ESTATE PLANNING FOR SENIORS

How to Make Sound Decisions That Preserve Dignity

It was the old-time movie actress Bette Davis who said, "Old age isn't for sissies." But there are many variations on that theme. Aging isn't easy. In fact, it can be downright difficult, as health and financial issues loom larger and larger.

That's why sensible estate planning for seniors is so important. Creating a sound plan to address elder law issues doesn't get any easier with age. It's best faced sooner, when faculties are clear, rather than later, after dementia, a stroke or other challenges have taken a toll on decision making capacity.

This article will examine some of steps seniors should consider as they create estate plans designed to meet their goals and help their families move forward with life.

Avoiding Worst Case Scenarios

It's no secret that bad things can happen if you don't plan effectively for later-in-life transitions. You don't want to have your entire savings drained by medical bills or lose your house because you naively agreed to a reverse mortgage.

And yet many seniors fail to plan ahead the way they should. To take just one example, many elderly people with chronic health conditions are forced to borrow money just to get their prescriptions filled. Others go without needed medication entirely or take a weaker dosage than their doctor recommended. There is also, of course, the problem of nursing homes and how they drain assets at an alarming rate. Many of those problems could be avoided with proper Medicaid planning or perhaps with the purchase of long-term care insurance.

Problems like these are a double tragedy for an older person. It's a double

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tragedy because it's not only the senior citizen who is affected. It's also the person's family. The emotional anguish of seeing family assets acquired over a lifetime of hard work being eaten up is agonizing for all concerned.

Get a Basic Estate Plan in Place

There are three basic building blocks to begin with in creating an effective estate plan. You should have:

• A will

• A health care directive, including a designated agent or proxy for decisions if you become unable to make them

• A financial power of attorney

You should have a will because that enables you, not the probate court, to direct where your property will go. It also allows you to control the disbursement of specific items, such as heirlooms and particular pieces of property that you don't want to give away during your lifetime.

Keep in mind, however, that as essential as it is, a will should be only part of your broader estate and tax planning strategy. You will want to consider the use of trusts, tax issues, and other matters to protect your assets and pass them along as smoothly as possible.

Health Care Directives

The next building block concerns health care decisions. You will want to draft and execute a health care directive that provides guidance to your family and to health care professionals about the nature of the care you wish to receive if you become unable to communicate your decisions about care directly. This process should also include designating someone to be your proxy or
agent if you become incapacitated.

Another common term for a health care directive is a living will. The purpose is to enable someone struggling with an incapacitating condition to maintain in control of his or her life to the greatest extent possible.

Honoring the intentions expressed by the incapacitated person not only helps many people avoid unwanted medical treatment. It also enables people who have become incapacitated to maintain as much dignity as possible, despite their health problems.

Financial Management

Many elderly people struggle with money management. Sometimes, but not always, this is because of dementia or other loss of cognitive function. Sometimes it's due to a specific illness or health condition that prevents someone from handling his or her own money.

When this occurs, seniors are at risk of being victimized by fraud or other forms of financial exploitation. There's also simply the day-to-day matter of getting bills paid properly.

A durable power of attorney for financial matters is a good way to address this problem. If someone has become incapacitated, a conservatorship is another possibility. But that adds another level of formality that could result in court involvement in your affairs.

Long Term Care Planning

Even when you've got your basic estate plan in place, questions about long-term planning remains. For starters, should you purchase long-term care insurance?

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Opinions differ widely on whether long-term care insurance is a good bargain. Premiums can be pricey, but long-term care insurance could potentially cover the substantial parts of what would otherwise be an extremely expensive, asset-draining nursing home stay.

Ultimately, the decision about whether (and when) to purchase this insurance depends upon many factors, such as the nature of your overall health and your age. This is something to talk over with an elder law attorney in your area.

As important as it potentially is, however, long-term care insurance is only part of a larger long-term care planning process that can also include Medicaid planning. For example, it may make sense to set up a Medicaid trust. This is a legal status that can shield certain assets for someone's family while the person in question becomes eligible for Medicaid benefits. Again, these are questions you'll want to address with an estate planning lawyer in your area with experience working with senior citizens and their families. Bette Davis was right; old age isn't easy. But that makes planning for it all the more important.