

SMART PLANNER

Useful Tips for a Better Tomorrow

Winter 2015



Senior Living Options: What's it all about?



Independent Living. Assisted Living. Nursing Home. What do these terms mean? How are they different from each other? And which one is right for you? Take a look here to learn what each one is all about.

Independent Living

Maybe you're starting to think that a little more help would make life

easier. You're still living in the two-story house you raised your kids in. Maybe your spouse is gone, or maybe not, but the house is just getting to be too much.

Your daughter wonders aloud if you'd be happier in a retirement community where everything is on one floor and someone else takes care of all the maintenance, and even cleans for you. You give her the thumbs up to do a little research and she finds a local independent living facility that has apartments, condos and free-standing homes. There are lots of social activities and if you don't feel like driving, there's a van to take you to the store or the doctor.

You schedule a tour and love the place so much you decide to sell the house and move in.

Assisted Living

So you've been in your home or your independent living apartment for several years. You've made some new friends and have enjoyed all the amenities. But your vision is getting pretty bad and using the stove is not so easy anymore. Or safe.

You had to give up your car. You can't even see your medications, which is a little scary. You've come close to falling a couple of times.

Some of your friends already moved to a nearby assisted living facility when they started to need more help. You think maybe it's time for you, too. You can have your meals in the dining room with your friends. Or there may be times you'll want to eat in your apartment. If you want it, you can get help with your meds and assistance getting in and out of the shower safely.

The services and help you need is your choice – you still maintain your independence. The options are there for you to choose from.

If there's an emergency, someone's on call 24/7. No need to worry who to call for help when you need it. And your family will be able to relax knowing that you're in a more supportive environment.

Nursing Home

You don't need it yet, and may never need it, but it's nice to know that if that day comes, you can get even more help in a skilled nursing home. You're already

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"We don't stop playing because we grow old; we grow old because we stop playing"

– George Bernard Shaw

SAVE THE DATE!


Saturday, March 7, 2015

Continuing her efforts for the Alzheimer's Association, Sharon Pope is the Committee Chair for the organization's first annual Brain Ball at the Connecticut Science Center.

The Ball will raise the profile of Alzheimer's disease and the toll it takes on families. Funds raised will go toward research and support services for individuals, families and caregivers who face the daily challenges of this disease. For more information, call the CT chapter at (860) 828-2828.



CZEPIGA DALY POPE

Estate Planning | Elder Law | Special Needs | Probate

It's Time. Plan Today for Your Tomorrow.

FUNDRAISING: Make Sure the Money Goes Where You Want

When medical tragedy strikes, family and friends rally around an injured person. After an ambulance ride to the hospital, emergency medical intervention, scans and x-rays, you may receive a catastrophic prognosis. Permanent paralysis from a stroke. Quadriplegia from a brain injury sustained in a motorcycle crash. Whatever it is, the friend you were just laughing with yesterday will remain compromised for life.



This is uncharted territory for even the most prudent. These questions are daunting and require the advice of an experienced Connecticut special needs attorney who can guide the family as well as the fund raisers.

Most people will not understand that the injured party will need Medicaid benefits that can pay for long term care. Furthermore, those who understand Medicaid may still not understand the complexities of special need planning.

FOR EXAMPLE:

- ◆ If money is raised “for the benefit of the injured party,” did you know that these raised funds may actual jeopardize the injured party’s eligibility for benefits that would cover long term care?
- ◆ And that monies raised may be forced to be included in a spousal assessment where a well spouse may only be able to keep half of the total assets between the husband and the wife?
- ◆ Or these funds may have to be annuitized, or they may need to be placed in a special needs trust for the benefit of the injured party only?

On the other hand, if these funds had been raised for the general use of the family, the funds could be received by the well spouse and used for general purposes: to pay off debts, pre pay mortgage payments or taxes on real estate. What is critical is how the mortgage will get paid, or how the car taxes will be paid.

Attorneys who practice in special needs planning have in-depth understanding of how to maximize public benefit programs and preserve private assets. They can guide the fund raisers to best accomplish goals of raising general funds for the family. Benefits can be structured to minimize taxes, protect all funds to maximize resources not only for the injured person but for the family too.

To truly help your loved one with fund raising efforts, be sure to do it right.

(by Claudia W. English, CzepigaDalyPope)

Money Matters

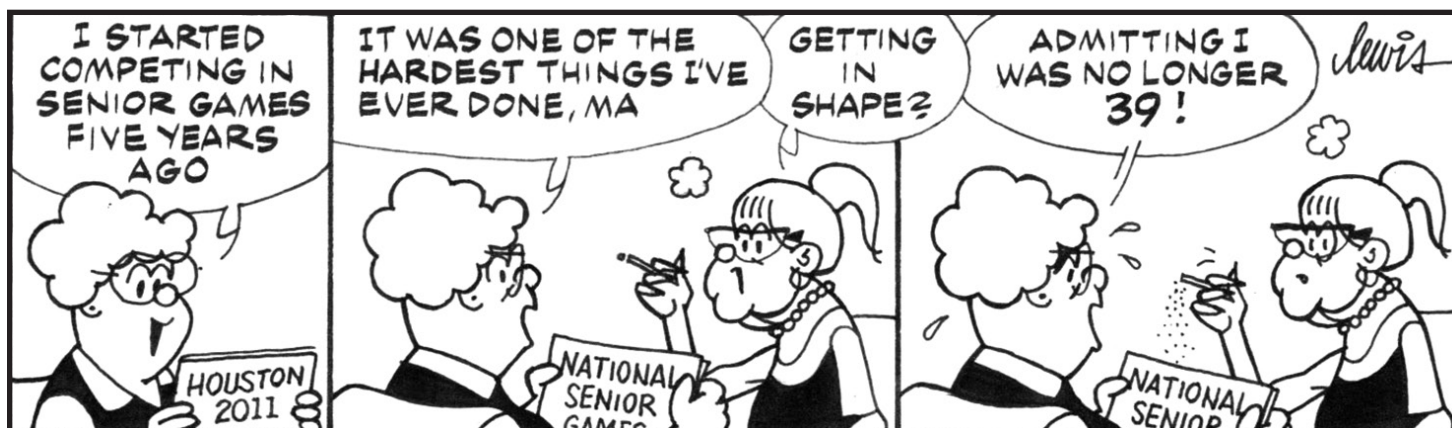
You want to help, but the complex web of long term care issues have suddenly become a new normal for a family that is still in shock. If the injured party was the primary bread winner for a family, fear of how the family will be sustained is a critical concern.

In circumstances like this, the cost of long term care becomes a fearful reminder for the injured party as well as his family.

- ◆ How will a mortgage payment be made?
- ◆ How will health insurance be maintained?
- ◆ How will the injured person cover basic necessities for his or her family?

The Effect of Fundraising

So, someone embarks on fundraising efforts in hopes of helping the family maintain life as it was known, but how these efforts are coordinated, planned, and how funds are received can have huge unintended consequences that are completely unknown to the brave folks who step up to help.



BOOMER BULLETIN . . .

Why an 18 Year Old Needs an Estate Plan

Your child or grandchild is turning 18 – a milestone to celebrate! She may be getting ready to graduate high school and head off to college or she may be moving into the workforce and getting a job. Either way, it is the beginning of a new and more independent adult life. With this rite of passage come new challenges and responsibilities. And one of them, you may be surprised, should be for your child to prepare estate planning documents.

While many of you may have a Power of Attorney, an Appointment of a Health Care Representative and a Last Will and Testament as part of your estate plan, how many of your children and/or grandchildren have one as well? Believe it or not, these legal documents are important to have whether you are 18 or 85.

- 1 If your child is in a car accident and unable to communicate with doctors, the doctors are not legally bound to speak to you about medical decision making, including end of life decision making, without a signed Appointment of a Health Care Representative.
- 2 If your loved one has a job and has bank accounts in her name, then a Durable Power of Attorney would allow someone she chooses to step into her shoes should she need help with her banking or be unable to make financial decisions.
- 3 As her assets grow, a Last Will and Testament would allow him to designate who the beneficiaries of his estate would be. These documents can be updated over time to address changes in your child's life, such as marriage and children.

So while you should rejoice and celebrate in your child or grandchild's rite of passage upon turning 18, give her a gift that she probably will get from nobody else — remind her or schedule her to meet with us do her own estate plan.

(by Lara Bomzer-Schneider, CzepigaDalyPope)



I have been diagnosed with terminal cancer. I have appreciated stock that I was planning to give to my heirs now. Am I better off leaving the securities to them in my estate?

We can't address what other factors are in play, but we can tell you there is a key tax advantage to keeping the stock in the estate. You heirs will get a "stepped-up basis," which means that they will avoid capital gains tax only on appreciation after you die — even if they sell the stock within a year after your death. If you give them the stock now, they will pay capital gains tax on the appreciation from your original date of purchase.

We invite you to submit your questions to us at plantoday@ctseniorlaw.com.

Senior Living Options

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familiar with it. You spent a few weeks there when you were recovering from a hip replacement and the medical care you received was excellent. The physical rehabilitation team had you back on your feet in record time.

Continuing Care Community

Some people prefer the "one-stop-shopping" convenience of moving to a continuing care retirement community, where all three of these living situations are available, and moving from one setting to another is seamless.

This is a wonderful time we live in. There are more options than ever before. It's just hard when you don't know what they are!

Once you understand what is available to you, it will be easier to make the decision that's right for you.

If you would like additional information, including which particular Connecticut facilities may be best for you or a loved one, contact our geriatric care coordinator, Joanne Foss at (860) 236-7673.

CzepigaDalyPope Team

Before the deep freeze hit, our team planted bulbs for the Brain Injury Alliance of CT's tribute garden in Windsor.



It's Time. Plan Today for Your Tomorrow. Call us at (860) 236-7673.

UPCOMING EVENTS

DATE	EVENT TOPIC	PLACE
Feb 19	Planning for Children with Special Needs	Good Cause Gifts, Berlin
Mar 12	Paying for Long Term Care	Elmwood Senior Center, West Hartford
Mar 12	Planning for Children with Special Needs	ASRC, Center for Special Needs, Glastonbury
Mar 18	What You Should Know About Estate Planning	New Britain YMCA
Apr 1	Navigating the challenges of early onset Alzheimer's (<i>Alzheimer's Association Education Conference</i>)	Crowne Plaza, Cromwell
Apr 12	What You Should Know About Estate Planning	Emmanuel Synagogue Men's Group, West Hartford

To see our Adult Education schedule, go to www.ctseniorlaw.com.



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Special Insert For Legal, Financial and Healthcare Professionals

Congress Approves Tax-Free Savings Accounts for Some People with Disabilities

A new law just passed by Congress and signed by President Obama will allow people with disabilities who became disabled before they turned 26 to set aside up to \$14,000 a year in tax-free savings accounts without affecting their eligibility for government benefits.

Under the Achieving a Better Life Experience (ABLE) Act, the tax-free savings accounts can be used to pay for qualifying expenses such as the costs of treating the disability or for education, housing and health care, among other “disability-related expenses.” The existence of the accounts will not compromise the individual’s ability to qualify for benefits like SSI or Medicaid as long as the account balance does not exceed \$100,000.

States must set up programs for families to invest in the new so-called “529A accounts” and will provide investment

options. The act takes effect at the beginning of 2015, meaning that states will have to act soon to regulate these new accounts. Once in place, ABLE accounts will become one more tool for families of people with special needs to use in order to protect their loved ones’ valuable benefits while trying to provide a decent quality of life.

But as Howard Gleckman, a fellow at the Urban Institute, points out in a Tax Policy Center blog post, the law prevents saving for disabilities that come later in life, such as dementia or severe arthritis. “In addition,” Gleckman writes, “while the program benefits those with friends or relatives who can contribute to the accounts, it does much less to help those from truly low-income families who may not have money to give.”

The law’s age 26 cutoff was part of a compromise to decrease the bill’s original projected price tag from \$20 billion to \$2 billion over 10 years. The cost was reportedly paid for by tightening a variety of Social Security and Medicare rules, including barring Medicare payments for vacuum pumps that treat erectile dysfunction.

(ElderlawAnswers.com)

CMS Withdraws Proposed Liability MSA Rulemaking

On Oct. 8, 2014, the Centers for Medicare & Medicaid Services withdrew its June 15, 2012 proposed rulemaking which dealt with future medicals for Medicare Set-Aside Liability claims settlements.

Many law firms and industry insiders were disappointed with this development because it was hoped that this proposed regulation would bring more clarity to how liability Medicare Set-Asides should be set up and administered.

Since this was only a proposed regulation, subject to public comment and further modifications, this withdrawal does not change anything for plaintiff attorneys who handle liability cases. It leaves the legal community with the same requirements and guidelines for liability MSAs that have been in existence for years.

Simply put, the parties to a liability claim must still review each fact pattern in a liability case and look to the Medicare Secondary Payer (MSP) law to determine if an MSA should be set up and administered. Medicare’s interest still needs to be protected when a liability case is settled.

Over the years, CMS has issued numerous memorandums on Medicare Set-Asides but most have provided guidance on MSAs that originated from a Workers Compensation case. These memorandums have clarified when an MSA originating from a Workers Comp case should be submitted to CMS and the procedure for this submission. Many hoped that this proposed rulemaking would be a first step in achieving similar clarity for liability cases. It is unclear why CMS withdrew this rulemaking but there is speculation in the industry that it will eventually resurface with modifications.

If you have questions about whether an MSA should be set up for a liability claim or how to administer a liability MSA, **please call us.**

(by Patrice Freeman, CzepigaDalyPope)

Law Suits and Responsible Parties

We just received notice that we successfully defended a client against a nursing PJR application.

More and more of these cases are popping up. So if you have clients who are caring for their aging parents, it's important for you to know how to advise clients regarding potential liability to a nursing facility prior to admission.

In *Affinity Healthcare v. Sharon Thomas*, the court denied Affinity's PJR Application seeking to attach \$180,000 of our client's assets; Sharon signed as responsible party on behalf of her mother.

Two things we'd like to point out:

- 1 The courts now appear to be looking just as closely to the damages component of these collection actions as the liability component. Putting aside the issue of whether one should sign as the responsible party in the first place (especially when the resident has not been conserved by a probate court), the handling of the T19 Application, from start to finish, in our opinion, is becoming just as an important piece of the defense of responsible parties as is the discussion of the admission interview and the federal and state law governing same.
- 2 We suspect to see revisions to Admission Agreements or different facility tactics to bridge the gap between liability and damages.

If you need assistance counseling a client about admission agreements or other nursing facility related issues, give us a call.

UPCOMING EVENTS

Academy of Special Needs Planners

Date: March 26

Location: Charlotte, NC

Sharon Pope is a panelist on *Essentials of SNT Administration and Advising the Special Needs Trustee*

Financial Planners Association annual conference

Date: April 22

Location: Aquaturf, Southington

Paul Czepiga to present *POA Pitfalls: How to spot potential threats and why the POA is more important than ever*

DID YOU KNOW?

We offer trustee services for your clients with special needs

In addition to drafting special needs trusts, we can serve as your client's trustee. Our trust department manages the assets in the trust to preserve and maximize benefits, advocates for your client and invests their trust funds. For more information, call **Al Gatti** at **(860) 236-7673**.



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