



Law Office of Stephanie L. Schneider, P.A.

FL-ELDERLAW NEWS

“Your Trusted Planning Advisor through Life”

Law Office of
Stephanie L. Schneider, P.A.
Board Certified Elder Law Attorney

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News You Can Use

Don't Forget to Fund Your Trust!

When you left our office after signing your trust agreement you had peace of mind knowing that your estate plan was legal and enforceable. If you decided that you would fund the trust on your own did you complete that process? When you choose to handle things yourself we do not have an ongoing duty to monitor. Remember: In order for your estate to avoid probate the assets you own (excluding for example an automobile, I.R.A., 401k) must either be titled in the name of the trust or name the trust as the beneficiary (and remove any previously named beneficiaries).

Many times people will forget to re-title their assets into their trust. That is why we offer our clients the service of assisting them with the re-titling process. It is efficient and cost effective as the process is handled by our Certified and Florida Registered Paralegals at their cost effective hourly rate.

Give your beneficiaries the gift of peace of mind, knowing that your trust has been properly funded.

Payments to Caregivers of Dementia Patient are De-

ductible Medical Expenses

The United States Tax Court has ruled that payments to caregivers of a dementia patient are deductible medical expenses even though the caregivers were not licensed health care providers. A deduction can be taken once medical expenses exceed 7.5% of the adjusted gross income of the taxpayer. “Medical care” includes services required by a chronically ill person under a physician’s plan of care. Estate of Lillian Baral v. Commissioner issued July 5, 2011.

Critical Budget Cuts in Reverse Mortgage Counseling!

Individuals age 62 and older may apply for a reverse mortgage and convert the equity in their home to cash. A reverse mortgage can be a great financial tool for individuals who are ‘house rich but cash poor’ and want to age in place in their home. The mortgage does not have to be repaid until the owner moves, sells the house or, dies.

In order to apply for a reverse mortgage an applicant must receive counseling from an independent third party so they can make an informed decision. There are several issues to understand about a reverse mortgage such as insurance, origination fees and how the proceeds may affect eligi-

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bility for Medicaid. The Department of Housing & Urban Development’s (HUD) budget has provided the funds to pay for the counseling.

Unfortunately, as a result of federal budget cuts there was a significant reduction in federal funding for the reverse mortgage counseling program. Counseling funds will be cut off as of October 1, 2011. Consequently, applicants may have to pay for the counseling themselves.





Update Your Long Term Care Insurance Policy - *It Can Save You Thousands of Dollars!*

If you own a long term care insurance policy it is imperative that you notify your agent or insurance company that you want to designate a second addressee on the policy. This is important because if you fail to pay your premium, and the grace period has lapsed, and there is no secondary person to be notified your policy will lapse and you may not be able to get it reinstated. The benefit of designating a secondary person is he/she will receive the notice of late payment as well as the notice of termination in addition to you and hopefully timely pay the premium and keep your policy in force.

If your policy has lapsed due to non payment of premium call us immediately! There is a limited window of opportunity to possibly have your policy reinstated if we can demonstrate that:

- * the failure to pay was unintentional AND
- * due to cognitive impairment or
- * loss of functional capacity, or
- * continuous confinement in a hospital, skilled nursing facility or assisted living facility for 60+ days.

Policy owners have a minimum of 5 months after the date of cancellation to request reinstatement (and possibly longer depending on the policy language). The premiums must be

brought current and an interest charge may be required. As your trusted advisor we are here to help you reinstate your policy.

Alzheimer's Association® **invites you to be its guest**

at *The Art of Caring * A Look at Life through Photography*

The Art of Caring provides an entertaining, thought-provoking and inspiring look at seven aspects of the human experience — Children and Family, Love, Wellness, Caregiving & Healing, Disaster, Aging, and Remembering — to explore how the key events of life are celebrated and honored in different cultures throughout the world.

Guests who inform ticket office they are guests of Alzheimer's Association **admitted free on:**

- * Thursday, July 14, 2011
11 a.m. to 8 p.m.
- * Thursday, September 8
11 a.m. to 8 p.m.
- * Wednesday, September 14,
11 a.m. to 6 p.m.

Museum of Art

Nova Southeastern University
One East Las Olas Boulevard at
Andrews Avenue, Ft. Lauderdale
(954) 525-5500 | www.moafll.org

The Firm's Recent Success

Our clients know how important it is to have legal documents in place that create a management system in the event of incapacity. That is the first of several very important planning steps. Equally important is to learn to be a strong and zealous advocate. The word 'advocate' means a person who pleads a case on someone else's behalf. A **health care surrogate is an advocate who respects and enforces the medical choices** an incapacitated person would make if they were able to communicate.

Recently we received a telephone call from a client whose Mother fell and she was taken to an emergency room. The fall had caused significant head trauma and her mother was non-responsive. The daughter presented to the hospital copies of her Mother's Designation of Health Care Surrogate (which named the daughter as her medical agent) and Living Will. It was her Mother's wish that she not be placed on life support. The hospital employees refused to honor the legal documents which led to her calling our office.

Frustrated and upset she asked "what can I do? Can you help me?" We instructed the daughter to go to the
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Time for a Legal Checkup!

I have recently observed a client concern that I would like to share with you. When a person does not take the time to make pre-need funeral arrangements, it can cause conflict among the survivors. In certain situations the conflict may require resolution by a Court.

To benefit our clients and help ensure that their final wishes are expressed and enforced, our office has created an Declaration of Funeral Arrangements. The Affidavit designates who has authority to make final arrangements and obtain possession of the remains or cremains. This witnessed and notarized legal document is beneficial when there are multiple marriages and/or blended families. Domestic partners and same sex couples will also benefit. The declaration may help if professionals deny access to a loved one's remains or ignore decisions communicated by the deceased before death. A Declaration of burial or cremation provides the legal authority to circumvent personal prejudices or agendas.

We recommend that clients who do not complete their pre-need funeral plans sign a Declaration of Funeral Arrangements so that they may have peace of mind.

The Affordable Healthcare Act

Here are some of the highlights of the law passed in 2010:

- * Health care coverage will be available to individuals who are denied insurance due to pre-existing conditions through 2013. In Florida, the Pre Existing Condition Insurance Program (PCIP) is run through the federal government. You must be a citizen or national, uninsured for six months and have a pre-existing condition. The premium is based upon the age of the enrollee. The enrollee will be required to pay a deductible before the plan starts to pay (there may be a separate deductible for prescriptions) as well as co-payments. Learn more at: www.healthcare.gov.
- * The law also removes annual and lifetime limits on coverage which helps people who have catastrophic illnesses.
- * The Medicare trust fund will continue for another 12 years. The donut hole in Part D prescription plans will be phased out.
- * Starting in 2013 individuals will pay an additional 0.9% in Medicare tax on wages above \$200,000.00 (\$250,000.00 for a married couple). There will be a 3.8% tax on unearned wages that exceed those levels.

Stephanie's Quarterly Planning Tip

Have You Checked Your I.R.A. and 401(k) Beneficiaries Lately?

Do you know that you can designate different beneficiaries under your I.R.A. (Individual Retirement Plan) than under your 401(k) plan? A 401(k) provides protections for a surviving spouse whereas an I.R.A. **does not**. The reason for this is that a 401(k) is an employee based plan that is governed by the federal laws of ERISA (Employee Retirement Income Security Act of 1974). A surviving spouse is automatically the beneficiary. If the employee wishes to name someone else as beneficiary the spouse must consent in writing.

The owner of an I.R.A. can designate anyone he/she chooses. I.R.A.s are not governed by E.R.I.S.A. If an owner of a 401(k) plan rolls it over into an I.R.A. the owner of the plan can designate anyone whom he/she chooses because it is not governed by federal law. Therefore, **if the spouse was originally designated the beneficiary of a 401(k) which was converted into an I.R.A. and the owner changes the beneficiary to the children, the spouse is not protected.**

Tip: If you have an I.R.A. and want your spouse to inherit it, then **request a beneficiary designation form,**

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Proper Planning May Create Peace of Mind SM



Government Benefits Planning:

- ◇ Medicaid
- ◇ SSI
- ◇ VA

Estate Planning:

- ◇ Wills, Trusts
- ◇ Living Wills
- ◇ Deeds
- ◇ Durable Powers of Attorney
- ◇ Healthcare Surrogate

Domestic Partner Estate Planning

Guardianships:

- ◇ Adults
- ◇ Minors

Probate

Medicaid Applications & Appeals

Special Needs Trusts

Advocating for Facilities Residents'

Meet the Staff

Yvette Wilson, Certified Paralegal
Michele Smith, Florida Registered Paralegal
Gwynne Layne, Client Liaison
Andrea Kong, Client Liaison
Hillary Josephs, Business Development Coordinator

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complete and sign and **return it to the I.R.A. administrator.** If you have a 401(k) and want your spouse to inherit it then also request a beneficiary designation form, complete and sign it and **return it to the plan administrator.** We suggest you regularly check your beneficiary designations *especially if a divorce, death or re-marriage has occurred.*



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office of the Risk Manager at the hospital and inform the Risk Manager that there are valid legal documents which are being ignored. She followed our advice and the hospital proceeded to have two physicians document the Mother's condition (inability to give informed consent) in the medical chart so that the Designation of Health Care Surrogate was activated. Shortly thereafter, the daughter's request to have the hospital honor her Mother's Living Will was granted and her Mother died shortly thereafter in peace.

If you ever find yourself in a situation where someone at a medical or financial institution is refusing to honor a legal document that our firm prepared please call us immediately and allow us to advocate for you.

Recognized as Top Elder Law Attorney

The firm congratulates Stephanie L. Schneider for being selected again as **a top elder law attorney** in Florida by the [South Florida Legal Guide](#) and [Florida SuperLawyers](#) in 2011

