

Estate & Long-Term Care Planning: The Dangers of Doing Nothing

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Decisions having to be made surrounding one's mortality can be an unpleasant experience for potential clients. For some, it is preferred to adopt the "Ostrich putting its head in the sand" approach rather than facing issues regarding aging head on. In my experience working with hundreds of families, I have found that some potential clients really can convince themselves that nothing will ever happen to them, that they will be able to see life changing medical events coming from a mile away, or that there will always be time in the future to establish their estate and long-term care plans. When you drill down to the heart of these beliefs, more times than not there is a fear associated with having to make a decision regarding these issues. Therefore, the natural reflex becomes preferring to do nothing instead. However, what the potential client fails to realize is that they still have made a decision when they chose to do nothing - and it is the wrong one. An individual with a quality estate and long-term care plan places their family in a much more secure and financially sound situation than one that is without such a plan. Below, I discuss just a few of many potential dangers of doing nothing in regards to estate and long-term care planning.

An effective estate plan can consist of many strategies and/or legal documents. One of the more important documents in an estate plan is a General Durable Power of Attorney. A General Durable Power of Attorney allows an agent to stand in the shoes of someone who can handle their various affairs (pay bills, manage investments, etc.). Without a General Durable Power of Attorney, a medical event suffered by an individual could cause adverse consequences and result in the family having to pursue a guardianship through the court system. Guardianship proceedings are expensive, time consuming and leaves the decision of who should oversee the individual's affairs to the court. It is important to note that everyone should have a General Durable Power of Attorney, and that if an individual becomes incapacitated and does not have a valid Power of Attorney, it may be too late to proceed with one at that point. This is one of the many reasons why it is important to establish a quality estate plan BEFORE there is a problem.

Similar to estate planning, a long-term care plan established pre-crisis enables options at the time of long-term care placement that otherwise would not be present. Without an effective long-term care plan, it is likely that a family will incur a massive financial burden when long-term care is required. In Pennsylvania, long-term skilled nursing care costs on average about \$10,000 per month. While there is government aid available through the Medical Assistance program, there are very strict requirements to become eligible. In fact, the requirements are so

strict that eligibility likely cannot be granted last minute without incurring significant expense to the individual. It is not unheard of that one's entire life savings are squandered in a short period due to the effects of long-term care costs because no planning exists. An individual with a comprehensive asset protection plan streamlines the process of achieving Medical Assistance, or provides other means of funding these costs, while protecting their life savings from needless spend down. For some, a long-term care plan may be to purchase long-term care insurance. However, this option can be an incredibly costly endeavor, and may not even be available for some after a certain age. Others choose vehicles such as Asset Protection Trusts to create opportunities for protecting assets while simultaneously creating the future ability to pursue Medical Assistance to aid in paying these expensive long-term care costs. The right choice for you and your family is determined by your family background and the present factual scenario. It cannot be overstated that regardless of your preference of strategy in long-term care planning, to be effective, the planning must occur well in advance of encountering a long-term care issue.

Estate and long-term care planning can be complex, but it is also necessary and beneficial to most individuals and their families. Again, the factual scenario plays a large part in how beneficial estate and long-term care planning will be for a family. If you have questions regarding how an estate and long-term care plan may impact you, please contact an elder law attorney. The sooner you begin the process of estate and long-term care planning, the more effective the planning will be when it is truly needed. Make sure that you and your family are not the ostrich when it comes to the obstacles and hurdles that can be faced while aging in America.