



Monthly Newsletter November 2010



DUSTIN C. BEARD, PARTNER
300 East Main St. Ste 150 Lexington, KY 40507
<http://kystateplanningattorney.com/>
dbeard@kylawpractice.com
(859) 904-2045

Volume 1, Issue 5

Planning for Disability - The Good, The Bad and The Necessary

No one likes to think about the possibility of their own disability or the disability of a loved one. However, as we'll see below, the statistics are clear that we should all plan for at least a temporary disability. This issue of *The ElderCounselor*[™] examines the eye-opening statistics surrounding disability and some of the common disability planning options. Disability planning is one area where we can give each and every person and family we work with great comfort in knowing that, if the day comes for themselves or a loved one, they will be prepared.

Most Individuals Will Face At Least a Temporary Disability

Study after study confirms that nearly everyone will face at least a temporary disability sometime during their lifetime. More specifically, one in three Americans will face at least a 90-day disability before reaching age 65 and, as the following graph depicts, depending upon their ages, up to 44% of Americans will face a disability of up to 4.7 years. On the whole, Americans are up to 3.5 times more likely to become disabled than die in any given year.

Age	% Disabled	Average duration
25	44%	2.4 years
30	42%	3.2 years
35	40%	3.4 years
40	37%	3.9 years
45	33%	4.2 years
50	28%	4.7 years

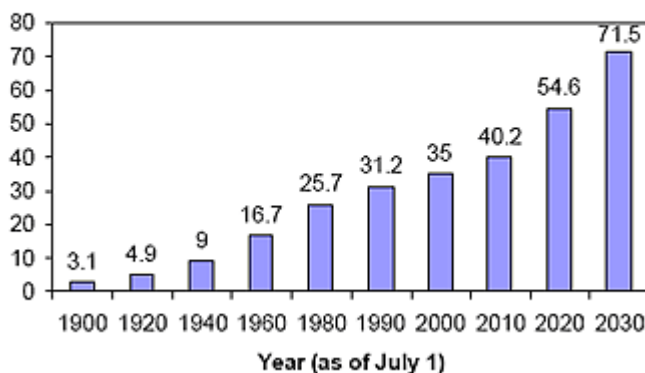
Source: 1985 Commissioner's Disability Table A (CIDA)
blended 50/50 Male/Female and 50/50 Accident/Sickness

Planning Note: Many people fear what will happen to them if they become disabled. Discussing options and planning early (while capacity is not an issue) will help bring peace of mind and alleviate some of the fear surrounding this issue.

Many Persons Will Face a Long Term Disability

Unfortunately, for many Americans the disability will not be short-lived. According to the 2000 National Home and Hospice Care Survey, conducted by the Centers for Disease Control's National Center for Health Statistics, over 1.3 million Americans received long term home health care services during 2000 (the most recent year this information is available). Three-fourths of these patients received skilled care, the highest level of in-home care, and 51% needed help with at least one "activity of daily living" (such as eating, bathing, getting dressed, or the kind of care needed for a severe cognitive impairment like Alzheimer's disease). The average length of service was 312 days, and 70% of in-home patients were 65 years of age or older. Patient age is particularly important as more Americans live past age 65. The U.S. Department of Health and Human Services Administration on Aging tells us that Americans over 65 are increasing at an impressive rate:

**Figure 1: Number of Persons 65+,
1900 - 2030 (numbers in millions)**



The Department of Health and Human Services also estimates that 9 million Americans over

age 65 will need long term care this year. That number is expected to increase to 12 million by 2020. The Department also estimates that 70% of all persons age 65 or older will need some type of long term care services during their lifetime.

The Alzheimer's Factor

Alzheimer's is growing at an alarming rate. Alzheimer's increased by 46.1% as a cause of death between 2000 and 2006, while causes of death from prostate cancer, breast cancer, heart disease and HIV all declined during that time period.

In 2010 The Alzheimer's Association published a report titled, "Alzheimer's Disease Facts and Figures" that explored different types of dementia, causes and risk factors, and the cost involved in providing health care, among other areas. In this report were some eye-opening statistics:

- An estimated 5.3 million Americans of all ages have Alzheimer's disease. This figure includes 5.1 million people aged 65 and older and 200,000 individuals under age 65 who have younger-onset Alzheimer's.
- One in eight people aged 65 and older (13%) have Alzheimer's disease.
- Every 70 seconds, someone in America develops Alzheimer's. By mid-century, someone will develop the disease every 33 seconds.
- The number of people aged 65 and older with Alzheimer's disease is estimated to reach 7.7 million in 2030 - more than a 50% increase from the 5.1 million aged 65 and older currently affected.
- By 2050, the number of individuals aged 65 and older with Alzheimer's is projected to number between 11 million and 16 million - unless medical breakthroughs identify ways to prevent or more effectively treat the disease.

Planning Note: There is no treatment available to stop or slow the progression of Alzheimer's. There are five drugs currently approved by the U.S. Food and Drug Administration that temporarily slow the worsening of symptoms for approximately six to twelve months in about half of the patients who take the drugs.

Caregivers are at risk of developing health problems. There were approximately 10.9 million unpaid caregivers (family members and friends) providing care to persons with Alzheimer's or dementia in 2009. According to the Alzheimer's Association, those persons are at high risk of developing health problems, or worsening existing health issues. For example, family and other unpaid caregivers of people with Alzheimer's or another dementia are more likely than non-caregivers to have high levels of stress hormones, reduced immune function, slow wound healing, new hypertension and new coronary heart disease.

Spouses who are caregivers for the other spouse with Alzheimer's or other dementia are at greater risk for emergency room visits due to their health deteriorating as the result of providing care. A study mentioned in the 2010 Alzheimer's Association report found that caregivers of spouses who were hospitalized for dementia were more likely than caregivers of spouses who were hospitalized for other diseases to die in the following year.

Receiving care. According to the National Nursing Home Survey 2004 Overview, the national average length of stay for nursing home residents is 835 days, with over 56% of nursing home residents staying at least one year. Significantly, only 19% are discharged in less than three months. Those residents who were married or living with a partner at the time of admission had a significantly shorter average stay than those who were widowed, divorced or never married. Likewise, those who lived with a family member prior to admission also had a shorter average stay than those who lived alone prior to admission.

While a relatively small number (1.56 million) and percentage (4.5%) of the 65+ population lived in nursing homes in 2000, the percentage increased dramatically with age, ranging from 1.1% for persons 65-74 years to 4.7% for persons 75-84 years and 18.2% for persons 85+. According to the U.S. Census Bureau, in 2009, 68% of nursing home residents were women, and only 16% of all residents were under the age of 65. The median age of residents was 83 years.

Planning Note: Many seniors or their loved ones will require significant in-home care lasting, on average, close to a year. For those requiring nursing home care, that care lasts, on average, nearly 2 1/2 years! Not surprising, the older the senior or loved one, the more likely he or she will need long term care - which is significant given that Americans are living longer.

According to the MetLife 2010 Mature Market Institute, current estimates indicate that nearly 1 million people live in approximately 39,500 assisted living residences in the U.S. The average age of an assisted living resident is 86.9 years old, and the median length of stay in assisted living is 29.3 months.

Long-Term Care Costs Can Be Staggering

Not only will many individuals and families face prolonged long term care, in-home care and nursing home costs continue to rise. According to the 2010 MetLife Market Survey of Nursing Home, Assisted Living, Adult Day Services, and Home Care Costs national averages for long term care costs are as follows:

- Monthly base rate (room and board, two meals per day, house keeping and personal care assistance) for assisted living care is \$3,293 or \$39,516 annually, a 5.2% increase from 2009.
- Daily rate for a private room in a nursing home is \$229, or \$83,585 annually, a 4.6% increase over the 2009 rate.
- Daily rate for a semi-private room in a nursing home is \$205, or \$74,825 annually, a 3.5% increase over the 2009 rate.
- Hourly rate for home health aides is \$21, unchanged from 2009.

These costs vary significantly by region, and thus it is critical to know the costs where the individual will receive care. For example, the average cost for a private room in a nursing home is much higher in the Northeast (\$381 per day, or \$139,065 annually, in New York

City) than in the Midwest (only \$174 per day, or \$63,510 annually, in Chicago) or the West (\$238 per day, or \$86,870 annually, in Los Angeles).

Planning Note: Nursing home costs will consume many Americans' assets. A recent Harvard University study indicates that 69% of single people and 34% of married couples would exhaust their assets after 13 weeks (i.e., 91 days) in a nursing home!

Long-Term Care Insurance May Cover These Costs

If a parent, their spouse, or family member needs long term care, the cost could easily deplete and/or extinguish the family's hard-earned assets. Alternatively, seniors (or their families) can pay for long term care completely or in part through long term care insurance.

Most long term care insurance plans let the individual choose the amount of the coverage she wants, as well as how and where she can use her benefits. A comprehensive plan includes benefits for all levels of care, custodial to skilled. Clients can receive care in a variety of settings, including the person's home, assisted living facilities, adult day care centers or hospice facilities.

Planning in the Event Long Term Care Insurance is Unavailable or Insufficient

Unfortunately, many older Americans will either be medically ineligible for long term care insurance or unable to afford the premiums. In that event, more aggressive planning should be considered as early as possible to make sure life savings are not depleted as a result of having to pay out-of-pocket for care. With the help of an elder law attorney, a plan can be created that will protect much of the assets of an individual or couple that would otherwise be at risk of being depleted.

Planning Note: Elder law attorneys can assist individuals in creating a plan that will prevent the loss of one's life savings to private health care costs. Often these plans involve the use of trusts (both revocable and irrevocable), expansive powers of attorney for financial and health care decisions, and other important legal documents.

All Planning Should Thoroughly Address Disability

When a person becomes disabled, he or she is often unable to make personal and/or financial decisions. If the disabled person cannot make these decisions, someone must have the legal authority to do so. Otherwise, the family must apply to the court for appointment of a guardian over the person or property, or both. Those who are old enough to remember the public guardianship proceedings for Groucho Marx recognize the need to avoid a guardianship proceeding if at all possible.

At a minimum, seniors need broad powers of attorney that will allow agents to handle all of their property upon disability, as well as the appointment of a decision-maker for health care decisions (the name of the legal document varies by state, but all accomplish the same thing). Alternatively, a fully funded revocable trust can ensure that the senior's person and property will be cared for as desired, pursuant to the highest duty under the law - that of a trustee.

Planning Note: Seniors and their loved ones need properly drafted and well thought-out planning documents that address both their property and their person in the event of disability.

Conclusion

The above discussion outlines the minimum planning clients should consider in preparation for a possible disability. It is imperative that clients work with a team of professional advisors (legal, medical and financial) to ensure that, in light of their unique goals and objectives, their planning addresses all aspects of a potential disability. Please contact us if you have any questions or would like to discuss any information in this newsletter further.

To comply with the U.S. Treasury regulations, we must inform you that (i) any U.S. federal tax advice contained in this newsletter was not intended or written to be used, and cannot be used, by any person for the purpose of avoiding U.S. federal tax penalties that may be imposed on such person and (ii) each taxpayer should seek advice from their tax advisor based on the taxpayer's particular circumstances.