

# Asset Protection Law Newsletter



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**A FREE LEGAL UPDATE FOR ELDERLY AND SAME SEX PARTNERS WHO SEEK ASSET PROTECTION ♦ APRIL 1, 2013 EDITION**

## USING FLORIDA'S DESIGNATION OF HEALTH CARE SURROGATE TO OVERCOME AMBIGUITIES OF LIVING WILLS

Just when you thought you had the answer to how to handle a loved one's health emergencies, experience is telling us that end-of-life care planning may not be so simple.

Even if one has a Living Will, situations can arise that were not anticipated. Some advisers recommend abandoning the Living Will in favor of appointing a family member or friend as your health-care agent.

What are the some of the problems with Living Wills? The number one problem is that they are too vague. For instance, a Living Will may specify that life support will be withdrawn when there is "no reasonable expectation of regaining a 'meaningful quality of life."

What does that mean? Does that mean you can no longer walk, can no longer feed yourself, that you are only semi-conscious for long periods of the day?

The medical condition that results after a health crisis sometimes is severe initially. It can improve with time or it may not change much at all over the long-term. One can see where problems can arise.

Another difficulty is that it is very difficult for doctors to accurately diagnose the outcome of a health care crisis. Experts believe that when predicting how a patient will fare after a stroke, "he is wrong 15% to 20% of the time on major outcome measures, such as whether a patient will be able to walk again.

So what should you do? In addition to the Living Will, make sure you appoint a family member to act when situations arise which are not covered by the Living Will.

Make sure you have communicated to that family member under which conditions you want to be kept alive, and state under what conditions you would find continued living intolerable.

Family members, it turns out, are extremely accurate in predicting a designee's wishes.

A recent study found that family members who were presented with nine hypothetical scenarios correctly predicted patient wishes about 70% of the time. This was true whether or not the patient had filled out a living will.

You will do the best for your loved one if you are well-prepared for the end-of-life event that awaits all of us.

ATTORNEY MARK A. ROSEMAN can assist clients with their estate, financial, insurance, long-term care, and veterans' benefits planning needs.

If you are interested in having an Elder Law attorney speak at an event, then please call us at: (954) 963 – 8719.

The Law Firm of Mark A. Roseman is an Elder Law Firm. We represent older persons, disabled persons, their families, and their advocates.

The practice of elder law includes estate planning, powers of attorney, advance medical directives, guardianships, and public entitlements such as Medicaid, Medicare, Social Security, and SSI, disability planning, income tax planning and preparation, care management. For more information about The Elder Law Office of Mark A. Roseman please visit our website at [www.roseman-elder-law.com](http://www.roseman-elder-law.com).

Our website contains information about The Elder Law Firm of Mark A. Roseman and an archive of our newsletters and other estate planning, estate administration, and elder law articles and resources

**OUR OFFICE OFFERS FREE  
CONSULTATION FOR YOUR  
RESIDENTS AND THEIR FAMILY  
SUPPORT GROUPS TO DISCUSS THE  
MANY COMPLEX ISSUES  
CONCERNING LIVING WILLS AND  
TO OBTAIN COURTESY COPIES OF  
NECESSARY FORMS,  
PLEASE CALL (954) 963 – 8719.**

## Top Ten Mistakes Made Trying To Qualify for Medicaid Nursing Home Benefits

- #10. Improper establishment or maintenance of a Qualified Income Trust (QIT).
- #9. Failing to determine if the nursing home accepts Medicaid benefits..
- #8. Thinking the \$13,000 gift tax exclusion applies to Medicaid planning.
- #7. Believing that Medicare pays for long term nursing home costs.
- #6. Failing to list all assets, income, and gifts within a 60 month period prior to filing the Request For Assistance for Medicaid.
- #5. Failing to include all gross income of an applicant when applying for benefits.
- #4. Failing to plan for the possibility that the community spouse might predecease the institutionalized spouse.
- #3. Relying on out-dated or poorly drafted durable powers of attorney or other estate planning documents.
- #2. Transferring assets without taking into account the transfer rules and penalties.
- #1. Transferring the homestead realty to children or others by way of a quit-claim deed.

## News You Can Use

### 2013 FLORIDA MEDICAID LIMITS

Gross Monthly Income Limit for Medicaid Applicant:	<b>\$2,130.00</b>
Personal Needs Allowance:	<b>\$35.00</b>
Asset Limit (Individual):	<b>\$2,000.00</b>
Asset Limit (Couple):	<b>\$3,000.00</b>
Medicare Part B Premium:	<b>\$104.90</b>
Community Spouse Resource Allowance:	<b>\$115,920.00</b>
Minimum Monthly Maintenance Income Allowance:	<b>\$1,891.25</b>
Maximum Monthly Maintenance Income Allowance:	<b>\$2,898.00</b>
Monthly Personal Needs Allowance:	<b>\$35.00</b>