

WHAT'S GOING ON AT NASH NASH BEAN & FORD

Hello Spring!



This Month's Firm Focus

This month, we're gearing up for our April Estate Planning Seminars! With spring upon us, it is the time of the year for planting season. If you are a farmer reading this, ***your Estate Plan is also a field that needs tending! Don't let "weedy" situations affect your family legacy planning!*** Register for an upcoming seminar by calling our office at (309) 944-2188 or register online at www.nashbeanford.com

We have made it past tax day 2015, but what about the remainder of the year? Do you fully understand estate tax rules and are you financially ready for the remainder of the year? Enclosed please find an 'estate tax tips' insert. If you have any questions feel free to call our office at (309) 944-2188.

Estate Planning for Young Adults

Parents know there is no statute-of-limitations on worrying about their kids. Your interest in your child's health does not end once your son or daughter reaches adulthood. However, your legal interest in having a say about your child's medical care ends on the day that he or she turns 18. This means that while you have the final word about medical care one day, the next day you will not even have access to your child's medical records.

The passage of the Affordable Care Act has complicated the issue of medical care for young adults in many ways.

Kids are now able to stay on their parent's health insurance plans until the age of 26. This has created the mistaken belief among many parents that they still have a right to be involved in medical decisions.

The reality, however, is that privacy laws under the Health Insurance Portability and Accountability Act (HIPAA) ensure that a parent is not entitled to know what kinds of care that child is getting. Without a child's formal permission, parents cannot so much as take a glance at the medical records of a son or daughter who is 18 or older, even if the young adult is still living at home and the parents are paying for the insurance policy that covers the care.

Young adults may view this as a good thing if they don't want their parents to know they had to go to the clinic for a pregnancy test or for treatment for overconsumption of alcohol. However, serious problems can arise if a young adult is injured in an accident or is otherwise incapacitated. No one thinks about estate planning for someone who has just turned 18, but unless you talk to a lawyer and get some basic documents in place, you may need to deal with complex legal issues if a young adult you love becomes sick or injured.

When college students are injured or killed, the death is usually not from disease but instead occurs because of a sudden and unexpected incident such as suicide, traffic accidents or violent crime. In fact, suicide is the cause of 6.18 deaths among every 100,000 students at four-year universities, and alcohol-related motor vehicle collisions cause 3.37 deaths for every 100,000 according to the American Public Health Association. By contrast, cancer causes only 1.94 deaths per 100,000 college students.

After an accident a child may be unable to make choices about his or her care. Parents with a child 18 or older won't automatically have the ability to take care of their children and get them the help they need under these circumstances because they are considered adults in the eyes of the law. Parents will also be unable to access their child's financial accounts or get information about student loans and financial obligations while their child is incapacitated.

Planning ahead in case something unexpected occurs is essential and a qualified estate planning attorney can help you create:

- A HIPAA Authorization Form
- A Health Care Directive
- A Property Power of Attorney

These documents won't give the parent the right to interfere with routine medical choices their child is making on a regular basis. However, they do provide parents with the legal authority to be there for their children in a time of need, even when their child is officially an adult. Talking to an estate planning attorney and getting these legal matters sorted out now is the right choice.

Advance Planning for Long-Term Care is Critical

On January 25, 2015, the *New York Times* published an article, [To Collect Debts, Nursing Homes are Seizing Control Over Patients](#). The article focused on the trend of some nursing homes to use the guardianship process (also known as a conservatorship in some states) as a means of debt collection for seniors who owe money to the nursing homes.

A guardianship or conservatorship is a legal process whereby a person is found by the court to be incapable of managing his or her affairs and a person or entity is appointed by the court to manage their finances and to make personal decisions such as where to reside and the type of medical treatment to receive.

The article told the story of Dino Palermo, age 82, having his 90-year-old wife, Lillian, served with a guardianship petition in New York after he complained about the care being provided to his wife and disputed the nursing home bill. Prior to Lillian being diagnosed with dementia in 2010, she executed a power of attorney and health care proxy (also known as an advance health care directive) naming Dino as her agent to handle her financial and medical affairs. When Dino complained, the nursing home filed for a guardianship (which would have given them access to Lillian's finances and gotten their bill paid). Fortunately for Mr. Palermo, he has been able to resolve the problems and the guardianship petition has been dismissed. But according to the *New York Times* article, hundreds of other seniors in New York have been the subject of guardianship petitions brought by nursing homes and hospitals. Not all of these petitions were

brought because the health care institution was owed money, but Brett D. Nussbaum, an attorney who represents nursing homes and who was quoted in the *New York Times* article, estimates he has filed over 5,000 petitions for guardianship in his many years of practice. He stated, "when you have families that do not cooperate and an incapacitated person, guardianship is a legitimate means to get the nursing home paid."

Many seniors believe that the cost of a skilled nursing home will be paid for by Medicare. Unfortunately, the sad truth is that in most cases it is not. When Medicare does pay, the maximum coverage period is one hundred days and there is substantial daily co-pay after the first twenty days in the nursing home. The cost of an independent living center or an assisted living facility is not covered at all by Medicare.

The cost of skilled nursing care can be paid for by Long-Term Care Medicaid. Some states have various waiver programs that may also cover assisted living or in-home care if certain health criteria are met. Veterans who served during a time of war who are receiving caregiving services at home, in an assisted living facility, or in a nursing home may be eligible for a benefit known as "Aid and Attendance" or "Enhanced Pension." However, all these programs are needs-based, which means the senior's assets and income (and sometimes that of their spouse) are considered in determining whether or not the senior is eligible to receive the benefits.

Many seniors are concerned about protecting themselves and their spouse from the high cost of long-term care. Many also have a desire to leave as much as possible to their children or grandchildren, a friend or other relative, or to a worthy charity. There are many alternatives to planning for long-term care, including self-funding (saving substantial assets) and the purchase of a long-term care insurance policy. Another alternative is for the senior to meet with a knowledgeable elder law attorney and learn how they can reposition their assets and/or income in order to qualify for Long-Term Care Medicaid or Veterans Aid and Attendance benefits. However, this type of planning MUST be done in advance. The seniors are much more limited if they already have had a stroke or fallen and broken a hip than if they had planned in advance. It is not much different than trying to buy flood or earthquake insurance after the natural catastrophe already has struck.

In addition, the planning needs to be done before the senior loses capacity due to dementia or Alzheimer's disease. After the senior has lost capacity he or she is incapable of executing the documents necessary to put the planning in place and again, the planning options are much more limited as a result. If a guardianship or conservatorship needs to be instituted because no estate planning documents are in place, planning options for long-term care will be even further reduced. For those limited options still available, many judges are reluctant to approve such planning, as evidenced by the story below.

An Attorney was attempting to assist a wife whose husband was in a nursing home. The husband had many ailments and was on a breathing machine at a cost of about \$15,000 per month. The husband did not have the mental capacity to engage in any planning and he and his wife did not have any estate planning documents in place. The attorney was able to get the husband approved for Long-Term Care Medicaid coverage, but the share of cost for the nursing home was still thousands of dollars per month. The attorney established a conservatorship for the husband and petitioned the judge to engage in planning for the husband that would allow his wife to keep the couple's monthly income. After many hearings before the judge, the attorney convinced the judge to approve the planning and an order was prepared for the judge to sign. Unfortunately, the client died before the judge signed the order and the judge refused to sign it after the client's death. This cost the family over \$25,000 in nursing home share of cost that otherwise could have been preserved.

Traditional estate planning involving a Will, power of attorney, advance health care directive and perhaps a revocable trust is vitally important to assure management of assets during life, avoid probate, potentially provide some degree of asset protection for heirs and assure that the estate is distributed as desired. Of equal importance, if not greater importance, is planning for long-term care. Statistics show that fifty percent of seniors will spend some time in a nursing home during their lifetimes. Long-term care planning is in many ways more complicated than traditional estate planning and it generally requires that the plan be put in place long before the need arises. For that reason, competent advice should be sought, sooner rather than later.

Our office is familiar with the various planning options available for planning for long-term care needs. This type of planning is always in flux, so you must deal with an attorney who keeps up with all the changes. For example, The Veterans Administration has just introduced proposed regulations that will make planning to qualify for Veterans Aid and Attendance benefits much more difficult. The fact that the laws are changing and that advance planning is needed requires your clients to act as soon as possible. As a member of the American Academy of Estate Planning Attorneys, our firm is kept up-to-date with information about recent developments and new planning strategies for long-term care. You can get more information about scheduling a complimentary estate planning or elder law appointment and the services offered by our firm by calling our office.

Your Estate Planning Dictionary

Maybe it's been a while since you did your trust or maybe you could use a refresher in the terms and ideas of estate planning.

Trustor– An individual or organization that gifts funds or assets to others by transferring fiduciary duty to a third party trustee that will maintain the assets for the benefit of the beneficiaries.

Referrals

We hope that after having completed your estate planning, you also feel it was a valuable process. If you know family or friends that you feel could also benefit from that process, we encourage you to refer them to our firm. Don't worry, we won't bother them. We would simply like to send them a personal invitation to one of our free estate planning seminars in their area. You may find that they may have some of the same reasons to complete their estate planning as you did!

If you would like to refer a family member or friend, simply fill out the enclosed referral form and return it to our office. You may also email their name and contact information to info@nashbeanford.com.

Nash Nash Bean & Ford Happenings

Welcome

We welcomed Erin Brooks to our team in February 2015 in our Trust Administration Department. Erin is from Port Byron where she resides with her husband Tony, her son, Ian and daughter, Ivy.

Remembered in Love

Jim & Bob Nash's Mom, Marilyn Hade Nash, passed away March 16th. A celebration of her life was held at the First Congregational Church, Geneseo on March 27th. Jim and Bob would like to thank everyone for all of the expressions of sympathy they have received.

Continuing Legal Education Efforts of Our Attorneys

As part of their membership in the American Academy of Estate Planning Attorneys, all of our attorneys are required to complete 36 hours of continuing legal education.

Jim Nash, John Bean, Mary Ann Brown and Ben Young participated in Estate Litigation provided by the Illinois Institute for Continuing Legal Education.

Recipe

Homemade Chicken and Noodles (From Sheila Bloom, Legal Assistant)

1 bag egg noodles
2 cans chicken broth
1 stick margarine/butter
1 can cream of chicken soup
1 lb. boneless skinless chicken breasts (about 6)

In a stock pot, boil chicken in butter and chicken broth (add a little water if need to finish covering chicken). When chicken is done, remove from liquid broth mixture and set aside. Bring broth mixture to a boil and add egg noodles. Add can of cream of chicken soup to noodles with 1 can of water and stir. Cook noodles until done, then reduce heat to low. Break/cut chicken into pieces and add to noodle soup mixture. Cook on low for 10 minutes to let thicken.

Speaker's Connection

Does your organization need a program? We regularly work with professionals, churches, non-profit organizations, clubs and other groups to help educate their clients and members on the principles of Estate, Tax and Business Planning along with both immediate and long-term Charitable Giving options. We also speak to elder organizations, such as Alzheimer's Associations, assisted living facilities and senior citizen organizations on Medicaid planning, care giving and retirement planning topics.

If you would like us to speak at your next meeting, contact our office at 309-944-2188, 309-762-9368 or 1-800-644-5345 and ask for Tonya.

For up-to-the-Minute News

We are happy to offer you:

- **eNewsletters** filled with timely and informative articles about estate planning and related topics.
- **Blog posts** covering a variety of estate planning, farm planning, business planning and elder law topics.
- **Facebook and Google+** filled with community and nonprofit events, health tips, farm and family information and general news about the Nash Nash Bean & Ford family.

It's easy to join any of these options by simply visiting our website, www.nashbeanford.com, and following the links in the right hand column. It's that simple! Please tell your friends!

Have you gotten rid of your home land line phone and use a cell phone only now?

Please contact our office at (309) 944-2188 or (800) 644-5345 so we can update your information in your file.