

Special Needs Planning and Medicaid Law Newsletter



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A FREE LEGAL UPDATE FOR ELDERS AND OTHERS WHO SEEK ASSET PROTECTION ♦ OCTOBER, 2016 EDITION

WHAT'S WRONG WITH CAREGIVING IN AMERICA

1. You can't care for the patient without caring about the caregiver. And nobody cares about caregivers.

Beyond just the economic costs of caregiving, the social and physical toll of caregiving gets little attention. Caregivers have told us how they lose themselves and life becomes entirely centered on the patient.

Mary Oshrain, who cares for her husband, told us about going for her annual physical only to have the doctor spend most of the visit asking questions about her husband. "I only get probably 18 minutes a year with a health professional," she told us. "I realize I am a boring patient and that his case is likely fascinating for them, but as a caregiver, I need my appointment to be about my health."

Instead of delivering "patient-centered" care, health-care providers should adopt "family-centered" models that include making sure that caregivers don't lose their identities.

2. Caregiving can actually kill you.

Family caregivers were found to have lower physical well-being, higher stress levels, higher rates of chronic disease, and greater risk for depression, social isolation and financial losses than their non-caregiving counterparts.

It's called "Caregiver Syndrome" and a Stanford University study reported that 40 percent of Alzheimer's caregivers die from stress-related disorders before their patient dies.

3. Caregivers are daughters, sons, and spouses. They are not skilled nurses.

Caregivers do what nurses used to. They deal with feeding and drainage tubes, catheters, dialysis ports and other complicated medical devices; they perform wound care, deliver injections, test and record glucose and blood pressure; they perform personal hygiene tasks for their patients and prepare dietician-directed meals.

They do a whole bunch of other things that they never in a million years would have thought they would be asked to do and many of those tasks are extremely unpleasant.

Most caregivers are "learning by trial and error and fearing that they will make a life-threatening mistake."

4. Caregivers are often unwilling participants and most always voiceless ones.

Medicare and private insurers are to blame for the unwilling part. To save money, they rush to discharge patients from the hospital with the implicit expectation that family caregivers can support the patient at home and manage the transition from hospital to home — again with little or no training.

Family caregivers must deal with a wide range of providers in a variety of systems — doctors, nurses, social workers, pharmacists, physical and occupational therapists, insurance companies, and billing offices.

They routinely provide information about their patient's health history, medications, past diagnoses and previous treatment attempts. Caregivers are on the job every day and are the first to see changes in a patient's well-being or temperament.

Despite the integral role that family caregivers play, "they are often marginalized or ignored" when it comes to having a voice at the table. Caregivers are regularly excluded from treatment discussions and decisions by the very providers who assume the availability and willingness of those caregivers to carry out the tasks included in that care plan.

The Health Insurance Portability and Accountability Act (HIPAA) law protects a patient's privacy and can mean the doctor doesn't have to talk to family caregivers. There are financial incentives to not spending time with family caregivers. Dealing with family caregivers takes time, and time is money.

5. Things are only going to get worse.

It's really just a numbers game. While the need for family caregivers is increasing, the number of available caregivers is decreasing.

The 65 and older demographic was 46 million strong in 2014 and is projected to be 98 million by 2060, according to the Administration on Aging.

The percentage of the elderly who are projected to need caregiver support is expected to jump from 27 percent in 2012 to 37 percent in 2050. Lower birth rates, a hike in never-married or divorced older adults, and geographic distance from family members, all indicate that the pool of potential caregivers is shrinking.

ADVANTAGES OF ENHANCED LIFE ESTATE DEED IN FLORIDA

As a Florida Elder Law Attorney people sometimes people ask me to draft a deed to add someone as a

co-owner with rights of survivorship or draft a Lady Bird Deed to avoid probate.

Changing real estate ownership should not be taken lightly. Previous articles discussed issues to consider when people want to add someone as a co-owner with rights of survivorship. Below is a discussion about the use of a Lady Bird Deed in Florida.

A Lady Bird Deed, also called an Enhanced Life Estate Deed in Florida, is a relatively new type of deed first used in Florida in the early 1980s. Here are some of the advantages of using a Lady Bird Deed:

1. Avoid probate. Similar to a standard life estate deed, the Lady Bird Deed names beneficiaries, called remaindermen, who will receive the property at your death.
2. Keep complete control during your lifetime with no consent needed from the remainder beneficiaries.

One of the major drawbacks of a standard life estate deed is that the remainder beneficiaries must consent if you want to sell or mortgage the property during your lifetime.

This problem also exists when adding a co-owner to the property. Unlike the standard life estate deed, with a Lady Bird Deed beneficiaries do not have to consent to the sale or mortgage of the property.

3. Avoid making a gift that might be subject federal gift taxes. If you use a standard life estate deed or a deed adding a co-owner to the property, you are gifting a portion of your property to that person. In 2016, you can only make gifts of up to \$14,000 per person without reporting the gift on a federal gift tax return.

News You Can Use

2016 FLORIDA MEDICAID LIMITS

Gross Monthly Income Limit for Medicaid Applicant:	\$2,199.00
Personal Needs Allowance:	\$105.00
Asset Limit (Individual):	\$2,000.00
Asset Limit (Couple):	\$3,000.00
Community Spouse Resource Allowance:	\$119,220.00
Minimum Monthly Maintenance Income Allowance:	\$1,966.25
Maximum Monthly Maintenance Income Allowance:	\$2,980.50