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This may be due to a diagnosis of a terminal or debilitating illness, such as Alzheimer's, Parkinson's or ALS. It may also be that your loved one is being discharged from the hospital and told he or she will be unable to care for themselves at home. All of these situations should be reviewed by an elder law attorney to determine what type of planning can be done.

“The Medicaid office can just give me the paperwork.”

Those who work in the Medicaid office cannot offer you legal advice. You may not learn about laws that may allow you to receive Medicaid and still keep part or all of your spouse's income as well as your own. Nor can they represent you or give you advice on the laws that, depending on your specific situation, may allow you to keep all of your assets without spending down a single penny. Medicaid has rules and regulations in place to ensure families don't lose everything to nursing home costs. An elder law attorney can explain how those laws may benefit you and your family.

This information is for general informational purposes only and does not constitute legal advice.

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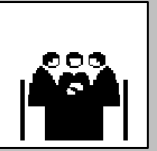
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Tasha McKinney is the paralegal for the firm. She works primarily in the areas of probate and guardianship proceedings. Kathleen O'Malley is our legal secretary, and Celeste Pinyatello does bookkeeping for the firm.

Free In-Service Training Available:
The Elder Law Firm of Andrew Olsen offers free in-service training on topics related to:

Medicaid Planning	Trusts & Wills
Powers of Attorney	Guardianship
	Other Elder Law Issues

ELDER LAW NEWSLETTER



ELDER LAW FIRM OF ANDREW OLSEN

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10 Reasons to Create an Estate Plan Now

Many people think that estate plans are for someone else, not them. They may rationalize that they are too young or don't have enough money to reap the tax benefits of a plan. But as the following list makes clear, estate planning is for everyone, regardless of age or net worth.

1. Loss of capacity. What if you become incompetent and unable to manage your own affairs? *Without a plan* the courts will select the person to manage your affairs. *With a plan*, you pick that person (through a power of attorney).

2. Minor children. Who will raise your children if you die? *Without a plan*, a court will make that decision. *With a plan*, you are able to nominate the guardian of your choice.

3. Dying without a will. Who will inherit your assets? *Without a plan*, your assets pass to your heirs according to your state's laws of intestacy (dying without a will). Your family members (and perhaps not the ones you would choose) will receive your assets without benefit of your direction or of trust protection. *With a plan*, you decide who gets your assets, and when and how they receive them.

4. Blended families. What if your family is the result of multiple marriages? *Without a*

plan, children from different marriages may not be treated as you would wish. *With a plan*, you determine what goes to your current spouse and to the children from a prior marriage or marriages.

5. Children with special needs. *Without a plan*, a child with special needs risks being disqualified from receiving Medicaid or SSI benefits, and may have to use his or her inheritance to pay for care. *With a plan*, you can set up a Supplemental Needs Trust that will allow the child to remain eligible for government benefits while using the trust assets to pay for non-covered expenses.

6. Keeping assets in the family. Would you prefer that your assets stay in your own family? *Without a plan*, your child's spouse may wind up with your money if your child passes away prematurely. If your child divorces his or her current spouse, half of your assets could go to the spouse. *With a plan*, you can set up a trust that ensures that your assets will stay in your family and, for example, pass to your grandchildren.

7. Financial security. Will your spouse and children be able to survive financially? *Without a plan* and the income replacement provided by life insurance, your family may be unable to maintain its current living standard. *With a plan*, life insurance can mean that your family will enjoy financial security.

8. Retirement accounts. Do you have an IRA or similar retirement account? *Without a plan*, your designated beneficiary for the retirement

account funds may not reflect your current wishes and may result in burdensome tax consequences for your heirs (although the rules regarding the designation of a beneficiary have been eased considerably). *With a plan*, you can choose the optimal beneficiary.

9. Business ownership. Do you own a business? *Without a plan*, you don't name a successor, thus risking that your family could lose control of the business. *With a plan*, you choose who will own and control the business after you are gone.

10. Avoiding probate. *Without a plan*, your estate may be subject to delays and excess fees (depending on the state), and your assets will be a matter of public record. *With a plan*, you can structure things so that probate can be avoided entirely.

Online Services Offer Estate Planning for the Digital Age

Once upon a time, when life was less complicated, a safe deposit box key was all loved ones needed to unlock the secrets of a life recently ended. Today, many aspects of our lives -- both financial and personal -- are lived in places accessible only by password. We have e-mail addresses, Facebook and MySpace profiles, and accounts with PayPal, eBay, and online brokerages and banks. In addition, many people communicate regularly with people they know only through game or social networking sites.

When a person dies, access to these accounts and contacts can be lost or extremely difficult to retrieve. As a result, a small online industry has sprung up to help people pass on the digital keys to their online lives should they die or become disabled. Call it "digital estate planning" or creating a "virtual executor."

On a typical site, users sign up and pay an annual fee to upload everything from crucial online passwords to gym locker combinations into a

private account. Upon the user's death or disability, the individuals they have designated to receive this private information are notified about how to open the account and access the information. These people may also receive final wishes and a farewell e-mail from the deceased. Some sites even allow users to store estate planning documents like wills and advance directives.

For example, AssetLock (formerly YouDeparted.com) offers a "secure safe deposit box" to hold such things as digital copies of important documents, final messages for family and friends, passwords, hidden accounts, and lock combinations. Once a minimum number (set by the owner) of recipients sign in and confirm the owner's death, the account is unlocked after a time delay (which also can be set by the owner). Similar services are offered by Deathswitch, LegacyLocker and Slightly Morbid

Other services focus on assisting people in sending important messages to loved ones. GreatGoodbye allows users to store e-mails, photos and videos that will be sent to those closest to them in the event of their confirmed death. Similar services are offered by EternityMessage and Last Post.

You can read more about these services in articles in *USA Today*, *PCWorld* and the *Everyday Estate Planning Blog*.

Is My Will Still Valid If I Move to Another State?

Among all the changes you must make when you move to a new state -- driver's license, voter registration -- don't forget your will. While your will should still be valid in the new state, there may be differences in the new state's laws that may make certain provisions of the will invalid. In addition, moving is a good excuse to consult an

attorney to make sure your estate plan in general is up to date.

Property laws can vary from state to state. It is especially important to have your estate plan reviewed if you move from a common law state to a community property state (Arizona, California, Idaho, New Mexico, Louisiana, Washington, Nevada, Texas, Wisconsin, and Alaska) or vice versa. In a common law state each spouse's property is owned individually, while in a community property state, property acquired during the marriage is considered community property. In addition, states may have different rules about when co-owned property may pass to the surviving owner and when it may pass under the will.

Other things to consider are whether there is any language you can add to the will to make it easier to probate in the new state and whether your executor still makes sense based on your new location. Other pieces of your estate plan may need updating as well. For example, the state may have different rules for powers of attorney or health care directives.

Medicaid Myths, Part 1

Medicaid was considered a complicated program when President Lyndon B. Johnson first signed it into law at the Truman Library in Independence, Missouri, and it has grown even more complex during each of the thirty years since. Although it is a national program, it is administered by each state. The rules and regulations are constantly changing and can vary widely from state to state. So, it's no wonder there are many myths and inaccuracies surrounding the program. This month, we are taking a look at the common misconceptions we hear frequently about Medicaid.

"My mother heard about someone who..."
All too often, we meet people who have heard horror stories about Medicaid from well-meaning friends or family members. These stories are often filled with inaccuracies and half-truths that frighten people into spending every last dime on nursing home care for themselves or a loved one before turning to Medicaid for help. Similar stories have also prompted people to assume that what worked for a friend will work for them as well. So, they may give their house or all of their assets to a child in hopes that impoverishing themselves will immediately qualify them for benefits. Unfortunately, they soon find out that these transfers mean they are unable to receive benefits for several months or even years after the money is gone. That's why it is important to contact an attorney who concentrates his or her practice in elder law. With a clear picture of your specific situation, an elder law attorney can explain those laws that should allow an individual or married couple to preserve their house and enough of their assets to live comfortably for the rest of their lives.

"My father is already in the nursing home so there's nothing we can do now."

It's true that a family can wait longer than they should to contact an elder law attorney but it's rarely ever too late to establish a good plan. A good rule of thumb is that the earlier a plan is put in place, the more assets can be preserved. So, when is the right time to call an elder law attorney? You should pick up the phone right now if you or a loved one does not have a Power of Attorney in place for financial and health care decisions. It's important these documents are put in place before a gradual or sudden decline in mental competency occurs. It's also important to make sure the financial Power of Attorney contains the right language so Medicaid planning is possible. You should also call right now if you think that nursing home care will be needed by a loved one.

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