

Legal and Financial Planning: An Integral Part of Caring for a Loved One with Alzheimer's

Presented by
James J. Ruggiero, Jr., Esq., AEP®, EPLS
Ruggiero Law Offices LLC
www.ruggierolaw.net
610-889-0288

Ruggiero Law Offices LLC

Learning Objectives: Legal and Financial Planning

- To understand the importance of advance planning and of having the opportunity to involve the person with Alzheimer's/dementia
- To identify the steps in getting legal and financial plans in place for the person with Alzheimer's/dementia as well as the caregiver
- To become familiar with specific legal issues, financial issues and future care options pertaining to Alzheimer's/dementia
- Understand the cost of care and identify resources to aid in care
- Importance of establishing a team of professional and care advisors to assist along the journey of caregiving

Ruggiero Law Offices LLC

The Importance of Planning Early

- Planning early:
 - Time = Choices
 - Allows people with Alzheimer's/dementia maximum determination and degree of choice
 - Avoids difficult consequences of waiting too long
 - Rely on legal and financial professionals to guide you in making difficult choices in a timely manner



Ruggiero Law Offices LLC

Goals of Legal Planning

- To make plans for health care and long-term care
- To make plans for finances and property
- To designate someone to make decisions for the person with Alzheimer's/dementia when he or she is no longer able

Ruggiero Law Offices, LLC

The Importance of Updating Legal Documents

- Legal Capacity
 - Includes assessment of judgment and decision making ability
 - Is usually intact at early stage but diminishes over time
 - Rate of decline differs for each person
 - Is determined by court

Ruggiero Law Offices, LLC

Legal Checklist for Alzheimer's/Dementia Planning

- Just like selecting a physician, choose an attorney experienced in elder law, such as a member of the National Academy of Elder Law Attorneys (NAELA)
- Prepare for your meeting with an attorney similar to preparing a medication list for your physician
 - Locate your legal documents
- Have legal documents reviewed by an elder law attorney for updates, changes in the law especially related to asset protection

Ruggiero Law Offices, LLC

What to Bring When Meeting with your Attorney

- Bank statements
- Investment account statements/beneficiary designations
- Inventory of safety deposit box
- Copies of deeds
- Recent tax returns
- Life insurance policies
- Annuities
- Health insurance policies
- Admission agreements to health care facilities
- Funeral/burial arrangements

Ruggiero Law Offices LLC

Important Legal Documents

- HIPAA Release
- Health Care Power of Attorney
- Living Will
- General Durable Power of Attorney
- Last Will and Testament
- Trust
 - Medicaid Asset Protection Trust
 - Retirement Trust
- Important Medical Directives
 - Do Not Resuscitate Form (DNR)
 - POLST

Ruggiero Law Offices LLC

HIPAA Release

- A HIPAA authorization permits named individuals to have access to your medical information
- Authorizes health care providers or insurance company to share protected medical information with them
- No decision making authority for named individuals

Ruggiero Law Offices LLC

Durable Power of Attorney for Healthcare

- Permits an agent to act on your behalf in healthcare matters when you are incapacitated
- Provides the ability to make medical treatment decisions
- Springs into effect upon incapacity
- Named agents and health care providers should have copies of Durable Power of Attorney for Health Care and Living Will

Ruggiero Law Offices LLC

Living Will

- Recognized in Pennsylvania to provide the right to refuse medical treatment such as artificial life support when:
 - Suffering from an incurable and terminal illness or;
 - In a persistent vegetative state
- Designate an individual to inform healthcare provider of treatment wishes
- Doctor advises when person is terminally ill with less than 6 months to live or critically injured and near death

Ruggiero Law Offices LLC

General Durable Power of Attorney

- Designate an agent to act on your behalf in all financial and legal matters before you become incapacitated or incapable of decision making
- Revised laws in PA – Act 95 - 2015
- If acting as agent a copy needs to be on file at banks and financial institutions
- Power of Attorney terminates upon death of loved one
- Need to be created in accordance with State laws
- Without a Power of Attorney, an individual will need to obtain a court order in a guardianship proceeding to act as a decision maker due to incapacity
 - Costs time and money

Ruggiero Law Offices LLC

Last Will & Testament

- Written instructions to loved ones on how to handle property and affairs after death
- Appoints an executor to handle affairs after death
- Names beneficiaries
- Make bequests of property
 - Specific or general bequests
 - Individuals or charities

Ruggiero Law Offices LLC

Trust

Living Trust

- Names a Trustee
- Provides instructions about how to manage a person's estate
- Can include a broad range of property
- Helps avoid probate
- Specifies the termination date of the trust
 - i.e. terminates when the last beneficiary dies

Retirement Trust

- Can provide a Pension for a Pensionless Generation

Medicaid Asset Protection Trust

Ruggiero Law Offices LLC

Medical Directives

What is a POLST?

- POLST – Physician's Orders for Life Sustaining Treatment
- An Advance Directive is necessary to appoint a legal health care representative and provide instructions for *future* life-sustaining treatments.
- The POLST form is a medical order indicating a patient's wishes regarding treatments that are commonly used in a medical crisis. As a medical order, emergency personnel – such as paramedics, EMTs, and emergency physicians – must follow these orders. Without a POLST form, paramedics and EMTs are required to provide every possible medical treatment to sustain life.

Ruggiero Law Offices LLC 610-388-2088



The Importance of Estate Planning

- Without legal documents in place, partners (not in legal recognized relationships) may not be allowed to make decisions
- Documents prepared over 10 years ago may have adverse tax consequences or not meet your current wishes
- Guardian may be declared by the court to assume total responsibility for the person
 - Public knowledge
 - Annual court requirements
- Meet frequently with your attorney and financial advisor to adapt to changing needs

Ruggiero Law Office, LLC

The Importance of Financial Planning

- Cost of care
- Financial impact on caregiver
 - Caregiver Agreement
- Paying for care
 - Insurance
 - Employee benefits
 - Social Security
 - Medicare
 - Reverse Mortgages
 - Veterans benefits
 - Medicaid

Ruggiero Law Office, LLC

Cost of Care

- **Common care costs include:**
- Ongoing medical treatment for Alzheimer's-related symptoms, diagnosis and follow-up visits
- Treatment or medical equipment for other medical conditions
- Safety-related expenses, such as home safety modifications or safety services for a person who wanders
- Prescription drugs
- Personal care supplies
- Adult day care services
- In-home care services
- Full-time residential care services

Ruggiero Law Office, LLC

Median Costs for Long-Term Care

- According to Genworth Cost of Care Survey 2018:
- Long-term care services include home- and community-based services, assisted living and nursing home care
- Home care: A paid non-medical home health aide is \$22 per hour and \$132 per day
- Adult day services: \$72 per day
- Assisted living facilities: \$4,000 per month or \$48,000 per year
- Private room in a nursing home is \$275 per day or \$100,375 per year
- Semi-private room in a nursing home: \$245 per day or \$89,297 per year
- PA is higher!

Ruggiero Law Offices, LLC

Paying for Care - Financial Advisors can Identify Needs and Sources of Income

- Financial advisors can run projections on how long the money will last and how to optimize the finances and care options
- Questions to discuss with a financial advisor:
 - How do we meet our current expenses?
 - What is the lowest level of care that might be needed?
 - What is the highest level of care that might be needed?
 - What financial resources do we have now that could pay for this range of care?
 - What additional resources might we need?

Ruggiero Law Offices, LLC

Long-term care Insurance Options

- Individual policy
- Group policy from employer
- Rider on life insurance policy
- Life savings
- Questions to review with insurance agent, financial advisor or attorney:
 - What is the daily benefit?
 - When can person with dementia begin to collect benefits?
 - How long will the daily benefit be paid?

Ruggiero Law Offices, LLC

Medicare vs. Medicaid

Medicare	Medicaid
Government insurance program	Government assistance program
Age-based	Needs-based
Federally-administered	State-administered
Does not pay for long-term nursing home care	Does pay for long-term nursing home care

Ruggiero Law Offices, LLC

Medicare

- Part A
 - Hospital insurance
- Part B
 - Medical insurance
- Part D
 - Prescription drug coverage



Ruggiero Law Offices, LLC

Medicare Part A – Hospital Insurance

- What's covered:
 - Inpatient care in hospitals
 - Skilled nursing care for short-term rehabilitation
 - Home health care
 - Hospice care
- How it works:
 - Automatically signed up at age 65, or
 - Under 65 after receiving SSDI for 24 months
 - In most cases, no premium
 - Co-payments, co-insurance, deductibles may apply

Ruggiero Law Offices, LLC

Medicare Part B – Medical Insurance

- What's covered:
 - Physician services
 - Outpatient services such as lab tests and MRIs
 - Durable medical equipment (e.g., walkers)
 - Some preventive services
- How it works:
 - Automatically signed up at age 65, or
 - Under 65 after receiving SSDI for 24 months
 - Monthly premium
 - Co-payments, co-insurance, deductibles may apply

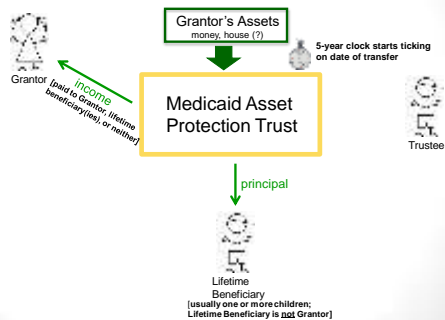
Ruggiero Law Offices, LLC

Medicaid

- Covers skilled nursing care in facility
- Eligibility based on:
 - Medical need
 - Income and Assets
- Payments made directly to providers
- State specific regulations

Ruggiero Law Offices, LLC

Medicaid Asset Protection Trust



Ruggiero Law Offices, LLC

Veterans Benefits

- Medical benefits package
- Health care insurance
- Service-connected disability income
- VA pension
- Aid and attendance benefit
- Housebound benefit
- Death pension
- Dependency and indemnity compensation
- Burial and final expenses

Ruggiero Law Offices, LLC

Caregiver Agreements

- **Caregivers get paid for the job they do**
 - It offers a great way to support the person for their time and effort in caring. This may be a caregiver's sole source of income or a second job. How much to pay a caregiver is up to the family. A good place to start is to look at how much a home health agency would charge. Current rates in Northampton County PA are \$18-25 per hour.
- **Define the caregiver relationship**
 - A detailed caregiver agreement sets boundaries. It makes clear the extent of the services being provided and the amount of money the caregiver is getting paid.

Ruggiero Law Offices, LLC

Caregiver Agreements

- **Keep peace among family members**
 - Having a caregiver agreement in place helps minimize the conflict between family members over the handling of care
 - The existence of a contract helps elevate the validity of the arrangement and value the services provided by the caregiver
- **Clear the way for Medicaid**
 - With regard to Medicaid eligibility, payments made to a caregiver under contract can reduce the care recipient's countable assets, which in turn may accelerate Medicaid eligibility

Ruggiero Law Offices, LLC



Employment benefits:

Investigate options for caregiver or person with dementia

- Employee Assistance program
- Personal leave
- Family Medical Leave
- Part-time options
- Flex schedule/work from home
- Short-term disability plan
- Long-term care coverage
- 401k loan options

Ruggiero Law Offices LLC

The Importance of Legal and Financial Planning

- Planning Early = choices
- Build a team of legal and financial professionals
 - Allows for more caregiving
 - Reduces caregiver stress
 - Protects the family
 - Improves decision making
 - Preserves financial resources

Ruggiero Law Offices LLC
