward has very little with which to pay the guardian for services. This possibility of terminating a guardianship because of poverty disturbs me. The guardianship of the person is at least as important as the guardianship of the estate, but the ward's need to have someone look out for his or her health and bodily welfare does not end because of poverty. I can't see how terminating a guardianship because of poverty is in the ward's best interest, but it does happen.

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 since the last newsletter

01-14-2016 #Family-led #Autism #Intervention in
#PoorCommunities <http://ow.ly/W7QVQ>

01-13-2016 There are many #FamilyCaregivers, but their experiences are not
all the same <http://ow.ly/WQJiq>

01-12-2016 #MedAmerica pulls out of the #LongTermCareInsurance
business <http://ow.ly/WPahW>

01-11-2016 Many choices for #LongTermCare for
#AgingParent <http://ow.ly/W8zrc>

01-10-2016 #Car #Technologies that make #OlderAdult drivers
safer <http://ow.ly/WImqY>

01-09-2016 Thinking ahead toward your own #LongTermCare <http://ow.ly/W94jG>

01-08-2016 #Ohio #Medicaid financial standards for #LongTermCare for
2016 <http://wp.me/p47F09-g0>

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

1-15-2016 The Koewler Law Firm will have a vendor table at the Direction

Home Akron Canton Area Agency on Aging and Disabilities' Advocacy Conference at the Sheraton Suites in Cuyahoga Falls, Ohio.

1-18-2016 The Koewler Law Firm will participate in the Brunswick Senior Center's Expo in Brunswick, Ohio.

1-19-2016 Jim Koewler will discuss Preventing Senior Fraud at Brookdale Montrose.

4-14-2016 Jim Koewler will serve as Master of Ceremonies for the Senior Citizen Prom sponsored by the Soprema Wadsworth Senior Center at the high school in Wadsworth, 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)
- Ethical Issues in Case Management and Discharge Planning (Continuing Education credit and Ethics 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 that Help with 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 Final Arrangements (Continuing Education credit available for social workers, counselors, and nurses)
- Elder Law: A Primer (Continuing Legal Education credit available)

- Protecting your Money when you need Long Term Care and Essential Estate Planning Considerations (with free living wills for up to 20 audience members)
- Health Insurance for Families: The Affordable Care Act ("ObamaCare,") Medicaid, and Medicare
- Myths about Long Term Care Costs
- How to help your Parents Manage their Affairs
- Legal Lessons for Life

Upcoming meetings

01-18-2016 Medina County Senior Services Network's Education Committee, Yours Truly, Medina, Ohio 11:30 a.m.

01-19-2016 UH Bedford Medical Center Senior Network, Montefiore, Bedford, Ohio, 8:30 a.m.

01-20-2016 Professional Association Specializing in Seniors ("PASS"), YMCA "Choices," Chardon, Ohio, 8:30 a.m.

01-21-2016 Portage Senior Services Network, Family and Community Services Building, Ravenna, Ohio, 8:30 a.m.

01-21-2016 Parma Hospital Senior Resource Network, 8:30 a.m.

01-22-2016 Eldercare Professionals of Ohio, Walton Manor, Bedford, Ohio, 9:00 a.m.

01-26-2016 Summit County Senior Services Network, Anthony Kucko Kertesz Funeral Home, Akron, Ohio 8:00 a.m.

01-26-2016 Professional Networking Group, Vista Springs, Macedonia, Ohio, 9:00 a.m.

01-26-2016 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

01-28-2016 The Association of Specialists in Aging, Mentor Senior Center, Mentor, Ohio, 8:30 a.m.

02-02-2016 Aging Services Network East, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

02-03-2016 Stark Senior Services Network, Myers Lake Ballroom, Canton, Ohio, 9:00 a.m.

02-03-2016 Richfield Chamber of Commerce luncheon, Days Inn and Suites, Richfield, Ohio, 11:45 a.m.

02-03-2016 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

02-10-2016 Medina County Senior Services Network, Medina County Board of Developmental Disabilities, Medina, Ohio, 8:00 a.m.

02-11-2016 Summit Senior Sales, Administrators and Marketers Association, D'Agnese's Trattoria & Cafe, Akron, Ohio, 4:30 p.m.

02-11-2016 Lorain County Senior Services Network, Independence Village, Avon Lake, Ohio, 8:30 a.m.

02-12-2016 Eldercare Professionals of Ohio, Southwest General Hospital, Cleveland, Ohio, 9:00 a.m.

02-15-2016 Medina County Senior Services Network's Education Committee, Yours Truly, Medina, Ohio, 11:30 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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