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# **The Michigan Elder Law Reporter**<sup>TM</sup> 32 Years Serving Michigan Seniors VC

## VOLUME 32, ISSUE 12.4

## ON THE FIRST DAY OF CHRISTMAS, MY LAWYER GAVE TO ME.... 7 QUESTIONS TO ANSWER BETWEEN NOW AND NEW YEAR'S DAY ALL OF A SUDDEN, ANOTHER GAME OF MONOPOLY LOOKS REALLY GOOD!

#### **BASIC PLANNING CONCEPTS**

**DECEMBER 2022** 

Here are a few basic principles of planning. I learned them in the Army. They are universal. Ignore these basic principles and you'll wind up like Russians in Ukraine. Pitiful. Don't be pitiful.

#### FAILING TO PLAN IS PLANNING TO FAIL

Any plan is better than no plan. Start with the goal in mind. For example, "I do not want my daughter to become a stripper." Or "When I get old, I don't want my children passing me around like a hot potato." Or "I would like to live my life in dignity and modest comfort until the Lord says "Welcome home, good and faithful servant." At which point I pass over the Great Divide, surrounded by the love of my family."

#### Goals are Important!

Plans are how Goals become Reality.

#### WHEN YOU ARE UP TO YOUR ASS IN ALLIGATORS, IT IS TOUGH TO REMEMBER THAT YOU CAME TO DRAIN THE SWAMP

Standard issue in every Army engineering unit is a poster with this slogan. Whenever you attempt to achieve any goal, gremlins will appear, troubles will multiply. Troubles that will distract you from your goal. Do not be distracted by the alligators. Remember your goal. And your plan to reach that goal. Focus. Allowing the inevitable snafus, difficulties, hassles, and annoyances to deviate you from your plan is failure. Keep your eyes on the prize. Nobody said this was easy.

#### AIN'T NO USE IN LOOKIN' DOWN AIN'T NO DISCHARGE ON THE GROUND AIN'T NO USE IN LOOKIN' BACK JODY'S GOT YOUR CADILLAC

One of the first marching cadences new recruits learn is that "There ain't no discharge on the ground." You are not quitting. You must persevere. There is no easy way out. And besides, "Ain't no use in looking back." That way is closed. Keep your chin up and a smile on your face. It's not that hard. And you chose the goal.

#### THE BEST LAID PLANS OF MICE AND MEN GANG AFT AGLEY

Scottish poet Robert Burns gets credit for this one. General George S. Patton (among others) said that no plan survives first contact with the enemy. And so it will be for your plans. Facts and circumstances impose reality on what you wish to accomplish. No surprise there. Not everything works out as you expect. Your plans will "gang aft agley" which I think means will often go astray. So what? There's no alternative except failure.

#### AND NOW, ON WITH OUR SUPER SEVEN LIST OF QUESTIONS YOU MUST CONSIDER

QUESTION 1: WHAT ABOUT YOUR LITTLE KIDS? You have minor children. Or grandchildren. You still like them. They're not teenagers yet. Those little kids depend on you for everything. You know this. But what if you are no longer available? What if you cannot be there? Because you are dead. Also the other parent is dead. What about the kids? Who gets 'em? Who manages the life insurance money? Who pays for braces, ballet lessons, and the hockey travel team?

### Who will handle the money?

Who will care for the kids?

You need to answer these questions. They are the most important and fundamental. And lead to the most disastrous consequences when ignored. And don't tell me your plan is to not die. That's everyone's plan. And usually that is what happens. But if the low probability scenario comes to pass, then it is 100%.

By the way. Do not let the "kid people" also be the "money people". That's how you get Olympic size swimming pools in your brother-in-law's backyard.

#### QUESTION 2: WHAT ABOUT MOM? OR DAD?

You have parents. They are not as young as they used to be. 70% of Americans will need, on average, 3 years of skilled care. 20% will need 5 years or more. Most of this care has traditionally been provided within the family. But families are smaller. And busier. And paid-for care is more expensive than ever. If you can find it.

Barely trained home care workers cost \$30+ per hour. Registered nurses, a vanishing breed, are twice that much. Nursing homes and assisted living facilities are overcrowded, understaffed, and exorbitantly expensive.

Why does it cost so much? Why are the costs never going down? Simple: Supply and Demand. There are more older Americans than ever. There are fewer younger Americans to care for the older Americans. Big Demand for Care. Low Supply of Caregivers. Plus the work is hard, the hours are long, the rewards are few.

#### QUESTION 3: WHAT ABOUT MY SPOUSE? OR ME?

Look in the mirror. You've come a long way baby. And it shows. It ain't just the years, it's the mileage. And your odometer is clicking up there. So what is your plan? Impose on the kids? Good luck with that one. They are busy. They have kids. And if they don't have kids, they're still busy. Your parents raised you with a heaping helping of familial responsibility and guilt. You raised your kids on Doctor Benjamin Spock's "Baby and Child Care". How's that working out for you?

The care you will need is scarce and expensive. And it is getting worse. And your care will continue to get scarcer and more expensive. Perhaps a little planning might be in order?

And by the way, you might just have a spouse who will need the same care as you. What's the plan there? Nursing home poverty? Your choice.

#### QUESTION 4: WHO'S THE BOSS?

If you cannot make decisions for yourself, who's going to make them? Who will manage your finances? Who will talk to the doctors when you cannot? Who has the strength of character to carry responsibility. Give that person the full authority and moral backing necessary. And then pray to God that they will step up in your moment of need.

Pick your first choice. Then your second choice. Then your third. Etcetera.

You say you don't have anyone? If you do not choose the probate court will choose for you. Would that be better? Seems unlikely.

#### QUESTION 5: ANY SPECIAL DEALS?

Does one of the kids get a special bargain price for the house? Or the cottage? Or the hunting property? Did someone step up and help out beyond any expectation? Beyond anyone else's contribution? Did you tell anyone that they could have [FILL IN THE BLANK] at a low price or on favorable terms?

You may not have the guts to tell the other kids about these special deals. That's OK! It's none of their business what you decide to do with your stuff. Give it to the church, the mission, the animal shelter, your favorite charity. That's fine. It's your stuff to do with as you please. But do not MUMBLE! Do not create expectations that conflict with each other. Write it down. Have your lawyer write it down.

It is common, and uncommonly destructive, for kids to believe that whoever talks to Mom or Dad last is the one who gets their way. Let your "Yes" be yes, and your "No" be no. All else comes from the evil one. Your kids can deal with a lot. They can deal with your decisions and wishes. What they cannot be expected to deal with is lack of clarity. Ambiguity. You want to divide your family. Tell each one a different story. Agree with each. Do not write anything down. That's how you make sure that your descendants will hate each other. Cousin vs Cousin.

And it may not have been that bad at the start. The problem is that no one repeats a story without making the story "better." More dramatic. More black and white. Nobody likes a namby-pamby story. We want evil villains and noble heroes. And when you have left things in a mess, the story will be told and retold making it more dramatic each time.

When you say what you mean and mean what you say... Peace and Harmony.

#### QUESTION 6: WHO GETS THE STUFF?

We always knew that my oldest sister, the oldest child, would get the silver flatware. It was a given. She staked her claim before half of the other kids were born. No one begrudged her. Everyone accepted. No problem.

But the "stuff" frequently is a problem. Here's why. Stuff becomes a symbolic substitute for the loved one. (By the way, I'm making all this up, based on 33 years of observation and not a whit of psychological training.) Sometimes it's the ashtray (not kidding) that becomes the symbolic substitute for Mom.

True Story: Kids could not agree who got the ashtray.

not ignore that connection. They could no more give up the ashtray than give up Mom. But. When the ashtray was on the auction block, it became an ashtray once again. It no longer had that symbolic significance. And none of the kids smoked.

Moral of the Story: If you want particular things to go to specific people, write your list. Then take pictures of the stuff and cross-reference the pictures to the list. Do not simply write a description. No one will agree with one another about what you meant. To coin a phrase: A Picture is worth a Thousand Words.

#### QUESTION 7: SO TELL ME WHAT YOU WANT WHAT YOU REALLY REALLY WANT.

On the health care front. Many people, while planning, will claim that they do not wish for extraordinary efforts. But when it comes right down to it, the question becomes: "Is that all you've got, doc?"

This can be the most difficult question of all. When in planning mode, you are calm, cool, and collected. When your life is on the line, right now... things look different. Sometimes, people have thought the thing through, made their choices, and stick with them. Frequently the change in perspective results in a change in decision-making.

My own father took the steadfast approach. On more than one occasion he was at death's door. And intended to walk through. He resolutely rejected any further therapy. His body didn't get the message, I guess, and so he survived a few incidents that astonished the doctors. They couldn't figure out how he kept ticking. That seems to me to be a good way. Think it through yourself. Take it seriously. That's the best any of us can do.

#### Let The Journey Begin

We are all getting older. We can all expect to suffer the infirmities of age. We will all die.

How we progress is not up to us alone. But we have a vote. We can decide how to face the future. We can make it easier for our loved ones. We can throw obstacles in their path.

Is it foolish to plan ahead? If you cannot be in total control, should you give up the control that you have? Are you opposed to having as much say as possible? Would you rather be powerless?

Not all these questions apply to everyone. But maybe they can spark some conversation within your own thoughts. And with your loved ones.



through your intentions?

And please do not "solve" this problem by naming co-trustees, co-patient advocates, co-agents, or co-anything else. Pick one person to shoulder the Name-calling. Fighting. Back-biting. Then comes the auction. Not one of the kids bid on the ashtray. What's going on? My Theory: When the ashtray was in the house, part of the furnishings, the connection to Mom was strong. Undeniable. The children could

## "Bah," Said Scrooge, "Humbug." Why Don't You Deserve A Little Payback For All The Taxes You Paid In? Why DO YOU WANT TO SPEND YOUR LAST NICKEL ON LONG-TERM CARE? Why Shouldn't The Government Spend Your Money For You?

Traditional estate planning is concerned with avoiding probate, saving taxes, and dumping your leftover stuff on your beneficiaries. After you die. Nobody cares what happens to you while you are alive. How does that help anyone? Stupid.

Traditional estate planning fails because the overwhelming majority of us will need long-term skilled care. 70% of us. For an average of 3 years. And we will go broke paying for it.

Is it surprising that thousands of recreation properties: cottages, cabins, hunting land, are lost to pay for long-term care? Why is your estate planner hurting you and your family? It is evil intent? Or stupidity? LifePlanning<sup>™</sup> defeats Nursing Home Poverty. Keep your stuff. Get the care you have already paid for. Good for you. Good for your family. Good example for society,

When my mother suffered from the dementia which led to her death, over 10 years ago, their estate plan preserved their lifesavings. Mom's months in the nursing home did not mean Dad's impoverishment. Dad spent the last years with security and peace of mind.

IS NOW A BAD TIME FOR A REAL SOLUTION?

Perhaps you think you already have an answer to this problem. Maybe you do not see this as a problem

at all. It is possible that you do not believe in the passage of time or its effects on you.

Peace of mind and financial security are waiting for everyone who practices LifePlanning<sup>TM</sup>. You know that peace only begins with financial security. Are legal documents the most important? Is avoiding probate the best you can do for yourself or your loved ones? Is family about inheritance? Or are these things only significant to support the foundation of your family?

Do you think finding the best care is easy? Do you want to get lost in the overwhelming flood of claims and promises? Or would you like straight answers?

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