Helping your loved one

get the long term care they need

while legally protecting your family's assets

Brought to you as a service of:

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CONSUMER'S GUIDE TO LONG TERM CARE PLANNING AND ESTATE PLANNING

Veterans Aid & Attendance Benefits Qualification
Medicaid Benefits Qualification

The Common Sense Elder Law Firm-2012

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- Preparation of Wills, Trusts and Powers of Attorney
- Estate Planning
- Estate Administration
- Planning for Parents of Children with Special Needs
- Trust Administration
- Life Care Planning
- Medicaid Qualification Planning
- VA Benefits Qualification Planning
- Medicaid Applications and VA Benefit Applications

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"Every day we help families extend and protect the assets they have spent a lifetime accumulating."

Preface

This booklet, *The Consumer's Guide to Long Term Care Planning and Estate Planning* is designed to provide information and answers to some of your questions on the challenges families face as their parents age.

When a family member can no longer care for himself . . . or has a progressive disease like Alzheimer's or Parkinson's . . . or has had a stroke or heart attack . . . the family is under great stress.

When the family learns the cost of long term care the stress becomes even greater.

We hope the information in this guide provides some peace of mind when you learn there may be options for your family to protect the assets they have spent a lifetime accumulating.

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TABLE OF CONTENTS

1. **INTRODUCTION**

    What do Elder Lawyers do?

    Defining "Long Term Care Estate Planning"

    Why people are so concerned?

2. **THE 5 WAYS TO PAY FOR LONG TERM CARE**

    Medicare

    Long Term Care Insurance

    VA Benefits

    Medicaid

    Private Pay

3. **ESTATE PLANNING – THE BASICS**

    Why Have an Estate Plan?

    Powers of Attorney

    Wills

    Trusts

    Living Wills

    Life Care Planning

4. **ALTERNATIVES TO NURSING HOME CARE**

5. **PAYING FOR YOUR FUNERAL**

CHAPTER 1
INTRODUCTION

As we age, we face change. Change can be in the physical or mental abilities of a family member or loved one. As we age, the care needs change. The decision to move a family member or loved one into an assisted living facility or to a nursing home is one of the most difficult decisions a family has to make.

However, if a family member can no longer care for himself or herself or if a family member develops a progressive disease like Alzheimer's or Parkinson's it makes a change in the living circumstances inevitable.

Any time a family faces change such as this they are put under great stress.

At times like this it is important to pause, take a deep breath and understand that there are things that you can do. Good information is available to help you make the right choices for you or your loved one. This booklet is designed to help provide you with information and answers to some of the questions and issues that you will encounter. These questions are what elder law attorneys deal with on a daily basis.

Many of our clients have found this guide to be a valuable resource and we hope you will find it helpful as well. Over the next several pages you will read explanations about both long term care planning and estate planning. You will get a brief summary concerning some of the more commonly used documents that are used to complete the process and we will discuss techniques people can use to maintain control of their assets and how to protect those assets in the event of an extended long term care stay.

The most important concept you can learn from these materials will be how to best assure that your property passes at your death in accordance with your intentions. No one knows better than you what you want to accomplish.

After reviewing this guide and completing the plan that you want to accomplish you will have something that money cannot buy—peace of mind—knowing that you have done everything you can for those you care about.

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What do Elder Lawyers Do

Elder lawyers are legal specialists who help families deal with issues unique to an aging population. Most of the time these issues pertain to helping a family pay for long term care costs while preserving assets so that those assets that they have spent a life time accumulating can be distributed to members of their family as they wish.

Most elder lawyers belong to the National Academy of Elder Law Attorneys (NAELA). NAELA members seek to be the premier providers of legal services to people as they age.

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Defining "Long Term Care Estate Planning"

Long term care estate planning is really a two part process. Most people understand that estate planning covers what happens to your assets <u>if you die</u>. Long term care planning, however, is planning for what happens to your assets <u>if you live</u> or require a stay in a long term care or assisted living facility. The goal of long term care estate planning is to protect your assets as much as possible so that your money is extended as far as possible should you or your spouse ever need assisted living or long term care.

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Why People are So Concerned

"The greatest threat to the financial security to middle-Americans

isn't a bear market, but an extended stay in a long term care facility." This is according to *<u>Kiplinger's Personal Finance Magazine</u>*, March, 2009. Four out of ten people who turn 65 will at some point in their lives need to be in a nursing home and seven out of ten Americans who reach age 65 will need some form of in-home care before they die.

Our life expectancies keep increasing and many people have lost 30 to 40 percent of their retirement savings in the recent market down turn. People are now worried about running out of money. Daily, we hear news reports about the financial strains on Medicare and Medicaid and as of January 2008 the Baby Boomers began to turn 62 which further puts a strain on these programs as more and more people reach retirement age.

According to *<u>The MetLife Market Survey of Nursing Home and Home Care Costs</u>*, October, 2011, the national average for a semi-private room in a nursing home is $198 per day or $72,270 a year. The national average monthly cost for an assisted living facility is $3,131 per month or $37,552 per year. In southern Illinois it is not quite as high but the average rate is $168 per day or $61,320 per year and the average assisted living cost is $2,661 per month or $30,740 per year.

According to the same survey, the average stay for each person who enters a long term care facility is 2.4 years. That means that an average family having an average stay in a nursing home in southern Illinois is going to spend $150,000 for 2.44 years of long term care costs.

That's why people are concerned!

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KEY POINT #1

An experienced elder law attorney can show you options to pay for care and protect your assets for your spouse and your children. A small investment in advanced planning today could mean hundreds of thousands of dollars in savings in the future.

CHAPTER 2
THE 5 WAYS TO PAY FOR LONG TERM CARE

Under our current system there are 5 ways to pay for long term care. Those 5 ways will be discussed in this chapter.

1. **Medicare.** Medicare does pay for some long term care costs but it is only a short term solution.

In order for Medicare to cover long term care costs, a person must go into a long term care facility after at least a 3 day hospitalization. A doctor must certify that the person needs skilled nursing care and in order for Medicare to continue paying for the care, the person must be improving because of the skilled nursing care.

At most, Medicare will pay for 100 days of skilled nursing care. That is just barely over 3 months. Medicare is usually only a solution for rehabbing from the condition that caused the 3 day hospitalization.

2. **Long Term Care Insurance**. More and more seniors are using long term care insurance because the products have improved and the cost of the policies has gone down. If you can afford the premiums and you are insurable, the best solution to protect against significant long term care costs is long term care insurance. Most policies issued today cover home care and assisted living as well as nursing home care.

A good long term care policy is a means of leveraging money and transferring risk.

By leverage we mean this. If you paid $1,500 per year for 20 years for the premium on long term care insurance, you will have paid $30,000 for the coverage over the 20 year period. If after the 20 years you have to go into a nursing home that costs $5,000 per month, you will have recouped all of the money you spent on the premium in just 6 months. Here are some things to keep in mind when shopping for long term care insurance:

* Make sure the policy covers the cost of in-home care and assisted living care;
* Purchase at least 3 years but ideally 5 or 6 years of coverage;
* Make sure you fill out the application for insurance truthfully so coverage will not later be denied;
* Purchase your insurance from companies rated A or A+ by services that rate insurance companies;
* Get quotes from multiple companies before making a decision;
* If you cannot afford insurance for both spouses, buy for the healthier spouse or the spouse likely to live the longest. (Sorry guys, it is usually the women.);
* Check with your tax preparer to see if your long term care insurance premiums are deductible;
* Consult with an experienced long term care insurance agent.

Because there are so many alternatives and options in long term care insurance policies, most insurance agents do not effectively handle long term care insurance. In fact, if you looked in your local phone book under "insurance agents" you will find more agents who advertise that they sell boat insurance or ATV insurance than who advertise they sell long term care insurance.

Most experienced elder law attorneys know which insurance agents really know their stuff in the long term care insurance field. As part of our practice, we can get quotes for you so you can determine whether a policy is affordable. We can also refer you to an insurance agent in your area who we have found has the experience and knowledge to explain your options and get you good quotes from top companies.

3. **Veteran's Administration Benefits**. VA Aid & Attendance Benefits are available to a veteran or a widow of a veteran to help pay for

the cost of in-home health care, assisted living care and nursing home care. This is a tax-free pension benefit if the veteran qualifies. Most veterans or their widows do not even know this benefit exists.

Basic eligibility criteria:

- The veteran must have served 90 days of active duty with at least one day of service during a designated war time period;
- The veteran must have received a discharge that is other than dishonorable;
- The claimant must have a limited **net** income and limited **net** assets. (Our office can show you whether you can qualify under these criteria);
- The recipient cannot be driving and be in need of assistance with at least 2 of the activities of daily living such as meal prep, transportation, supervision, toileting, dressing, etc.
- The veteran or the widow must sign an application and provide the application to the Veteran's Administration.

In order to be considered an eligible veteran the defined war time periods are as follows:

World War II	December 7, 1941 – December 31, 1946
Korea	June 27, 1950 – January 31, 1955
Vietnam	August 5, 1964 – May 7, 1975

The monthly benefit can be quite substantial. The following is the maximum monthly benefit allowed in 2010:

Veteran alone	$1,703
Veteran with spouse	$2,019
Surviving spouse of veteran	$1,094
Well Veteran/ Ill Spouse	$1,337

The benefits are paid directly to the veteran or their spouse and not to their residential community. The payments are retroactive to the date of application and the payments received are tax-free.

Frequently Asked Questions for VA Benefits

Do all veterans qualify for the Aid & Attendance pension benefit?

Answer: No. Only those veterans or their surviving spouses who meet the Department of Veteran Affairs eligibility criteria.

What is the eligibility criteria that a claimant must meet to receive Aid & Attendance Benefits?

Answer: Veterans either alive or deceased, must have served 90 days active duty, with at least one of the 90 during a qualifying war time period and must have had an "other than dishonorable discharge". In addition, the claimant must meet specific income and liquid asset tests, be in need of personal assistance from another, and generally be certified as house-bound by his or her doctor.

If I qualify for benefits, what kind of assistance can I receive?

Answer: This benefit is designed for those who need assistance with activities of daily living such as medication monitoring, bathing, dressing, meal preparation, laundry, light housekeeping, shopping, respite care, etc.

If I qualify for benefits, where can I receive my care?

Answer: The benefits can be used to pay for assistance in your home or at an assisted living facility or in a nursing home facility.

What is VA benefits planning?

Answer: VA benefits planning is the legal process of structuring assets in a way that is permissible under the Veteran's Administration

rules. The goal of planning is to get the veteran or his widow below the net asset limits so that they may qualify for the pension earned by the veteran for serving our country during war time.

What if I have too much in assets or too much income?

Answer: An experienced elder law attorney, certified by the VA, can show how you can follow the rules and lower your income for VA purposes and make other assets non-countable so you can qualify for benefits.

Fees for Assistance. Attorneys may charge a pre-filing consultation fee to assess whether a person may be eligible for benefits through the VA. (Here at Common Sense Elder Law we do not charge for a pre-filing consultation to determine if you are eligible for benefits. Call us to see if you may qualify.) An attorney may also charge for document and Trust work designed to make a veteran or their spouse eligible for this Aid & Attendance Benefit. However, no one can charge to assist with the preparation of an Aid & Attendance VA application. Since June of 2008, attorneys and other advisors of veterans must be accredited by the VA before they are allowed to provide assistance with a VA application.

4. **Private Pay**. The fourth way that people pay for long term care costs is the most common way and that is people pay privately out of their income and savings until they reach the countable asset limit when Medicaid kicks in. People have spent literally hundreds of thousands of dollars that could have been saved with proper Medicaid planning.

Medicaid planning is the legal process of structuring assets in a way that is permissible within the State's Medicaid rules. The goal of the planning is to maximize non-countable or exempt assets. Many people believe that all of a person's assets must be gone before applying for Medicaid benefits. This is NOT TRUE!

For those people who do not have long term care insurance or who are not eligible for the VA Aid & Attendance Benefits or who cannot afford to pay the high cost of long term care out of pocket indefinitely, Medicaid becomes the primary source of funding for nursing home care. Some

people have termed Medicaid the long term care insurance for the middle class.

5. **Medicaid**. Medicaid is a joint Federal-State program. Each State operates its own Medicaid system and must conform to Federal guidelines in order for the State to receive the Federal money which pays half of the State of Illinois Medicaid costs. The State picks up the rest of the tab.

The Medicaid eligibility rules are similar from state to state but there are minor differences. Further, the Federal Government and the States seem to be continually tinkering with the eligibility requirements and restrictions. This most recently occurred with the Deficit Reduction Act of 2005 (the DRA) which became law on February 8, 2006 and significantly changed the rules governing on how asset transfers were treated and how a person's home was treated. Illinois adopted new rules effective January 1, 2012.

As the population ages and the burden of caring for our senior residents becomes greater, it is expected that the rules will continue to change. Thus, something that may work today as a Medicaid planning technique may not be available in 3 months, 6 months or a year down the road.

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Medicaid Planning

When an elder lawyer does Medicaid planning they are attempting to structure assets legally so that the maximum amount of assets allowable under law are deemed non-countable for Medicaid purposes. While the asset limits have gotten more restrictive over time, there are still a number of acceptable methods of making assets non-countable for Medicaid purposes. These methods include: raising the income for the stay-at-home spouse with a Medicaid qualified annuity; obtaining a prepaid funeral or a Funeral Expense Trust; upgrading or increasing equity in the home; placing assets into qualified irrevocable trusts; entering into Care Contracts; prepaying allowable expenses and making allowable purchases. There are other examples but these are the main ones.

These Medicaid planning techniques survived the last changes to Medicaid qualification but we expect that the next time some previously allowable strategies will be banned. Only time will tell.

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Why Seek Legal Advice for Medicaid Planning

As life expectancies and long term care costs continue to rise, the challenge quickly becomes how to pay for these services. Many people cannot afford to pay $5,000 per month or more for the cost of a nursing home and those that can pay for awhile may find their life savings wiped out in a matter of months rather than years.

The reason to seek advice for Medicaid planning is simple. First, you need to provide enough assets for the security of your loved ones—they too may have a similar crisis. Second, the rules are extremely complicated and confusing and likely to change in the not-too-distant future. The result is that without planning and advice, many people spend much more than they should and their families' long term security is jeopardized.

To understand how Medicaid works, we first need to review what assets are countable and what assets are non-countable. In general, the following assets are exempt or <u>non-countable</u>:

- Home (equity up to $786,000). The home must be the principal place of residence. The nursing home resident may be required to show some "intent to return home" even if this never actually takes place. (The home would still be subject to a lien without planning.)
- Personal belongings and household goods.
- One car or truck.
- Burial spaces and prepaid funerals up to $10,000

- Cash value of life insurance if $1,500 or less.
- $2,000 in countable assests

All other assets are generally countable. All money and property not listed above is a countable asset.

<u>Countable</u> assets include:

- Cash, savings, and checking accounts, credit union share and draft accounts.
- Certificates of Deposit/ Savings Bonds
- Individual Retirement Accounts (IRA), Keogh plans (401K, 403B).
- Nursing home accounts.
- Prepaid funeral contracts which can be canceled.
- Assets in Revocable Living Trusts.
- Real estate (other than the residence).
- More than one car.
- Boats or recreational vehicles.
- Stocks, bonds, or mutual funds.

While the Medicaid rules themselves are complicated and tricky, it is safe to say that a single person will qualify for Medicaid as long as the countable assets are $2,000 or less in Illinois or $999 or less in Missouri.

For married couples, the countable asset limit in 2012 is <u>$113,640.</u> The Community Spouse is the spouse who stays at home. The Community Spouse also gets to retain a monthly income. In 2012 the Maximum

Monthly Maintenance Needs Allowance is $2,841 for the Community Spouse. Planning makes sure the standard of living of the stay at home spouse is protected.

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Medicaid Planning for a Single Person

If it becomes necessary for a single or a widowed person to go into long term care and the person does not have long term care insurance nor is a veteran or a widow of a veteran, then their only option is to private pay until their "countable" assets are down to $2,000 in Illinois or $999 in Missouri. The goal of Medicaid planning for a single person is to maximize their non-countable assets so that everything is not lost and to protect assets for the family if it is possible.

For a single person the non-countable or exempt assets are their home, a car, a prepaid funeral or Funeral Expense Trust, life insurance with a cash value under $1,500 and their personal property and household goods. Pretty much everything else is countable. However, all is not necessarily lost. Even if a person is already in a nursing home we can save a significant portion of the remaining countable assets.

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How Medicaid Works for a Married Couple

Medicaid planning for a married couple is similar to a single person though there are some very important differences for that couple. We refer to the spouse that has to go into the nursing home as the ill spouse and the spouse who stays in the home as the Community Spouse. With a married couple, the Community Spouse is allowed to retain $113,640 of countable assets in 2012. The Community Spouse is also able to retain a sum up to $2,841 in monthy income as what is referred to as the Maximum Monthly Maintenance Needs Allowance in 2012. The non-countable and countable assets are classified the same.

When planning for a married couple we want to maximize the

income of the community spouse and make sure that the community spouse has sufficient assests to last for the rest of their life.

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The Penalty Period Explained

After the Deficit Reduction Act of 2005, signed into law on February 8, 2006, was enacted, the rules changed dramatically on how assets could be given away. The look back period which had previously been 3 years was now 5 years. The start date of the penalty period instead of being the month following the gift was now when a person became "otherwise eligible" for Medicaid benefits. Thus, it was very possible under the old law that money could have been given to children that would have created a penalty but that penalty expired before the person ever had to go into long term care or before they ever applied for Medicaid benefits. Today, the penalty period does not even start until the person has reached the spend down limit.

According to the Deficit Reduction Act, any transfer of assets for less than fair market value that is done within 5 years of a person applying for Medicaid can and likely will create a penalty period. The penalty period is determined by dividing the amount of the transfer by the monthly cost of the facility which the person is entering to determine the number of months for which Medicaid will not pay.

WARNING: If you have given away any assets in the last 5 years you must see an older law attorney to see how you can limit the penalty period.

Things to Remember

It's Never Too Late

Medicaid planning can begin anytime, evenif your loved one is already living in a skilled care facility. But the sooner you plan, the more options you will have to protect what's important to you.

You Can Keep Your Home

If you're married, and you and your spouse need to go into a nursing home, your home is exempt from Medicaid's calculations of what your

contributions to the cost of care should be. If you are unmarried or widowed, and you go into a nursing home, your house may be exempt if you follow certain procedures. Even though your house is safe while you reside in a nursing home, it will likely be lost to Mediciad after your death. Planning is key to preserving your home whether married, single or widowed.

Don't Give Away the Store

Since major changes to laws in 2006, "gifting" away your assets creates unforeseen circumstances and can make you ineligible for Medicaid benefits for 5 years or more! Far from protection yourself, you will be undermining your own security.

Mind Those Safe Harbors

Congress has created a number of "safe harbors" provisions for protecting your assets. These provisions exempt certain assets and allow transfers to children or siblings, who meet certain eligibility requirements, as well as putting assets in certain kinds of trusts.

Carefully Choose When You Apply

Applying too warly can mean a longer wait for Medicaid qualifications than necessary, while applying too late can mean having to pay for months of care you may not have had to pay. ***Rule of thumb: Do not apply for Medicaid without a plan to ensure you qualify.***

Get The Right Help

Medicaid planning is a complex matter. You need expert assistance to keep your assets safe. Be sure to find legal counsel who limits their practice to this area-someone with proven expertise in Medicaid law.

RULE OF THUMB:

Do not apply for Medicaid without
a plan to ensure you qualify.

Frequently Asked Questions – Medicaid

I have added my kids' names to my bank account. Is that bank account still countable?

Answer: Yes. The entire amount of the bank account is countable unless you can prove some or all of the money was contributed by one of the children on the account. This rule also applies to investment accounts, Certificates of Deposits, Savings Bonds, real estate etc.

Is it too late to see an elder law attorney if mom is already in a nursing home?

Answer: If mom is already in a nursing home your options are less but there are still things that can be done to protect some of her assets. You can still protect assets in most cases.

Can't I give my children $13,000 per year without consequences?

Answer: This question comes up frequently. The $13,000 per year gift is what the Federal Tax Law permits for a person to give away to a person without having to do a gift tax return. It has nothing to do with Medicaid eligibility. A $13,000 gift made during the five year look back period will create a penalty.

How do I determine if my attorney knows the rules for qualifying for Medicaid benefits?

Answer: The easiest answer is to ask them directly. Ask the attorney if they have ever prepared a Medicaid application or appeared at a Fair Hearing. A Fair Hearing is an administrative appeals hearing done if an application or part of an application has been rejected or questioned. Another method would be to check the website www.naela.org which lists attorneys who are members of the National Academy of Elder Law Attorneys. If your attorney appears on that list, then the chances are very good that he will be well versed in Medicaid planning.

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KEY POINT #2
Both Medicaid planning and Veteran's Aid & Attendance Benefit planning allow a family to legally qualify for long term care benefits without spending all their assets and losing their home.

CHAPTER 3
ESTATE PLANNING – THE BASICS

In Chapter 2 we talked about long term care planning. The goal was to extend assets as far as possible and try to protect those assets as much as possible for distribution after a person dies. Estate planning is primarily concerned with what happens with your assets after you die.

If you do not have an estate plan, your assets will be distributed according to the plan the State has instituted under the laws of "intestacy". In other words, if you do not have a plan, the State makes a plan for you. Most people would prefer that their own plan be carried out than by someone else's plan.

In this Chapter we will give you a brief summary concerning some of the more common documents used in the estate planning process. The important concept that you can gain from this information is understanding how to best assure that your property passes at your death the way you want it to. Remember, this is your money and you are under no obligation to save your estate for your children. However, if that is what you want to do, an estate plan is the best method to make sure that your wishes are followed.

Once you have put a plan in place you will experience the peace of mind knowing that you have provided for those you love in the best way possible.

Last Will and Testament – This is the document which outlines who is to receive your estate (assets) after your death. The property that passes by way of a Will does so through the probate court in the county where you lived unless you own no real estate and your net estate is small enough that it can pass by virtue of a Small Estate's Affidavit. Remember,

because you have a Will does not mean that your estate will avoid probate.

If you have minor children, a Will is also very important because you can designate and appoint a guardian for your minor children and you can spell out how your assets will be distributed to your minor children and at what age they will receive their share of your estate.

A Will can also be used for you to designate certain items of personal property to go to certain people.

Living Will – A Living Will has nothing to do with the distribution of your property after you die. A Living Will is a written document that allows a person to control the decisions related to their own medical care in the event of a terminal condition. This is also known as a medical directive. In a Living Will or a medical directive, a person with an incurable and irreversible condition can discontinue medical procedures which only prolong the dying process.

Durable Power of Attorney – Property – A very important document that you use to appoint someone you trust to manage your business affairs when you become unable to do so for yourself. This document does not replace you as a decision maker but appoints somebody who can act for you when you have become incapacitated and can no longer do so yourself. This Power of Attorney can be narrow or it can be very broad, depending on your preference.

Durable Power of Attorney - Healthcare – Another very important document that you use to appoint someone to make medical and healthcare decisions for you when you cannot do so for yourself. In Missouri it is common that these two different Power of Attorney documents are combined into one document but in Illinois they are usually two separate documents.

Trusts—Many different types for many different purposes.

■ The most common Trust document that people refer to in conversation is a Revocable Living Trust. It is a preferred method to avoid the time and expense of probate and a method for the management of assets while you are alive if you become aged or disabled. You may act as

your own trustee and appoint your successor and in a Revocable Living Trust you retain the right to make changes as long as you are legally competent. Trust documents can provide for a corporate trustee, like a bank, to administer the Trust and handle the investments.

- Irrevocable Trusts. Irrevocable Trusts are usually set up for asset preservation or for estate tax purposes. Irrevocable Trusts are frequently used in Medicaid planning and in VA Benefit planning to fit the rules to qualify for those programs.

- Life Insurance Trusts and Charitable Remainder Annuity Trusts are also Irrevocable Trusts used by clients to not only save estate taxes but to build wealth for a family. Explanations of these techniques is beyond the scope of this pamphlet.

- Trusts can also be created in a Will for the management of assets for minor children or for adult children who have special needs. They can also be created to protect assets for children who may not be able to handle money and can even be created for the care and welfare of pets.

The next two documents can be part of an overall estate plan to apply when a senior is alive. They are defined here because of the tremendous advantage they can provide to a family long term.

- **Care Contracts**. Care Contracts legally transfer assets to a child or a grandchild for providing care to a senior that allows the senior to remain in their home longer than would otherwise be possible. To be valid, a Care Contract must be in writing and spell out the way the payment is calculated and the services to be provided.

- **Life Care Plan**. A Life Care Plan combines asset protection and estate planning and is designed to maximize and extend the life of assets while you are alive and to protect as much of the assets for distribution to your children after you die.

A Life Care Plan involves an elder attorney familiar with the legal needs of seniors and a Geriatric Care Manager who is an invaluable

resource on healthcare issues and can serve as an advocate for the senior as the senior ages and progresses from home to assisted living to nursing home. This is the most comprehensive asset plan involving a partnership between the family, the Geriatric Care Manager and the attorney.

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KEY POINT #3

Getting your documents in order while you have time to plan and not during a medical crisis will give you tremendous peace of mind. The planning makes sure your wishes are carried out now and after you pass away.

CHAPTER 4
ALTERNATIVES TO NURSING HOME CARE

Much has changed in the last 30 years in the treatment of the care needs of our seniors. It used to be that a senior would remain at home under the care of a family member until the family member could simply no longer care for the senior and the senior went to a nursing home bed to die. Today, we are much more enlightened as there are increased resources for caring for a person at home through home care agencies, as well as graduated levels of assisted living involving townhomes or condos in a senior community, senior citizen apartments, apartments that serve as memory units, true assisted living and finally the nursing home.

Almost unanimously our older clients prefer to stay in their homes as long as they possibly can. This is not always possible because family members may be spread across the country, they may have their own families to care for and assisting an elderly person at home with the activities of daily living can be a consuming and exhausting task. State and Federal government officials are slowly recognizing that home care is more cost-effective than institutional care. Some of the states where average nursing home costs exceed $10,000 per month have been more proactive in paying for home care for all Medicaid recipients. Unfortunately, Illinois and Missouri are not there yet. Though Illinois does have some diversion programs, these programs do tend to be under-funded and under-utilized.

Home Health Care Providers. Healthcare agencies are becoming

more and more common and a more popular alternative. They can provide anything from companion services to skilled nursing services on an a la carte basis. Many families feel paying for 4 to 8 hours a day for assistance from a home healthcare agency is a preferred method of starting the process of getting the care for their parents. If a family member does not require around the clock skilled nursing care, this part-time arrangement usually works well.

Assisted Living Facilities. The assisted living industry has experienced tremendous growth over the last 10 years. These facilities usually provide room, board and around-the-clock availability of a nurse while others provide assistance with the activities of daily living. Usually a person can remain in an assisted living facility as long as whatever assistance they require can be provided by one person. Most of these facilities usually charge somewhere around half of what the cost of a nursing home would be.

Senior Citizen Apartments. Senior citizen apartments have generally been around longer than assisted living facilities and can vary greatly. They can be as simple as providing apartment-style living for people over age 60 but these facilities generally do not provide medical services and they may or may not provide cleaning services. Generally, they do provide transportation and they do have somebody on call in the event of an emergency.

Memory Units. With people living longer, more and more people are living with some degree of dementia or Alzheimer's. Many assisted living facilities have memory units where everything is generally the same as an assisted living apartment but the stove is removed to prevent a cooking hazard, there is increased awareness by the staff of the potential memory-related issues and the outside doors are typically alarmed so that staff can be alerted in the event the senior attempts to leave the facility.

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KEY POINT #4

No longer does a person have to stay at home and then go directly into a nursing home to die. There are many fine assisted living alternatives that can provide as little or as much assistance as is

needed. An experienced elder law attorney can explain your options for care based on your health needs and help you pay for just the assistance you need.

CHAPTER 5
PAYING FOR YOUR FUNERAL

Most people plan ahead for large expenses in their life like a new house, college tuition, a vacation or a wedding.

However, most people have not made any provision for paying their funeral costs. If they have, the only thing they have done is paid the cost of a cemetery plot and possibly a grave marker.

According to an AARP study, the average cost of a funeral in this country is about $8,495. If people have given any thought about paying for their funeral, they have set aside money in a savings account or they may have a life insurance policy that they intend for their survivors to use for their funeral expenses.

However, if the cash value of a life insurance policy is over $1,500 it is a countable asset and cash in a savings account and not in an irrevocable burial account is also countable even if the intent is to use it for a funeral.

Thus, there are 2 primary ways that you can pay your funeral expenses in advance. The first would be to go to your local funeral home, pick out the services that you want and pay the upfront price for those services. The funeral home is supposed to set these funds aside and hold on to them but unfortunately in the last several years there have been way too many stories about funeral homes closing and those trust funds missing. If you go to a funeral home to prepay your plan, make sure that it is reputable.

Another downside to prepaying at a particular funeral home is you never know what changes life will bring. You can select a funeral home in the neighborhood where you have lived for a long time but that neighborhood may be changing and be completely different at the time you pass away. The funeral home you select may be locally owned today but purchased by a national conglomerate down the road or even closed down

the road when you finally get around to needing it.

A good option would be to purchase a Funeral Expense Trust through an insurance company. This is much simpler. The paperwork to get the Funeral Expense Trust is usually only 1 or 2 pages and your requirement is to sign the application and make a check out to the insurance company. The money that you set aside purchases a guaranteed-issued life insurance policy. That policy is assigned to an Irrevocable Funeral Trust. The death benefit grows earning interest tax-free until the time of need. At the time of need, the funeral home is paid within 48 hours and any excess funds that remain in the Trust are paid to the estate of the deceased.

One other big advantage of this Funeral Expense Trust is that the money is non-countable for Medicaid purposes so it can serve as an excellent means of spend down in planning for either a single or married Medicaid applicant. It is a simple method of protecting assets for funeral expenses and a simple method for providing peace of mind knowing that your family is not going to have to come up with the cost of a loved one's funeral by putting the fee on credit cards or taking out a loan or passing the hat among the children.

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KEY POINT #5

Paying for your funeral is a tremendous gift to give your family at a time of great stress. Putting the maximum allowable into a Funeral Expense Trust is the easiest and quickest way to accomplish this and it aids in several planning options. Simply stated, every family benefits when no one has to worry about who is paying for the funeral.