



## Elder Law: Care-receiving, care-giving complications

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With an estimated 54 million Americans projected to be over the age of 65 by 2020 and with the continuing increase in life expectancy (a man who is now 65 can expect to live to age 83 and a female to age 85.5), you may have either a healthy remaining life or not.

Almost 40 percent of those over 65 report having some form of disability, and those over 85 — an age cohort that continues to grow — represent an even higher percentage who are disabled. What kinds of disabilities are we looking at? How about memory, walking, vision and the ability to care for themselves?

Let's further complicate the situation with the fact that fewer than half of all families are married couples. Forty percent of these married couples have at least one child from a previous relationship. For those over 65, more than half of the women are not married with slightly more than one-quarter of the men not being married.

Former first lady Rosalynn Carter made a telling comment that rings all too true today: "There are only four types of people in the world: those who have been caregivers, those who currently are caregivers, those who will be caregivers and those who will need caregivers."

What complicates the caregiving situation all the more is the "Sandwich Generation."

These are the approximately 40 percent of baby boomers (who are themselves aging) supporting both an elderly parent and a dependent child (said child not necessarily being a minor).

Let's assume you are a caregiver, male or female. Based upon a wide variety of situations faced by our clients, we've learned a good deal from them as to some important nonfinancial considerations.

Don't lose sight of your own health. If you can't devote proper attention to it, you may well become in need of a caregiver yourself. You need to take care of yourself in order to take care of someone else.

Burnout from the stress of caregiving can be a real problem as you thus lose your ability to be patient with yourself and with the one for whom you are providing care. Seek some form of respite and/or a support group. Try to deal with what you are faced with on a daily basis.

Four good sources of caregiving information can be found at: The Allegheny County Department of Human Services, [www.alleghenycounty.us/dhs/caregiversupport.aspx](http://www.alleghenycounty.us/dhs/caregiversupport.aspx); The National Alliance for Caregiving, [www.caregiving.org/](http://www.caregiving.org/); The PA Senior Support Coalition, [www.seniorsupportcoalition.net/](http://www.seniorsupportcoalition.net/); and Caregiver HQ, [www.caregiver-hq.com/](http://www.caregiver-hq.com/).

In addition, and for those who become subject to caring for a loved one being discharged from a hospital or rehabilitation center, the AARP has introduced model state legislation — called the Caregiver, Advise, Record and Enable Act — which features three important parts:

The name of the family caregiver is recorded when a loved one is admitted into a hospital or rehabilitation facility.

The family caregiver is notified if the loved one is to be discharged to another facility or back home.

The hospital or rehabilitation facility must provide an explanation and live instruction of the medical tasks — such as medication management, injections, wound care and transfers — that the family caregiver will perform at home.

Support obviously comes in many forms including financial. In this regard, it's not uncommon for an adult child to be compensated for services. We have written here in the past of the importance of having a written agreement between the caregiver and the person receiving care.

We had a recent experience where a caregiver had received, over time, over \$100,000 for the services provided to a parent, but not under a written agreement.

When the parent had to be admitted to a nursing facility and applied for Medical Assistance, the Department of Public Welfare (now called the Department of Human Services) treated the whole sum of money as an uncompensated transfer of those monies (a "gift" within the five year

look-back period) and denied Medical Assistance for the penalty period created by that gift (roughly 12 months of ineligibility).

Thus, remember the old Slovenian proverb: “Get it in writing!”