

Senior Law Quarterly

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National Academy of
Elder Law Attorneys, Inc.

MEMBER

The articles in this newsletter are written by the attorneys of South County Senior Law & Estate Planning Center, LLC as an informational resource for our friends and clients. Nothing in this publication is intended as legal advice for anyone's particular legal situation. If you have a specific legal issue, please call our office for assistance.

LONG DISTANCE CAREGIVERS

Adult children often first realize that Mom or Dad needs help when there's a sudden hospitalization or a frantic call from an overwhelmed parent. In many instances, a child will discover evidence of a parent's deterioration during a visit.

Having to move quickly, family members who live far away are unable to easily navigate the maze of medical, social and financial resources that aging parents may need to live safely in their own home. It is very difficult for a layperson to manage the different aspects of the fragmented delivery system.

If you're too far away to monitor a parent, you have a couple of options. You can hire a professional to oversee your parent. Or you can coordinate the care yourself by assembling a network of neighbors, medical specialists, drivers, housekeepers and other helpers.

GERIATRIC ASSESSMENT:

In either case, you first should get a geriatric assessment, in which a professional identifies problems and suggests a care plan. Such an assessment would cover a range of issues: Is your parent showing signs of depression or dementia? Does a parent need help preparing meals? Are bills getting paid?

Ask you parent's elder law attorney, doctor or a hospital discharge planner for the name of someone who performs geriatric assessments. You can also get a recommendation from the local Visiting Nurse Associations of America (www.vnaa.org; 202-384-1420) or the local Area Agency on Aging (use the

Eldercare Locator at www.eldercare.gov to find the nearest agency or call 800-677-1116). Or contact the National Association of Professional Geriatric Care Managers (www.caremanager.org; 520-881-8008).

Once you get the assessment, you will need to decide how to proceed.

GERIATRIC CARE MANAGERS:

Geriatric care managers assess and address the complex needs of the elderly. They will arrange for transportation to doctors' offices and make sure a parent's house is fall-proof. If a parent's health deteriorates, a care manager can advise and make recommendations to the decision maker who will decide if assisted living or a nursing home is the best option and then find a suitable facility.

In St. Louis, care managers charge hourly rates running from \$75 to \$100. The number of hours that a care manager spends with the client each month ranges from 7 to more than 20. Cases absolutely take much more time at the beginning to set things up, but then can become weekly monitoring.

Geriatric care management is not a licensed field, so it's important to obtain references. A care manager should be a licensed or certified nurse, social worker or therapist. Find out if the manager is a member of the Association of Geriatric Care Managers.

If you need to hire a personal organ-

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The choice of an attorney is an important decision and should not be based solely on advertising.

Mavis Kennedy Acquires CELA Designation

Mavis Kennedy, Principal of South County Senior Law & Estate Planning Center, recently acquired certification as an elder law attorney by the National Elder Law Foundation (NELF), the only elder law certification program accredited by the American Bar Association. Only four other elder law attorneys in the Saint Louis area have earned the CELA designations.

Kennedy graduated from Saint Louis University Law School in 1992. She is licensed to practice law in Missouri, Illinois, and Texas. Her practice areas include elder law, estate planning, probate and trust administration, contested estates, guardianships and conservatorships, business formation and advice, special needs trusts, and real estate.

As a Certified Elder Law Attorney (CELA), Kennedy offers professional expertise in the unique needs of older, maturing populations. Not only an authority on legal issues affecting seniors, she is also familiar with other vital resources and services—both public and private—that can help meet the needs of senior citizens and persons with disabilities.

Kennedy offers expertise in these important issues facing older Americans:

- Health and long term care planning;
- Public benefits (such as Medicare, Medicaid, Social Security, and Veterans' benefits);
- Conservation, disposition, and administration of estates (including wills, probate, and trusts);
- Surrogate decision making (powers of attorney and guardianships);
- Establishing legal capacity of an elder person;
- Special needs counseling (advising disabled persons and their families with regards to trusts and protection of public benefits); and
- Tax advice.

Kennedy will also recognize areas of concern that may arise during counseling and representation relating to the following issues:

- Abuse, neglect, or exploitation of an older or disabled person;
- Long-term care planning;
- Retirement benefits; and
- Housing and insurance.

Kennedy, a resident of Oakville, lives with her two daughters and three dogs (a poodle, multi-poo, and york-tese). Her hobbies include golf and enjoying various activities with her family and friends.

For a no-cost initial consultation with Ms. Kennedy on any of the elder law issues listed here, please contact South County Senior Law & Estate Planning Center, telephone: 314-845-0541, or email her at mkenedy@STLseniorlaw.com.



**Mavis Kennedy, Principal,
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LONG DISTANCE CAREGIVERS con't

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izer, ask an elder-law attorney for a referral.

DOING IT ON YOUR OWN:

If you don't want to use a care manager, you can put together the care plan yourself. The adult child can cobble together a network of family friends, neighbors and professionals to help the parent who lives alone.

Obtaining a durable power of attorney immediately is the most important first step. This legal document will give care givers the right to make legal, financial and health care decisions. Doing this early on saves you a lot of time and frustration later.

A Lifeline medical alert system is usually a starting point. You put friends and neighbors on the contact list. If the parent falls or has an emergency, the parent can press a button to notify his/her support system.

A local support team, possibly including other relatives, neighbors and friends, will check on the parent, pick up groceries and get the parent to doctor appointments. In addition, the care giver child stays in touch with the parent's physicians and part-time home-care workers.

At the first sign of a problem, contact your parent's primary care doctor to determine if there is a medical cause. For instance, drug interactions are common among those taking multiple medicines and could be the cause of dizzy spells, lethargy or lack of appetite.

To make a long-distance-care plan work, it's essential to assemble a network of relatives, friends and neighbors. Set up a schedule for regular check-ins. Don't depend too heavily on any particular person in the network.

You will also need to find services in your parent's community. Your network can help with this. Your parent's place of worship may also know of resources or even delivery services.

The local Area Agency on Aging is a free resource for providing names of home health aides, homemakers, transportation services, senior centers, adult daycare and home-repair contractors. The agencies can also help you assess the types of services you will need.

When you hire a home aide, prepare a schedule of duties. Call the aide regularly, and ask one of the parent's friends to drop by occasionally while the aide is there to make sure that nothing seems amiss.

For many seniors, cooking or grocery shopping is an issue. The local aging agency can recommend nutritionists and food-delivery services. Meals on Wheels (www.mowaa.org; 703-548-5558) could be an option, and some programs offer additional services.

Consider your parent's social life. Put a plan in place to help your parent pursue favorite activities. Perhaps that could take the form of regularly scheduled outings to a senior center, which can offer everything from shopping and theater trips to a Cardinal's game.

Also, gather important information, such as a medication list, bank and brokerage account details, recent tax returns, Social Security numbers, and contact information for doctors, health insurers and pharmacists. Know where a parent keeps important documents, such as birth certificates and insurance policies.

It's wise to plan ahead. Adult children should talk with their parents while they're still healthy about their wishes regarding living at home or moving in with adult children, powers of attorney, and end-of-life decisions. It's preferable not to have to do this in a crisis.

Outside the Hospital Do-Not-Resuscitate Orders

The Missouri Department of Health and Senior Services adopted a new Outside to Hospital Do-Not-Resuscitate ("OHDNR") rule effective March 17, 2009. The proposed rule authorizes emergency medical personnel to comply with do-not-resuscitate requests when presented with an OHDNR order.

An OHDNR order is only effective when the patient has not been admitted to or is not being treated within a hospital or has not yet "come to the emergency department."

An OHDNR order must be signed by the patient and his or her attending physician. The OHDNR may be revoked at any time by the patient.

An OHDNR form is available online at www.dhss.mo.gov/EMS, or may be obtained by mailing a written request to the Missouri Department of Health and Senior Services, EMS Bureau, P. O. Box 570, Jefferson City, MO 65102.

Interested individuals can also contact the law firm to request a photocopy of the OHDNR form and instructions.

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South County Senior Law & Estate Planning Center, LLC has been serving the needs of our senior clients for twenty years. The firm attorneys, Dennis B. Mertz, Mavis Kennedy, and Christine F. Hart are members of NAELA, Inc. (National Academy of Elder Law Attorneys), dedicated to meeting the legal needs of all persons of all ages, including seniors.

We concentrate our practices in the areas of estate planning, trusts and estates, powers of attorney, probate, asset preservation, including Medicaid planning and tax advice, Special Needs Trusts and trust administration, nursing home abuse, will contests and other contested estate matters, financial exploitation of the elderly, personal injury, and guardianships and conservatorships. The initial consultation with any of our senior law attorneys is always at no charge or obligation to employ our firm. Call us at (314) 845-0541 to schedule an appointment to discuss any of your legal questions.

SHARE YOUR NEWSLETTER

We encourage you to share this newsletter with anyone who is interested in issues pertaining to seniors. The information in this newsletter may be disseminated without charge or permission, but with appropriate citation to Senior Law Quarterly.

Anyone wishing to be added to our newsletter mailing list should contact our office at (314) 845-0541 with your request.

DSS Increases Minimum Monthly Maintenance Needs Allowance

The Missouri Department of Social Services (DSS) has increased the minimum monthly maintenance needs allowance (MMMNA) for the community (at-home) spouse from \$1,750 to \$1,822 per month beginning July 1, 2009. The maximum monthly maintenance needs allowance remains at \$2,739.

The MMMNA is the minimum amount, as determined by the DSS, which should be available from a married couple's joint monthly income to meet the support needs of the community, or at-home spouse, when the other spouse is in a nursing home and receiving Medicaid to cover the cost of the nursing home.

The spousal protections for the healthy spouse when one spouse requires nursing home assistance include both a minimum asset allowance, and a minimum monthly income for the community spouse. When one spouse enters a nursing home, it is generally recommended that the couple apply for a Division of Assets with the DSS. The Division of Assets will establish the amount of the couple's resources which should be set aside for the community spouse. Additionally, the community spouse is entitled to a minimum income for his or her monthly support. In some instances, when the couple's combined incomes are insufficient to meet the support needs of the community spouse, an increase in resources for the community spouse may be allowed.

Whenever one's spouse enters a nursing home, the community spouse should consult with an elder law attorney for complete advice on the spousal protections afforded him or her by law. Our attorneys provide no-cost initial consultations to review those spousal protections with the family.