Planning for Long-Term Care
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On the Internet!!

• Check out our website, 

www.VermontEstatePlanning.com

for valuable information
Thank you for coming and Congratulations!
Only two rules!

- We’ve got lots of ground to cover, so...
  - Please turn off cell phones & pagers
  - We’ll handle questions at the end of the seminar, so write them down as they occur to you and we’ll address them afterwards!
Catastrophic Illness and Nursing Homes

- What are the odds that your loved ones need nursing home care?
  - Over Age 65: 43%
  - Over Age 80: 50%

- Advances in medicine mean longer stays
  - 55% of stays are more than a year
Result:

Longer periods where patient lacks decision making capacity
Thanks to Modern Medicine

- Most deaths occur in hospitals and nursing homes (i.e., long term care)
People Don’t Plan to Fail

They just Fail to Plan
Why Don’t People Plan?

- Only about 1/3 of Americans have a written estate plan!

Why?

- Procrastination
- Denial
- Lack of Knowledge
What Types of Planning are Needed?

- Two Basic Types:
  - INCAPACITY PLANNING
  - PLANNING TO TRANSFER ASSETS
Incapacity Planning

- 3 Important Areas
Incapacity Planning

Failing to Address Health Care Decisions
Health Care Decisions

Problems Created:

- Terri Schiavo, Karen Quinlan, Nancy Cruzan
- No “Decision-maker”
- No Directions
- Delays
- Costs
Solution: Advance Directive

- Identify Decision-Makers
- Clear statements of intent for loved ones
Incapacity Planning

No plan to control financial & property matters during incapacity
Without appropriate legal documents to manage your assets during incapacity, a court supervised “guardianship is probably inescapable”
Guardianships = Problems

- “Time-Consuming”
- “Expensive”
- “Cumbersome”
- “Creates Delays”
- “Emotionally Trying”
- “Public Record”
Establishing a Trust:
An individual can appoint a trustee to manage his or her financial affairs and thus can avoid the need for an appointment of a guardian.
Avoid Guardianships with Durable Powers of Attorney

Durable power of attorney. An individual can delegate to an agent the power to make financial decisions and transactions on his behalf if he is unable to do so himself.
“A power of attorney that is not well-thought out can not only be ineffective but may be even counterproductive in achieving the principal's overall objectives.”
Provisions often left out ...

- Power to transfer home
- Care for pets
- Power to create trusts
- Powers regarding US Mail and electronic accounts
- Powers to do Medicaid Planning and gifting
Incapacity Planning

Access to Medical Records - Failing to Plan for HIPAA
Medical personnel face stiff penalties, therefore hospitals are reluctant to permit family members access to information. Special HIPAA Authorization ensures access to medical information for your loved ones.
Incacity Planning

- Medical Decisions
- Financial Decisions
- Access to Medical Information
Second Type of Planning

- Planning to Transfer Assets
Wealth Transfer Plan

- Tailored to the assets you own
- Accounts for your unique family situation
- Designed to streamline transfer
- And do it quickly and cost effectively
Wills don’t avoid probate, they guarantee it!

Wills can be simple or complex

Wills don’t take effect until death

If your will has a trust within it for young children, the trust may be under control of the Probate Court
Solution # 1: Will

- Probate may be long, frustrating and expensive
- Probate is a public process
- Necessity of ancillary probate for out-of-state real estate
- Probate fees went up substantially in 2008 and this year a surcharge was added
Wills Can Fall Short of Estate Planning Goals

- Won’t provide for your disability
- Won’t necessarily give what you have:
  - to whom you want
  - the way you want
  - when you want
- Certainly won’t avoid probate
Solution #2 The Living Trust

- Plans for your disability
- Provides for your loved ones after you’re gone
- Contains your instructions to your family
- Private and confidential
- Valid in every state
Solution #2: Living Trusts

- Holds and passes assets without probate, provides for asset management, deals with disability and death
- Probate savings:
  - Thousands in fees and 6–12+ months time!
Long Term Care Costs

- Nursing Home Costs
  - State of Vermont says——
    $91,000 per year
  - Reality in this area——
    $100,000+ per year
Why Plan for Long Term Care?

- May be a need for care
- Protect life savings
- Plan or lose everything
Catastrophic Illness and Nursing Homes

- Costs are rising: Average costs are
  - $8,000 to $9,000 per month or more!
- You may lose everything and be at the poverty level if you don’t plan
- How long can you pay before your life’s savings are all gone?
Our Society Has Changed

- Family may be spread out across the country
- It’s difficult caring for the aged
- Children can’t care for their parents... and do their parents really want them to?
Why So Many Are Concerned

- Life Expectancies continue to increase
- Financial Strains on Medicare and Medicaid
- More seniors now than ever before, plus the Baby Boomers are aging
Government sponsored health insurance
Available primarily to social security recipients at age 65
Does not cover long term care (only a small amount)
Does not cover the cost of custodial care
Who Will Pay for Long Term Care?

- Medicare?
- Medicare Supplement?
- Veterans Administration?
- Blue Cross/Blue Shield?
- You or your family?
- Reverse Mortgage?
Reverse Mortgages

Pros—

◦ Gives you money to stay in your home
◦ Can be taken as lump sum, monthly check, or used as a line of credit
◦ Loan doesn’t have to be paid off until after both spouses have died
Reverse Mortgages

- **Cons**—
  - Fees are high
  - All borrowers must be 62 or over
  - If the home is vacant for 1 year, loan comes due
So What Are The Choices?

- Private Pay
- Long term care insurance
- Medicaid
Long Term Care Insurance Planning

- You wouldn’t think of going without homeowners or car insurance
- Insurance transfers the risk
- The cost can be economical and gives peace of mind
The Catch:

You Have To Be Able to Qualify
What if a family member is ill or is in a nursing home already?

- At the current cost for nursing home care...client must act quickly
- Consult with an elder law attorney immediately
- Learn about legal options including Medicaid
What is Medicaid?

- Financial assistance for nursing home
- Do not confuse it with Medicare
- Must meet certain asset and income limitations
Medicaid Qualifications

- Must be 65, blind or disabled
- Must have minimum assets
- Must meet medical eligibility requirements

You must be:
At least 65, blind or disabled & BROKE!!
Medicaid Fraud

Send Granny to Jail

- Hiding assets will subject you to:
  - Civil Fines
  - Criminal Penalties
Share of Cost - Income

- **Single**
  - ALL of applicant’s income goes to Nursing Home
  - Except personal needs allowance ($47.66 in Vermont) and health insurance premiums
Share of Cost - Income

- **Married**
  - Community spouse keeps
    - ALL of his or her income
  - Minimum Monthly Maintenance Needs Allowance (MMMNA)--$1,829
  - Maximum of $2,739
Two Categories of Medicaid Assets

Countable Assets
- Assets counted for Medicaid eligibility

Non-Countable Assets
- Assets exempt from Medicaid limits
Non-Countable Assets – You Can Keep

- Home if patient’s intent is to return home
- Household goods and personal effects
- Automobile
- Prepaid burial or funeral plans or accounts up to $10,000
- Burial plots
- Whole Life insurance w/ face value of $1,500 or less
- Term insurance
Countable Assets – Assets Client Can’t Keep

- Assets greater than $2,000 total
- Stocks, Bonds
- IRAs, Keoghs
- CDs
- Savings Bonds
- Investment property
- Camp or Vacation home
- All other countable assets
Minimum Assets Test – Single Person

**Non-Countable Assets**
- Unlimited Amount

**Countable Assets**
- No more than $2,000
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<tr>
<th><strong>Nursing Home Spouse</strong></th>
<th><strong>“Community” Spouse</strong></th>
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<tbody>
<tr>
<td>No more than $2,000</td>
<td>No more than $109,560</td>
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Deficit Reduction Act of 2005

- Commonly called DRA–2005
- Effective Date—Feb. 8, 2006
- Made major changes to Medicaid qualifying criteria
Deficit Reduction Act of 2005

Most important Medicaid features:

- Increased lookback period from 3 years to 5 years
- Changed how penalties are calculated to make gifting to qualify much more difficult
State has duty to try to recover from estate of deceased Medicaid recipient for services provided during lifetime

- States may have different definitions of what is considered “estate”
  - Most conservative = Probate Estate
Conclusion—What do you need?

- Have incapacity documents in place
- Think about how you might pay for long-term care
- If you have a crisis, contact an elder law attorney—we can help save some assets for the family and smooth the way for Medicaid qualification
Any Questions?

Where’s the restroom?
For further information:

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