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Spring Cleaning- Time To Review and Renew

Tax season is over!
Spring has sprung!

It's time to "review and renew." Each spring, we at Berwitz & DiTata LLP encourage our clients, friends and "would be" friends to focus on estate planning, refresh those resolutions and stop procrastinating. We call it our annual "Review and Renew" program.

If you have never created an estate plan, now is the time.

Although estate planning is rarely a topic people look forward to addressing, we are dedicated to helping clients identify and implement their estate planning objectives with ease and efficiency. We believe that our success is founded on this fundamental commitment to communicate with our clients in a caring and responsive manner. Those who have met with us in a one-on-one consultation know that we believe that everyone can benefit from estate planning regardless of personal income or net worth. Everyone has concerns regarding the future. For

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Medicaid Update - Spring 2012

Great News for New Yorkers!! Governor Cuomo and the New York State Legislature have agreed on the final Health Budget Bill, rejecting the proposal to eliminate spousal refusal and the attempt to expand "estate recovery," Medicaid's right to recover assets of a Medicaid recipient after death.

The potential for financial disaster for New Yorkers receiving Medicaid benefits or seeking them could have been enormous. Here's why: the initial 2012 Health Budget Bill contained a provision to eliminate spousal refusal. If a spouse required nursing home care, the couple would have had to exhaust almost all of their assets, excluding their personal residence, and in excess of \$2,841 in monthly income, including IRAs and other retirement accounts before Medicaid benefits would have been available. Under the proposal, if a spouse had been on Medicaid, the couple who owned a house would only have been able to retain annual income of about \$34,000. Imagine having to pay normal living expenses such as real estate taxes, insurance, maintenance, transportation, food, utilities, and clothing in the New York metropolitan area on that budget. Also, under the proposal, NYS wanted oversized recovery powers following the death of a Medicaid recipient. This would have included the power to recover assets from a life estate retained by the recipient, joint bank or securities accounts, IRA accounts, and trusts that were designed to distribute income or



principal to the recipient or were established using assets that were transferred by the recipient.

Our readers know that we have devoted column space in each of our past 4 issues to the proposed changes. We can breathe a collective sigh of relief. With all of this good news, we think it would be a good idea to talk with us about whether this is an appropriate time to engage in Medicaid planning.

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instance: How can I avoid probate or the dissipation of my assets to estate taxes? How can I avoid losing control of my assets if I become disabled? How do I protect myself and my family from devastating nursing home costs? Can assets still be protected if a loved one is already in a nursing home? How can I protect my minor children? How can I protect my disabled child or the assets that he or she may one day inherit? In designing strategies to effectuate our clients' goals, we offer detailed advice and a high level of technical expertise. Now is the time to achieve estate planning peace of mind! Ask those questions, explore the options, get it done.

If you created your estate plan, or reviewed it last, more than 3 years ago - now is the time.

Are your documents up to date? Have there been changes in the law

or in your life that should now be considered? The documents that address the needs of a single person are frequently insufficient when he or she marries. If a couple has children, the appointment of a



guardian should be a key factor in estate planning. Those documents that were created when the kids were small may no longer reflect their parents' wishes now that the kids have grown and flown. Indeed, once your child reaches the age of

18, he or she should have a valid and enforceable Health Care Proxy empowering you or another to make health care decisions. The "sandwich generation" is discovering that the joy and responsibility of raising children is all too frequently overshadowed by the illness of parents. The need for estate planning takes on new meaning as one approaches retirement and, if illness threatens, timing becomes more critical. Lifetime changes affect estate planning. Even if you can't conceive that the changes in your life may have an impact on your estate planning documents, an estate planning review is a vital element to ensuring that your wishes will be accomplished.

Because Berwitz & DiTata LLP understands the importance of keeping the plan current, we offer our clients a unique value-added component: a complimentary three-year review. For those who have not yet retained our services, there is a nominal fee to review your plan. Let us help you realize your estate planning objectives.

Mistakes and Misconceptions

Estate planning, whether simple or complex, requires careful attention to details which, if overlooked or misunderstood, can undermine the plan's effectiveness. We will devote space in each issue to highlight common estate planning mistakes and misconceptions.

Most of us think we know who it is that we have designated as the beneficiaries on our life insurance policies and retirement funds. When was the last time that you checked your beneficiary designations? Often, we don't even retain copies of the forms which we have completed to designate our beneficiaries -

and we rely on the financial institution to input the data correctly. What if my form was lost or misfiled? What if the data was incorrectly recorded? It's easy to ensure that the beneficiaries you have selected are properly identified. Don't ignore this important estate planning tool. Call us and inquire today.

Living at Home With Dementia

For adult children, the recognition that a parent has dementia can either be a slow process or it can be a body blow. This coupled with the parent's denial of a problem, or their desire to remain independent, or their wish to remain in their own home, can create a dilemma.

Because many of the early symptoms of dementia are consistent with the aging process, because the illness does not follow a prescribed pattern and change can happen gradually, and because it is not uncommon for those affected to devise strategies for keeping it confidential, our loved ones are often at risk.

As the disease progresses, simple tasks may become overwhelming. Try these tips:

- Purchase a telephone with large numbers and speed dial buttons
- Label the speed dial buttons with names (not numbers) of people commonly called
- For police, label the button as POLICE, not 911
- Make a sign to hang on the bathroom mirror outlining the morning routine: brush teeth, wash face, shave, brush hair
- Hang clothing as an outfit
- Store clothes and pajamas in different places
- Remove medications from the home that are no longer taken
- Sort medications into pill boxes marked with the day of week and time of day
- Hang a large calendar and encourage "crossing out" each day at the same time
- On appliances, such as the washer, dryer, microwave and stove, use nail polish to mark the dials with arrows indicating the normal settings
- Mark the thermostat with an arrow for the normal temperature
- Disable the stove by unplugging it or tripping the breaker
- Remove hazards from stairs and check bannisters for security
- Package food in single-portion sizes or as a whole meal

When giving instructions, the key is to "keep it simple." The person may be able to process only one thought at a time. Offer only one alternative. When preparing a meal, "Would you like a hamburger or soup?" When making an appointment, "Should we go at one or two?" For sequencing activities, "Would you like to do this now or after we eat?" Always speak directly, face to face. Use short sentences with simple words. A task requiring multiple steps, such as doing laundry, should be described in very small steps: Put the clothes into the washer, add the detergent, close the lid, turn the dial to wash.

Wandering is a common symptom and has frightening consequences - both for the dementia sufferer and for the family. Try these suggestions:

- Sew ID tags into clothing - include the address and telephone number
- Install door alarms that will sound if the door is opened
- Place a large stop sign on all exit doors
- Bring a clear, color photo of your loved one to the local police and mark his or her name, address and telephone number - and yours - on the back

Personal hygiene may deteriorate. Telling your loved one to bathe, or that their breath is offensive, or that their toe and finger nails are unsightly can be very difficult. You may want to consider hiring a professional to assist with bathing and grooming twice a week. This removes the stigma of the constant reminder, spares dignity and saves embarrassment. The professional will be able to handle oral hygiene, nail care and will remove dirty clothes and offer fresh ones.

It is difficult to assess when a person affected with dementia is no longer safe at home. It depends not only on the individual but also on the household, the neighborhood, the proximity of family and a host of other factors. Unfortunately, all too often family members fail to recognize the signals or are unable to broach the topic and the implementation of precautionary measures is delayed.

Would You Like To Read About It Here?

We at Berwitz & DiTata LLP are proud of our newsletter and hope that each issue brings our clients and friends insightful and timely information. We endeavor to write articles geared to your interests and concerns. We would be happy to receive your feedback. More importantly, if you have a question or would like us to address a particular topic, please call and let us know. We will try to include it in one of our next issues. Just call or drop us a line.

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The Pitfalls of Joint Ownership

It is not uncommon for a parent to add a child's name to his or her checking or savings account, or to any other asset, thereby making the child a joint owner. While this is often done for convenience purposes, it can have serious, unexpected and undesirable consequences. Since the child legally owns the asset, creditors of the child can levy against it and, if the child becomes involved in a divorce action, the child's spouse may attack the ownership interest in the asset as marital property. At a minimum, the existence of the account will have to be disclosed in a matrimonial action.

When you name a child as a joint owner on your account, you empower the child, during your lifetime, to withdraw money - as much as 100% of it! At your death, the child will automatically become the sole owner of the ac-

count, thus effectively "disinheriting" other children. While the full value of the joint asset will be part of your taxable estate, it will not pass under the terms of your Will. Therefore, if you want your assets to be equally divided among your children after your death, and for any tax burden to be equally shared, naming a child as a joint owner is a mistake. Naming all of your children as joint owners is a bigger mistake! That increases the chance that your assets will be at risk in the event that a child divorces or suffers bankruptcy or creditor issues. Moreover, if a child dies, that child's children don't inherit.

The majority of married couples own their assets jointly, with right of survivorship. This means that, when the first dies, the second owns everything. Owning assets in this manner

may be convenient while both parties are alive because it gives both of them easy access to accounts. Unfortunately, however, if the combined value of the couple's estate, *including* real property, life insurance, investments, stocks, bonds, mutual funds, annuities and retirement accounts, exceeds \$1 million, owning assets jointly can result in adverse tax consequences. Instead, where the couple's combined assets exceed \$1 million, it is advisable to take advantage of each spouse's credit against estate tax.

Simply put, owning assets jointly may conflict with estate planning. The goal of giving access to another "just in case" can be accomplished without exposing those assets to the risks discussed above. Now is the time to review your estate plan, including the manner in which your accounts are titled, to ensure that your wishes are accomplished.

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