



Estate Planning Part 2 of 3

In part one of this series, we briefly mentioned the importance of estate planning and that our involvement in this area revolves around the resulting relationship difficulties we see from improperly prepared estates, the lack of estate planning, or a general lack of communication. We want to stress the importance of preparing for the end of life so your surviving families are spared these difficulties. In this article, we will focus on the health care aspect of estate planning.

Health Care

“Beloved, I wish above all things that thou mayest prosper and be in health, even as thy soul prospereth.” 3 John 1:2

We begin with the subject of health care because it is of increasingly greater importance as we age and is a common need among the elderly. Although we encourage their use, it is not within our scope to discuss health insurance plans, but rather to explain the necessity for having selecting and authoring a health care power of attorney. This individual can be a family member but need not be. The reason for authorizing this person is so he or she can make decisions for your health care in the case of your incapacitation. This could be as a result of illness, accident, or just normal aging. Usually a second person is also selected to serve as a backup to the primary individual.

Every adult should have a health care power of attorney in place regardless of age. Often spouses believe they have the power to make health care decisions for each other, but without a signed document, they really have no such authority. Perhaps in life or death situations, the medical profession will accept a spouse’s decision, but it is often a very painful, lengthy process. For instance, if a husband or wife is in an accident or has an illness that causes him or her to be placed on life support, without the power of attorney, it may be difficult to make any treatment decisions. With the power of attorney for health care in place, much anguish can be averted because the desires of the individual are known and can be carried out.

The health care power of attorney document may also contain an end-of-life directive. This gives the signer of the document an opportunity to express his or her feelings of whether or not he or she wishes to receive life sustaining medical treatment when it is evident that a recovery is unlikely. This directive allows for a doctor to write a “do not resuscitate” or DNR order. Therefore, if an elderly loved one is a resident or patient in a health care facility, it is necessary for his or her doctor to be aware of end of life desires. This will ensure that the patient or resident’s prior stated wishes are honored if the need for resuscitation occurs when the person with the health care power of attorney isn’t present.

Another issue which can become apparent as individuals age is the issue of long term care and financial planning. This is an extremely difficult area to plan for long term. We are not told the “number of our days” or what the future condition of our health will be. Since the government program of Medicaid is available only to those of low income and/or no resources, the opportunity exists for those growing older to give away all of their assets so when the time comes for them to go into a nursing home or similar long-term

care facility, they will be “indigent” (poor, without any funds) and the state will provide for them. Obviously, the intention in this scenario is to protect assets from being spent on nursing home and other medical costs by transferring them to family and others or through a structured “spend-down” in which assets are liquidated and the money spent. This practice can be contrasted with those situations where an individual, through long life in long term care, has entered into this state of being “indigent” naturally.

“The just man walketh in his integrity: his children are blessed after him.” Proverbs 20:7

Several ethical problems exist with the “spend-down” practice. The first problem is that nursing homes are reimbursed by Medicaid at only a percentage of their cost for providing services. This means that the services provided for someone on Medicaid are not fully funded by Medicaid which creates a shortfall to the nursing home or health care facility. However, care is provided at the same level as those who are paying the full rate. While it is understood that some individuals will run out of funds because of an extended stay, the industry cannot sustain itself when those who could have paid divest themselves of their assets to avoid paying for long-term care.

The second problem is the issue of equity and fairness. While equally competent care is given to all residents, it presents an inequity that some individuals that could have paid the full rate are being supported through a social program because of deliberate actions to make themselves eligible for the program. This brings in an issue of honesty and integrity as well. Our charge in *Romans 12:17* is to “...Provide things honest in the sight of all men” and *Proverbs 20:7* tells us our children are blessed by our integrity, not our wealth.

As you might imagine, there are regulations in place that discourage people from making themselves “poor” for the purpose of sheltering assets. One of the most difficult to circumvent is the rule that an individual must transfer assets at least five years prior to applying for Medicaid. If the time is less than five years, any assets transferred in the time less than five years are subject to recall and will be brought back into the individual’s ownership. Those assets will then have to be liquidated and used first before the individual is eligible for Medicaid.

We will refrain from going into this any deeper as there are many angles and legal requirements surrounding the definition of “indigent” which varies from state to state. Our goal is only to raise the awareness of a practice that can be considered unethical and an insult to those who have indeed “spent all their living” on medical needs, like the woman in *Luke 8:43*. These individuals are rightfully eligible for aid such as the Medicaid program, and, in some cases, they provide an opportunity for the brotherhood to show charity.

There are other prudent methods to help shelter some assets and defer some of these costs through the purchase of long-term care insurance which can provide coverage for nursing home, assisted living, and home health care services depending upon the policy. If long-term care insurance fits into your estate planning, be aware that purchasing a policy at a younger age, usually prior to turning 50, will lower the premium considerably. We would also mention the importance of purchasing a life insurance policy to help defray funeral costs and perhaps to cover outstanding debt for the benefit of a surviving family. This might also be considered a way in which to shelter assets in an appropriate way.

“Recompense to no man evil for evil. Provide things honest in the sight of all men.” Romans 12:17

In the next and final article in this series, we will discuss asset distribution and child guardianship.



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For several years, ACCFS has offered Mentor Training programs to assist churches and individuals to learn the principles of mentoring. Mentoring is a key component of healthy church relationships and can provide accountability, instruction, and encouragement as we learn from each other as members of the Body of Christ through “*speaking the truth in love*” Eph. 4:15. Several resources to assist in the mentoring process are available on our website at www.accounseling.org/mentoring.