THE LIFE CARE PLANNING CAREGIVER'S GUIDE

Planning Strategies That Work!

Law Office of David Wingate PC

1560 Opossumtown Pike, Suite A-12

Frederick MD 21702

301 663 9230

www.davidwingate.com

THE LIFE CARE PLANNING CAREGIVER'S GUIDE

Introduction

The caregiving process is complex and confusing, and where do you turn, as you may feel that you are not prepared, qualified, or even available to manage your loved ones many changing needs? According to a study by The National Alliance for Caregiving and the AARP almost one-quarter of households in the United States contain a caregiver, and most of those households provide care for someone who is age 50 or older. Caregivers provide care an average of 21 hours per week. A majority of caregivers said they were working, either full or part-time, or had worked at some point while caregiving. More than 60 percent of the working caregivers reported having to make adjustments to their work schedule, such as leaving early, arriving late, or taking time off. Not surprisingly, the jobs of caregivers with the most caregiving responsibilities were the most affected; one-third of caregivers who had to provide constant care had quit their job to perform their caregiving duties and 12 percent had retired.

Caregivers also reported they had less time for family or friends, had given up vacations or hobbies, and had less time to exercise. Caregivers said they needed more help finding time for themselves, balancing work and family responsibilities, and managing stress. And according to the national survey of caregivers released by Senior Bridge Family thirty per cent of married caregivers report their responsibilities have strained their marriage.

However, your goal is to have your loved one live well and as independent as possible and have them feel more secure, with an enhanced quality of life, which allows you to feel more secure and have peace of mind. You may need guidance and support through the continuous aging process, so your loved one can get what they need, when they need it. This article addresses some issues that you should address now and may need to address in the future.

What is a Life Care Plan?

The Life Care Plan is a roadmap to planning your long-term care, designed with your individual and family needs in mind. It is a relationship with The Law Office of David Wingate PC, throughout your life. With our knowledge and expertise, we will guide you through a discussion about plans for the later stages of your life. The Life Care Plan includes your goals and concerns, ideas and options that we have identified as being suitable for your special needs and circumstances.

The Life Care Plan is a planning process that will change over time as you and your circumstances change. Your Life Care Plan is a road map that allows you to achieve your long-term care and asset protection goals. And, if changes occur along the way, our services are available to you to help you shift to another road if it becomes necessary.

Life Care Planning

Life Care Planning began as a concept within the field of litigation; it specified and addressed changes associated with long-term care health problems. The life care planning developed into a Life Care Plan to provide information regarding services related to long term care. The International Academy of Life Care Planners published the following definition of the life care plan document:

“A life care plan is a dynamic document based upon published standards, comprehensive assessment, date analysis and research, which provides an organized, concise plan for current and future needs, with associated costs for individuals who have experienced catastrophic injury or have chronic health care needs.”

A life care plan is a comprehensive method to evaluate and manage your life utilizing all necessary services and resources. For a successful Life Care Plan, we must have an understanding of your long-term health care goals and needs. Our practice must be knowledgeable about community resources and eligibility for these resources. Additionally, we must be able to identify and develop alternatives for care consistent with patient/family needs. A Life Care Plan represents the integration of these issues to meet your individual needs and goals.

Like most people, individuals want to be able to plan for their future. To do so means they and their family must understand and be able to anticipate future needs of long-term care and any costs associated with it. The Life Care Plan can provide an organized report that identifies individual needs and goals.

Planning Goals

We help you develop and implement the three principal goals of Life Care Planning:

- Your Life Care Plan is focused first on your or your loved one's good health, safety, and well-being. We ensure that you or your loved one gets good care, whether that care is at home or outside the traditional home setting such as an assisted living facility or nursing home. This is the most important of all goals, for it goes to the very heart of your quality of life.
- We assist you in making decisions with your long-term care needs and goals in mind. We are your resource of experienced, supportive, knowledgeable, and objective and independent advisors.
- We help you find sources to pay for good long-term care. We work with you through the maze of solutions to pay for quality long-term care and protect your assets.

Answer to Your Questions

The Life Care Plan will help you answer many questions you may have:

- What long-term care services are available to me? How can I get the good care I need and desire, whether in your own home, in a residential community or assisted-living facility, in a child's home, or in a nursing home?
- How will financial and health care decisions be made for me if I cannot make them for myself?
- If I can't take care of myself, how will I make sure my spouse continues to have a good quality of life?
- Do I have to spend all of my money on the nursing home? How can I protect my assets to take care of my spouse, to ensure I get good care in the nursing home, or to leave to my children?
- Who can I rely on to make sure that decisions to be made are the right ones?
- How do I assure my financial security as I get older?
- What public benefits am I entitled to, and what do I have to do to qualify for them?
- Should I rely on Medicaid or other government benefits to help pay for my care? How do I apply for benefits?

- What kinds of insurance policies do I need? Should I buy long-term care insurance? Should I join a Medicare HMO?
- How and when should I distribute my assets? Can I save taxes and avoid probate?
- How do I provide for family members with special needs?

Your Life Care Plan is customized to fit your desires, needs and goals. Your Life Care Plan includes all necessary legal documents, consultations, and other services, including the services of our life care managers, necessary to implement your "Roadmap for Life."

What is a Life Care Manager?

How can a Life Care Manager help with our concerns about our loved one? Will the Life Care Manager help us understand how the long-term care system works? Will they know about community resources? Can the Life Care Manager help us understand how long-term and health care services for our loved one are accessed and funded? Can they help the people who work with our loved one work together as a team?

Your Life Care Manager

A Life Care Manager is a professional, such as a social worker, counselor or nurse who specializes in assisting aging people and their families attain the highest quality of life given their circumstances.

A Life Care Manager will:

- Conduct an assessment regarding your stage in life.
- Assist to solve problems or concerns.
- Identify in-home help or other services, if required.
- Identify specialists who would provide appropriate care while conserving financial resources.
- Provide support, guidance, and advocacy.
- Help coordinate the transfer from home to a retirement complex, assisted living facility, or nursing home.
- Prepare and guide clients and families through the Medicaid application process.

What Does This Mean to You?

As a part of their Life Care Plan, a Life Care Manager is assigned to help our clients and their families with their long-term care concerns. At the The Law Office of David Wingate PC, your Life Care Manager functions as the point of contact for the family and assists in coordinating services to help you take care of your loved one.

Your Life Care Manager has extensive knowledge about the costs, quality, and availability of resources in the community. As our families begin their journey through the long-term care system, it is helpful for them to have a supportive and knowledgeable advocate to accompany them along the way.

Steps to Take in Advance of Death or Disability

No caregiver wishes to face the fact that our loved ones will not be with us forever or contemplate a time when a loved one might become disabled. What happens if the senior becomes mentally ill? If something happens to the caregiver, who will look after the senior's affairs? Most people wait until someone in the family dies or are diagnosed with an irreversible illness. Sometimes, it is often too late to ensure that the senior's wishes can be carried out. Therefore, you need to take time to plan their estate before a crisis situation arises. There are many steps caregivers can take in advance of death or disability to avoid future conflicts or uncertainties.

Don't be afraid to start the conversation. Whether you are talking to your spouse, or an adult child talking to an aging parent, bringing up the topic of death and disability can be difficult, but it is an important conversation to have.

Plan for the worst. You need to be prepared in the event that one of your loved ones becomes disabled and will no longer be able to make their own decisions. They require a minimum of three estate planning documents: an Advance Directive and Appointment of a Health Care Agent, a Durable General Power of Attorney, and a Will and/or a Trust.

The Advance Directive (“Living Will”) enables health care decisions before certain conditions arise, such as, end stage condition or a vegetative state. These decisions may include whether to withhold or withdraw life-sustaining treatments. By appointing a Health Care

Agent, this person can attend to your loved ones medical affairs if they are incapacitated. On their behalf, the Health Care Agent can make choices, such as, living environment, physicians, and, if necessary, to withdraw treatment. The powers of the Health Care Agent are significant. Therefore, choose wisely.

A Durable General Power of Attorney gives authority to one or more persons to conduct personal financial affairs when you are mentally incapacitated. These financial affairs may include banking transactions, purchases, sales, investments, litigation, retirement benefits, and so forth. A Power of Attorney is relatively inexpensive and uncomplicated to establish and maintain and does not entail mandatory court oversight.

Lastly, is for the management and distribution of property after death. A legally drawn will can adequately provide for the administration of a simple estate. However, a Will requires the estate to be probated, which can tie up assets, in excess of nine months. By creating a Revocable Trust, you eliminate the probate process, allowing assets to be distributed immediately to the beneficiaries. Also, in the event of a serious illness or injury, a Revocable Trust can ensure that funds are available to pay for ongoing expenses and medical care. In addition to the Revocable Trust, there are other types of Trusts such as those that are used to reduce federal estate taxes, provide for disabled loved ones, and protect your assets in situations involving Medicaid.

Make sure your loved ones draw up a list to help your personal representatives (executors) and/or trustees carry out their plans. The list should contain information on the location of assets, such as bank accounts, property, and stocks and bonds; the location, keys, and passwords to any safe deposit boxes; the identity of important professionals who might have information about their estate; and the location of important records, such as loan, insurance, and tax documents.

Determine your loved ones' wishes regarding funeral arrangements. You may want to pay for their funeral ahead of time to take the burden off the family. Additionally, figure out who is going to get what personal property and heirlooms. Preparation and planning in advance can avoid family squabbles after your loved ones die.

Guardianship

If your loved one does not have a Durable General Power of Attorney and/or an Advance Directive and Appointment of a Health Care Agent and are unable to care for themselves, by reason of impaired judgment or capacity, or they pose a major threat to their own welfare, then a

Guardian will be appointed. This is a costly and lengthy process that should be avoided. Guardianship is a legal relationship, whereby, the Court determines that an individual is unable to care for themselves and gives a person (the guardian) the power to make personal and financial decisions for the senior. Unless limited by the court, the guardian has total control over the finances and the personal decisions of the senior. This includes deciding where the senior will live, determining how the senior's funds will be spent and making routine medical decisions for the senior. For medical decisions involving extraordinary medical care, the administration of anti-psychotic drugs, commitment to a mental health facility or the sale of the senior's real estate, the guardian has to seek the approval of the court in a separate proceeding. In addition to those concerning authority to consent to medical treatment, the guardian must account carefully for all of the senior's income and any expenditures made on their behalf. This is accomplished by the guardian filing an inventory listing the senior's assets with the court as of the date of appointment and by filing annual accounts with the court detailing all the income and expenses the senior has. A final account must be filed when the guardianship is terminated. The guardian is liable for their acts until the court approves the account.

Medicaid Changes

Like millions of other caregivers, you are facing challenging decisions dealing with changes as your loved ones age. The aging process can be complex and confusing, whether it's coordinating with services to keep your loved ones in their homes or government agencies, such as Medicaid and Medicare. President Bush signed into law the Deficit Reduction Act of 2005. The Deficit Reduction Act of 2005 (DRA) places new restrictions on the ability of the elderly to transfer assets before qualifying for Medicaid coverage of nursing home care. This means it is more difficult to qualify for Medicaid benefits.

This new law extends Medicaid's "lookback" period for all asset transfers from three to five years. Additionally, the start of the penalty period for transferred assets changes from the date of transfer, to the date when the individual, transferring the assets, enters a nursing home, and would otherwise be eligible for Medicaid coverage. In other words, the penalty period does not begin until the nursing home resident is out of funds i.e. cannot pay the nursing home. Consequently, any transfers should be made carefully, with an understanding of all the consequences. Anyone making asset transfers should consult with an elder law attorney.

Because if you apply for Medicaid before the five-year lookback period elapses, the senior could ultimately be penalized, even longer than five years, depending on the size of the transfer.

The law also makes any individual with home equity above $500,000 ineligible for Medicaid nursing home care, although states may raise this threshold as high as $750,000.

How Much Long-Term Care Insurance Coverage Is Enough?

One in three people over 65 will need nursing care. Neither private health insurance, Medicare, nor your Medicare supplement will pay for long-term “custodial care” or help with mobility, when it is the only type of care you need.

Long term care insurance ("LTC") plans can pay for skilled, intermediate, or custodial care, including “homemaker services”--cooking, cleaning, shopping, laundry, etc.--wherever the care setting is appropriate. LTC plans reimburse custodial care expenses incurred in your own home, someone else’s home, assisted living facilities, adult day care, or nursing homes. In addition, some plans will pay non-licensed individuals--even adult children in some cases--to help with home care for a parent or loved one. Policies that pay only for care in a facility, or only for home care, are also available.

Most LTC insurers require a health review. Each company has different medical underwriting criteria. They can choose to offer coverage, or not, depending on an applicant’s health history. Applicants with health challenges should consider applying to two companies, particularly when an upcoming birthday could increase the cost of coverage. When health is an issue, submitting an application is the only way to verify insurability.

The risk of long-term care and its potential financial impact must be considered for complete financial and estate planning. LTC plans that pay for care at home are an excellent way to help the senior stay in their home. By integrating individually designed LTC insurance into estate and financial plans, and without breaking the bank, you take a large step toward achieving your loved one's financial and personal goals

Reverse Mortgages: Money From Home

Under our “system” of paying for long-term care, you may be able to qualify for Medicaid to pay for nursing home care, but in most states there’s little public assistance for home care. Most people want to stay at home as long as possible, but few can afford the high cost of home care for very long. One solution, which is growing in popularity, is to tap into the home equity. If your loved one owns a home and they are at least 62 years old, they may be able to receive money to pay for home care (or for anything else) by taking out a reverse mortgage. Reverse mortgages, financial arrangements designed specifically for older homeowners, are a way of borrowing, that transforms the equity in a home into liquid cash without having to either move or make regular loan repayments. They permit house-rich but cash-poor seniors to use their housing equity to, for example, pay for home care while they remain in the home, or for nursing home care later on. The loans do not have to be repaid until the last surviving borrower dies, sells the home or permanently moves out.

In a reverse mortgage, the homeowner receives a sum of money from the lender, usually a bank, based largely on the value of the house, the age of the borrower, and current interest rates

Although it is often assumed that an elderly person would want to use the funds from a reverse mortgage loan for health care, there are no restrictions--the funds can be used in any way. In addition, a reverse mortgage cannot be taken out if there is prior debt against the home. Thus, either the old mortgage must be paid off before taking out a reverse mortgage or some of the proceeds from the reverse mortgage used to retire the old debt

Senior Medical Debt Increasing

Americans are living longer. A 65-year old retiree can expect to live another 20 years. Male life expectancy is about 81 years, and female life expectancy is about 85 years. However, as we age we experience an increase in our personal healthcare spending. Consequently, medical debt for seniors is and is going to continue to be a major problem for seniors.

Unfortunately, seniors are in a vulnerable position when they seek medical services. The products they seek are essential and often life saving. Purchases are often sudden and unplanned, which may bring large financial burdens. Seniors can experience high levels of medical debt even on Medicare. Nearly all Americans over 65 have Medicare as their primary source of health insurance coverage. However, Medicare covers mostly acute care services and requires seniors to pay part of the cost, leaving about half of health spending of seniors to be covered by other sources, such as Medigap, etc.

Practice Tips on Dealing with Medical Debt:

- Do your homework!
- Do you actually owe the alleged debt?
- Do you have medigap or other health insurance to cover the alleged debt?

- Was your insurance claim denied? If so, why?
- Identify the services allegedly provided for the amounts charged.
- Are there any other sources of payment? Other sources of insurance? Other sources of payment: former employer, divorced or separated spouse, veterans administration, automobile insurance if automobile related. Local or national organizations sometimes offer treatment subsidies.
- Negotiate settlement with the creditor. Approach hospital or other provider for reduction in amount owed – ask for sliding scale. Hospitals, etc. are more inclined to accept reduced amount rather than you filing bankruptcy, which completely discharges the medical debt.
- File for Bankruptcy. Upon filing a petition in federal court seeking protection from creditors, the court assumes legal control of the debtor’s assets and halts the collection efforts. At the conclusion of the bankruptcy, you may be free from most debt.

What To Do When a Loved One Passes Away

The emotional trauma of losing a loved one often comes with a bewildering array of financial and legal issues demanding attention. The personal representative (executor) of the will should secure the tangible personal property, meaning anything you can touch such as silverware, dishes, furniture or artwork. Then, take your time – while bills need to be paid, they can wait a week or two without any real repercussions. It’s more important that you and your family have time to grieve. Financial matters can wait.

The key actions necessary to administer the estate are:

- File the will.
- The Personal Representative ("PR") will be appointed, who will:
- Collect the assets. The PR needs to find all the assets and file a list or inventory with the court.
- Pay the bills and taxes. If an estate tax return is due, it must be filed within nine months of the date of death.
- File an account with the court listing any income to the estate since the date of death and all expenses and estate distributions.
- Finally, distribute property to the heirs.

Conclusion

Your goal is to have your loved one live well and as independent as possible and have them feel more secure, with an enhanced quality of life, which allows you to feel more secure and have peace of mind. You may need guidance and support through the continuous aging process, so your loved one can get what they need, when they need it. Therefore you need a Life Care Plan to provide a strategy for managing your loved one's life utilizing all the necessary services and resources available in the community. Based on a thorough understanding of your parents' long-term health care needs and goals, a Life Care Plan can provide recommendations for care regarding residency and personal life style.

It is advisable that you take action before a crisis hits your family. Good care is costly, but inadequate care can be devastating. Therefore, a disastrous long-term care experience does not have to happen to your loved one. A Life Care Plan must balance ongoing developments with your loved one's income, assets, family, federal and state programs, health care strategies and funding, and long-term care strategies and funding.

Whether your loved one chooses to stay at home so they can age in place, or choose independent living or an assisted living facility, or have to go to a nursing home, the Life Care Plan can help them. The life care planning strategies increase the vitality of your loved ones and provide relief to you.

If you would like further information, or would like our free report "Caregiving for Someone With Alzheimer's….real world strategies that work", please call our office at 301 663 9230 or go to our website www.davidwingate.com