

# Legal/Financial Issues Involved in Caring for an Older Loved One



# Objectives

- Talking to your loved one
- Locating and organizing important documents
- Executing or updating important legal documents
  - Wills
  - Trusts
  - Advance directives
  - Guardianships/Conservatorships
- Finding an elder care attorney
- Planning for your own future

# Talking About Critical Issues

- Financial situation
- Medical issues
- Legal documents
- Personal concerns



# Gathering Essential Information and Documents

- Will, trusts, and advance directives
- Bankbooks, bank statements and canceled checks from past three years
- State and federal income tax returns from past three years
- Location of safe deposit boxes and keys
- Information about investments (pension plans, IRAs, Keogh plans or other employee benefit plans, as well as individual stock certificates, bonds, mutual funds, etc.)

# Gathering Essential Information and Documents (cont.)

- Names of accountants, lawyers, financial advisors, etc.
- Insurance information (Life and health, auto, home insurance, etc.)  
Information on property owned (know where titles are located), mortgages held (and coupon booklets), and payment of property taxes
- Credit cards and account numbers
- Information on consumer loans or other outstanding debts

# Where to Search For Documents

- Family members/close friends
- Safe deposit box
- Fire cabinets, attics, basements, etc.
- Attorney, accountant and/or financial advisor
- Social Security Administration
- Past employers
- Checkbook entries and insurance claim statements
- Physician(s), medical providers or social workers
- Regional Veterans Administration (if applicable)



# Executing/Updating Critical Documents

- Wills
- Trusts
- Advance directives



# Wills

- Specify how a person's estate will be distributed at his or her death
- Name an executor for the estate
- Should be updated every five years or at any major life change
- Require the person creating them to have the legal capacity to do so

# Trusts

- Detail how a person's assets are to be used during his or her lifetime and distributed after his or her death
- Grantor establishes a fund to be administered under the direction of trustee
- Trustee manages/administers/distributes trust assets
- Used to control the assets for benefit of another, or for tax and distribution purposes
- Can provide estate tax benefits by allowing ownership of property to be legally transferred to trust, so it is not considered to be part of the estate
- Some trusts allow grantor and/or surviving spouse to use trust property and receive income generated from it during their lifetimes
- Person creating the trust must have the legal capacity to do so

# Advance Directives

- Power of attorney
  - Non-durable
  - Durable
- A living will
- Health care proxy



# Guardianships/Conservatorships

- Person determined to be unable to care for self and/or property
- Proceedings brought in probate court
- Judge hears evidence and, if determines necessary, appoints guardian/conservator
- Empowered to act on behalf of incapacitated person regarding personal and/or financial affairs

# Elder Care Law—Areas of Expertise

- Wills, trusts and advance directives
- Medicaid/Medicare (preservation of assets, claims and appeals)
- Social Security and disability claims and appeals
- Supplemental and long term health insurance issues
- Disability planning
- Housing issues
- Conservatorships and guardianships
- Retirement and estate planning
- Probate
- Administration and management of trusts and estates
- Long-term care and patients rights
- Elder abuse and fraud recovery cases

# Finding An Attorney

- WorkLife4You
- Recommendations
- Lawyer Referral Services
  - National Academy of Elderlaw Attorney <http://www.naela.org/>
- Law Directories
- Associations and Public Interest Groups
- Low-Cost or Free Legal Service Agencies



# Questions to Ask Potential Attorneys

- How long has the attorney been in practice?
- Does his/her practice emphasize a particular area of elder law?
- How long has he/she practiced in this field?
- What percentage of his/her practice is devoted to elder law?
- Is there a fee for the first consultation and if so, how much is it?
- What information should you bring with you to the initial consultation?

# Anticipating Your Own Needs

- Invest in your greatest future asset—your health
- Decide what you would like to do and where you want to live during your retirement years
- Assess your current financial situation
- Take advantage of company-sponsored retirement programs
- Consider other investment vehicles
- Consult an attorney to execute or update wills, trusts, advance health care directives and other important legal or financial documents
- Evaluate your potential health, medical and life insurance needs
- Consider other private insurance options such as long-term care insurance

# Let WorkLife4You Make Your Life a Little Easier!

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