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Estate Planning
Special Needs Planning

Newsletter



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When Elderly Parents Move In

It is becoming an increasing trend for elderly parents with health issues to move in with their adult children. Often, the adult children are motivated to keep their parents out of a nursing home as long as possible. Adult children should consider the legal ramifications to avoid unintended consequences.

First, the adult children should prepare to deal with their parents' declining health. One of the main reasons elderly parents move in with their adult children is their health. The fact is that our time on this planet is limited. When a person's health declines, it can occur very quickly. It is best to plan for this contingency.

Next, everyone should consider how medical bills are going to be paid in the future. Perhaps the elderly parents have Medicare coverage now. But, if their health declines to the point where nursing home care becomes inevitable, they may need to rely on Medicaid to pay the bills. Knowing something about Medicaid eligibility rules may help ensure that the elderly parents qualify when the need arises.

Third, the adult children should be aware of the available resources to help them take care of their parents. This can help ease the pressure on the caregiver children.

Finally, the adult children can take steps now that will help avoid messy legal disputes among family members later.

With these principles in mind, here are eight tips adult children should follow when elderly parents move in.

First, the children should have a serious heart-to-heart conversation with their parents. This is a conversation that should be based on a relationship of equals. The point of the conversation is to

William J. Kovatch, Jr., Attorney at Law, PLLC provides elder law services. The practice of elder law includes the representation of the elderly and the disabled in connection with:

- estate planning (wills and trusts)
- estate administration
- the application for public benefits such as Medicaid
- advance medical directives
- the creation of powers of attorney
- guardianship
- conservatorship,
- disability planning
- long-term care planning.

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- Pennsylvania
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gather information to prepare for future contingencies. The conversation should address the parents' health issues, their medications, and their doctors. It should also address the parents' values, and the qualities of life they most cherish. Finally, the conversation should address whom the parents trust to make decisions for them if they were unable to do so. This conversation will be the building block for such tools as an advance medical directive, a power of attorney or a living trust. The conversation ensures that there is a clear choice of who will be able to make decisions, and that there is some guidance for those decisions.

Second, the parents and adult children should avoid commingling assets. The main concern is future qualification for Medicaid, a means-tested program. To qualify, a person must have less than a certain amount of assets, or countable resources. However, a person cannot give the money away. Commingling assets can be seen as a gift that could cause a period of ineligibility for Medicaid.

Third, the parents and children should avoid opening "convenience accounts." These are bank accounts that list both the parent and child as the joint owners. While well-intentioned to permit the adult children to be able to pay the parents' bills, such accounts open the money up to unnecessary risk. The money can be attached, for example, to satisfy a court judgment against the adult child.

Fourth, the adult children should have an inventory made of their parents' assets when they move in. If the parents do apply for Medicaid in the future, they will need to provide detailed financial information to the Government. An inventory now can save some effort later. The inventory can also serve as evidence of what is in the house if there should be a disaster, such as a fire, an insurance claim made. Finally, the inventory can help avoid future disputes over what happened to the parents' property.

Fifth, if the adult children have any siblings, they should make communicate with them about their parents. Too often, wills contests are not so much about greed, as hurt feelings, as siblings can feel unappreciated or left-out. Communication between siblings now can avoid messy litigation later.

Sixth, the adult children should research what resources are available to help them care for their parents. Often, when adult parents move in, it is stressful and difficult for the caregiver child. Pressure can be eased by hiring companionship care and in-home nursing care. Also, the caregiver child should not feel guilty about the need to take a break. Respite care is available for this very reason.

Seventh, when the adult parents move in, this may be the time to have them update their legal documents. Wills, advance medical directives, trusts, and powers of attorney should be reviewed to make sure they achieve the desired goals.

Finally, the adult children should make a contingency plan. What would happen to the elderly parents if an accident or sudden illness were to befall the adult children? Who would take care of the elderly parents then?

A little thinking and planning now can ease future burdens as new needs arise.■

Upcoming Speaking Engagements

"Estate Planning Basics"

Saturday, April 18, 2009 starting at 10:00am

Bethany Lutheran Church, 2501 Beacon Hill Road, Alexandria, VA 22306

This newsletter is for informational purposes only, and not meant to constitute legal advice. Quality legal advice requires a thorough look at the facts and circumstances surrounding your situation. ■