

The Top 10 Things a
Non-Elder Law
Attorney Needs to Know
About Elder Law

From the desk of:

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Quote

"Throughout history we humans have sought to live longer and healthier lives. Now that we are achieving some success, we find we cannot afford to grow old."

- anonymous



Why Talk About “Old People?”

- ✓ Statistics for PA in 2000, 15.5% of those living in PA were 65+, or 1.9 million people
- ✓ For those reaching 65 in the year 2000, additional 17.9 years life expectancy
- ✓ Between 2010 and 2020, baby boomers will reach age 65+



Long-Term Care:

Allowing a person to attain and maintain an optimal level of functioning

- ✓ 53% are age 65 and older
 - Level of disability & impairment is rising
 - 85+ is fastest growing age segment
- ✓ 44% are working aged adults
- ✓ 3% are children under age 18



#1

Assets

Assets CAN be protected
even if someone
is in nursing home!



Average Cost

Average cost of nursing
home care is about
\$6,062.35 per month.



#2

Power of Attorney

- unlimited gifting powers are needed in a crisis for long-term care planning.



Power of Attorney

20 PA CSA §5601.2

a. "To make **limited** gifts"

b. "To make **unlimited** gifts"



Power of Attorney

"To make gifts"

Estate of Miller

25 Fidic. Rep 24 135

(O.C. Du-Allegheny Co 2005)



Guardianship

Takes an average of 3 months

$$6062.35 \times 3 \approx \$18,000.00$$

Time and money wasted.



#3

What does DPW pay for?

YES

Nursing Home Care
In-home Care

NO

Personal Care Homes
Assisted Living Facilities



Department of Public Welfare AKA – “DPW”

- ✓ Pays for **Nursing Home Care** through the **Medical Assistance Program**.
- ✓ Pays for **In-Home Care** through the **Waiver Program** for 6-7 hours of care per day.



#4

DPW ignores

Pre-nuptial Agreements.



#5

DPW ignores
Court ordered
Spousal Support.



6

Business Assets . . .

are available for Long Term
Care expenses unless the bi-
laws, operating agreement or
partnership agreements say,

"NO."



Business Assets

When setting up a business
it is just as important to
consider **Long Term Care
Insurance** as it is to
consider **Life Insurance**.



7

36 Month Rule

Gifts over \$500 have a transfer penalty.

Penalty is forgiven at a rate of \$6062.35 per month.



#8 Exceptions

4 Exceptions to transfer rule

Spouse

Children under 21

Blind or Disabled Child

Caretaker Child



9

Other Sources of LTC Benefits

- Veteran's Benefits
- SSA
- Office of Aging
- PACE



#10

The Home

One of the most important
things to remember . . .

You do NOT have to sell
your home to pay for nursing
home care, BUT . . .



#10

The Home

... your home will need
to be protected against
Estate Recovery.



Thank You

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