The Benefits of Aging

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We offer complimentary car service for those who do not have transportation.
The Benefits of Aging

There are countless **unique planning strategies** and techniques that can be implemented in order to help you **achieve your goals** and **uphold your intentions** as you get older.

There are also **many benefits** that can be taken advantage of, but the maze of options can be confusing. Utilizing the expertise of an **elder law attorney** is a very important piece of the puzzle.

What's your plan?
Estate Planning vs. Elder Law

Estate Planning
Traditional estate planning focuses on the movement of wealth from one generation to the next.

Elder Law
Elder law focuses on life planning, not just transfers that could occur at death.

Generally, elder law emphasizes on the issues that arise from today’s longer life spans, rather than death-related transfers.
What is elder law?

Elder law is not so much about the type of law that it is, but is more about the types of clients that it serves.

Elder law attorneys help people who are elderly and people who are disabled with their legal needs and the various issues that arise within the continuum of care.

This often includes working with a client’s financial planner to ensure that money is available to pay for the quality of care that the client desires.
The Four Ways that Ownership of Property is Transferred at Death

**PROBATE:**
Probate assets are the only assets transferred pursuant to the decedent’s Will.

**BY WILL**

Probate assets: titled in only ONE individual’s name

(Note: A Trust set out in a Will is referred to as a Testamentary Trust and it does not avoid probate administration.

**BY JOINT OWNERSHIP**

Typical Examples:
- Husband/Wife
- Parent/Child
- Grandparent/Grandchild
- Among Siblings

Deed of Gift: Household items and similar personal property

**BY CONTRACT**

Beneficiary Designations:
- Life Insurance Policies
- IRA Accounts
- Annuities
- Brokerage Accounts: TOD
- Real Estate: Beneficiary Deeds
- US Savings Bonds: POD
- Motor Vehicles (DOR): TOD
- Bank Accounts: POD
- Personal Property: Deed of Gift

**BY TRUST**

A legal entity that is similar to a family corporation.

Assets pass to the beneficiaries named in the Trust (children, grandchildren, etc.)

**KEY:** DOR = Department of Revenue; TOD = Transfer on Death; POD = Paid on Death

Through the probate process, assets pass to the Beneficiaries named in the Will (can be individual/s or Trust/s)

Assets pass to surviving, titled owners (can be individual/s or Trust/s)

Assets pass to Beneficiaries, pursuant to Beneficiary, TOD or POD provisions (can be individual/s or Trust/s)
Elder law can touch upon a multitude of issues:

- Help with traditional **estate planning**
  - Probate avoidance
  - Trust and probate administration
- Eligibility requirements of various **government benefits**, such as Medicaid, VA benefits, Medicare and others
- **Planning for incapacity** with legal documents
- **Guardianships** and **conservatorships**
- **Fiduciary litigation**
- **Special needs trusts** for the benefit of individuals who are disabled
Helping clients beyond drafting

There are many factors that should be taken into consideration when deciding whether or not to pursue the assistance of an elder law attorney.

What is the health situation?

Is there sufficient time for an attorney to find a solution?

What resources are available?

Are there any potential ethical issues for the attorney?
Helping clients beyond drafting

Elder law attorneys work with many specialized professionals to help provide comprehensive services to their clients. Having professionals in your corner and understanding the various options that are available to you while undergoing the planning process is crucial.

Social workers, geriatric care managers, physicians and other specialists assist in life care planning and assessments.

Financial advisors and banks are relied upon to notify and/or report suspicious activities or behaviors.
Long-Term Care Considerations

- Is there a long-term care insurance policy in place?
- If so, does the long-term care insurance policy provide good coverage?
- Is long-term care insurance still possible?
- What is the use of immediate care annuities?
- How can a financial planner help?
Medicaid

- **Single Individual** -- $999.99
- **Married Couple** -- $2,000
- **Community spouse** may keep -- $119,220
- **Minimum Monthly Maintenance Needs Allowance (MMNMA)** -- $2,980.50
- There are **penalties** for asset transfers that occur **less than 5 years prior** to submitting the application for Medicaid benefits.
- **Penalty Divisor** -- $4,889/month
- The **quality of care** provided at the types of facilities available to Medicaid beneficiaries often does not match the quality of care that is offered through private pay.
Veterans Benefits

- Aid & Attendance; Non-Service Connected Veteran
- Resource and Income Limitations
- Military Service
- Pending in Congress is a bill that mandates a **3-year penalty** on transfers
- The penalty may be assessed **when application occurs**.
## 2016 Wartime Veterans Pension Benefit Rates

<table>
<thead>
<tr>
<th>Type of Benefit</th>
<th>Maximum Annual Pension Rate (Income Limit)</th>
<th>Monthly Maximum Annual Pension Rate (Income Limit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service Pension (without a dependent; spouse or child)</td>
<td>$12,868 (medical expenses must be &gt;$643 to be deducted)</td>
<td>$1,072 (medical expenses must be &gt;$53 to be deducted)</td>
</tr>
<tr>
<td>With one dependent</td>
<td>$16,851 (medical expenses must be &gt;$842 to be deducted)</td>
<td>$1,404 (medical expenses must be &gt;$70 to be deducted)</td>
</tr>
<tr>
<td>Housebound (H/B) (without dependents)</td>
<td>$15,725</td>
<td>$1310</td>
</tr>
<tr>
<td>H/B (with one dependent)</td>
<td>$19,710</td>
<td>$1,642</td>
</tr>
<tr>
<td>Aid &amp; Attendance (A&amp;A) (without dependents)</td>
<td>$21,466</td>
<td>$1,788</td>
</tr>
<tr>
<td>A&amp;A (with one dependent)</td>
<td>$25,448</td>
<td>$2,120</td>
</tr>
<tr>
<td>Each add’l dependent child</td>
<td>$2,129 + $183</td>
<td></td>
</tr>
<tr>
<td>Two veterans married to each other</td>
<td>$16,851</td>
<td>$1,404</td>
</tr>
<tr>
<td>Two veterans married to each other (one H/B)</td>
<td>$19,710</td>
<td>$1,642</td>
</tr>
<tr>
<td>Two veterans married to each other (both H/B)</td>
<td>$22,566</td>
<td>$1,880</td>
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<tr>
<td>Two veterans married to each other (one A&amp;A)</td>
<td>$25,448</td>
<td>$2,120</td>
</tr>
<tr>
<td>Two veterans married to each other (one A&amp;A, one H/B)</td>
<td>$28,300</td>
<td>$2,357</td>
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<tr>
<td>Two veterans married to each other (both A&amp;A)</td>
<td>$34,050</td>
<td>$2,836</td>
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</tbody>
</table>
### 2016 Surviving Spouse Death Pension Benefit Rates

<table>
<thead>
<tr>
<th>Type of Benefit</th>
<th>Maximum Annual Pension Rate (Income Limit)</th>
<th>Monthly Maximum Annual Pension Rate (Income Limit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death Pension (without a dependent child)</td>
<td>$8,630 (medical expenses must be &gt;$431 to be deducted)</td>
<td>$719 (medical expenses must be &gt;$36 to be deducted)</td>
</tr>
<tr>
<td>With one dependent child</td>
<td>$11,296</td>
<td>$941</td>
</tr>
<tr>
<td>Housebound (H/B) (without dependents)</td>
<td>$10,548</td>
<td>$879</td>
</tr>
<tr>
<td>H/B (with one dependent child)</td>
<td>$13,209</td>
<td>$1,100</td>
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<tr>
<td>Aid &amp; Attendance (A&amp;A) (without dependents)</td>
<td>$13,794</td>
<td>$1,149</td>
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<tr>
<td>A&amp;A (with one dependent child)</td>
<td>$16,456</td>
<td>$1,371</td>
</tr>
<tr>
<td>Each add’l dependent child</td>
<td>$2,198</td>
<td>+$183</td>
</tr>
</tbody>
</table>
Clients with Disabilities

- Special needs trusts
- Third-party trusts
- Sole benefit (d)(4)(A) trusts
- Protecting the assets of a non-disabled spouse
Questions?

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