



The Anchor

ELDER LAW PRACTICE OF TIMOTHY L. TAKACS

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Winter 2009

Issue 29

Are Nursing Home Ratings Really Reliable?

Coming Events

March 26, Tim Takacs guest on OpenLine, NewsChannel 5+

(Comcast Cable Channel 50) 7:00 p.m.

April 13, Tim Takacs guest on Morning-Line, NewsChannel 5+

(Comcast Cable Channel 50) 8:00 a.m.

Mental Health Association Education & Events, call (615) 269-5355 for dates, times and locations .

Alzheimer's Family Care Network, call (615) 292-4938, ext. 15 for dates, times and locations closest to you.

Caregiver Support Group at St. Joseph's Church, Madison (615) 860-0128, first Tuesdays 6:30-8:00 p.m.

Making Memories at the Frist, a free museum tour program for individuals with Alzheimer's disease and their caregivers. See page 4 for details.

The Centers for Medicare & Medicaid Services (CMS) created the "five-star" nursing home rating system to give patients, their families and caregivers a way to compare nursing homes more easily.

CMS ratings say a lot about a nursing home—but they don't tell the whole story.

Are those ratings really reliable? In general, the answer is yes but they don't tell the whole story about a nursing home. The CMS rating is just one of several sources of information that that you should consider when evaluating a facility.

About the Ratings
The CMS ratings are developed using three sources of data: health inspections, staffing and quality measures.

The CMS rates each source separately and then combines the ratings to calculate an

overall score, which is posted on the agency's website.

Site Visits are Key
Site visits are an important source of data about nursing home quality.

During your site visit, follow the guidelines on the Medicare

Nursing Home Checklist and ask administrators about areas receiving low CMS ratings.

Chat with staff members and administrators to get a feel for the kind of "heart" they have for the elderly.

Ask family members of residents about the facility and how satisfied they are with the care their family member is receiving.

Ask to see state survey results and request an explanation of anything you don't understand.

Observe the residents.
Look around while you're visiting. Are residents up and dressed appropriately? Do they look well-fed and hydrated? Do most of them appear content or happy? Are there odors that permeate the entire facility? Pay careful attention to the details and make a note of your findings.

Talk to Officials.
Contact your Long-Term Care Ombudsman or State Survey Agency before making a decision.

These general guidelines will help you find out what's behind the CMS ratings so you can make the best possible decision about your loved one's long-term care.

For more information, visit www.cms.hhs.gov



Questions & Answers

Q Is it true that people on Medicare can only make changes once a year?

A For most people, this is true. There are several kinds of enrollment periods under Medicare. There is an annual enrollment period each year from November 15 through December 31. While the Part D enrollment period ends December 31, there is an additional enrollment period through March 31 for those wanting to join, switch or drop a Medicare Advantage Plan.

There are other enrollment periods for special situations such as residing in a long-term care facility and becoming eligible for Medicaid.

Q My mother received a balance bill for doctor's services recently. She has Medicare and Medicaid. Should she pay the bill?

A If the date of service occurred after her Medicaid began, there should be no balance billed for services covered by Medicare. Let your doctor's office that you

mother has Medicaid.

Q Does VA use a look-back period like Medicaid?

A No, the VA rules are very different from Medicaid.

Q Does Medicare have deductibles?

A Yes. The Part A deductible is \$1,068 per benefit period. Part B has an annual deductible of \$135. Medicare Advantage plans do not have deductibles, but have flat co-pays instead.



"I am only one; but still I am one. I cannot do everything..."

Fate of Federal Estate Tax Undecided

A major plank of George W. Bush's first presidential campaign was to repeal the federal estate tax - the "death tax" as many called it. In 2001, President Bush and his Republican party delivered on its promise—almost.

The federal estate tax was not repealed but instead phased out over the decade. Thus, for a person dying in 2001, the first \$675,000 of his "taxable estate" passed to the beneficiaries of his estate free of federal estate tax. The

value of the estate above that amount was subject to a top tax rate of 55 percent.

Last year, in 2008, the threshold that escaped tax had risen to \$2 million taxed at 45 percent; this year, the threshold jumped to \$3.5 million. Next year, in 2010, the federal estate tax is repealed.

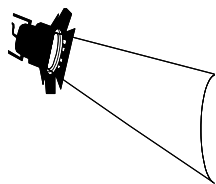
For folks who plan ahead (or their beneficiaries), it could be worth their dying in 2010 instead of

2011, because starting in 2011 the federal estate tax is reinstated at \$1 million with a top rate again of 55 percent. Ouch!



Back in 2001, when the law was passed, almost no one expected that the law would not be changed sometime during the decade--yet, here we are, approaching 2010 with estate tax repeal imminent. Since 2001 there has been no serious Congressional effort to change it. Will this be the year?

From Elder Law Fax



GUEST COLUMN

Selecting a Home Care Service: Know What Questions to Ask!

Selecting a home care service for your elderly or disabled loved one can be an overwhelming task. Making the right decision requires time, patience and homework. Know what questions to ask!

Q: Will the caregiver be an employee of the home care service?

Subcontracted help is often unreliable, which results in reduced quality of care and more worries for you. Choose a provider who sends their own employees to provide care for your loved one.

Q: Is the company licensed by the State of Tennessee? Always ask to see a prospective care provider's state license, which proves they meet or exceed state standards.

Q: Do you drug test your employees? Protect your loved one by choosing a company that requires pre-employment drug testing and conducts random drug testing. Your loved one will be

safest if you choose a company that can make the drug-free guarantee.

Q: Does the company carry Workers' Compensation coverage?

If your home care provider doesn't have Workers' Compensation coverage, you could be liable for injuries the caregiver sustains while caring for your loved one. Ask to see their certificate of coverage.

Q: Is the company insured and bonded? Look for a home care firm that is licensed, insured, and bonded, which protects you and your loved one in the event of accident or injury. Ask for proof in writing.

Q: Does your agency do background checks on caregivers? Checking a caregiver's background through the sheriff's office simply isn't enough. Find out if your home care provider conducts a thorough background check including a ten-year criminal background review, reference check,

credit check, abuse registry check and TB test.

Q: Does your company offer 24-hour service? Find out if the company provides weekend, holiday and emergency coverage. Look for a provider who can promise a caregiver on call 24 hours a day, 7 days a week.

Q: What training do caregivers have? Your loved one deserves more than a "sitter." Look for companies that offer several levels of non-medical service such as Companions, Lifestyle Assistants, Licensed Practical Nurses (LPN) and Certified Nursing Technicians (CNT).

Robert DeBlasio, R.N. is President and CEO of Caregivers, Inc., a Hendersonville-based company that has been providing customized non-medical homecare and companion services to families throughout Middle Tennessee and Southern Kentucky since 1998. Contact Robert at (615) 264-8648 or email him at caregiversinc@aol.com.



...but still I can do something; I will not refuse to do something I can do."

-Helen Keller

ELP Launches New Workshop Series

Monthly Workshops Target Community Spouse Topics

The Elder Law Practice of Timothy L. Takacs is launching the *Community Spouse Workshop Series*. This educational program is open to all Life Care Plan clients and their families in the Hendersonville and Cookeville offices.

Workshops will be held from 3:30 p.m. to 4:30 p.m. on the third Thursday of each month at the Elder Law Practice office at 201 Walton Ferry Road in Hendersonville. Each

session will include a brief presentation by Tim followed by a Q&A session.

Thursday, March 19

How to Get 5-Star Care in a One-Star Facility

Tim discusses care quality, care advocacy and how to resolve problems with care providers.

Thursday, April 16

I've Fallen and I Can't Get Up: What to Do When the Caregiver Needs Care

Tim addresses common concerns among spouse-

caregivers, including one of the most important questions of all: what will happen if I can no longer care for my spouse?

Coming Soon

The Medicaid Experience: Facts about Life in the Parallel Universe

Tim discusses the application process, how to keep your eligibility, recertification issues, estate recovery and more.

Pre-registration is required. Call (615) 824-2571 to reserve your seat.



"The reason it is so hard to be happy is that people tend to see the past better than it was..."

RMD Bill Becomes Law

In one of its final acts of 2008, congress approved a broad pension relief bill that includes a one-year moratorium on required minimum distribution (RMD) rules. Former President George Bush signed the bill in December.

The measure suspends for 2009 the requirement that individuals 70 1/2 and older must withdraw a minimum amount from their 401(k) plans or IRAs and that those who do not are subject to a

50% penalty on the amount that should have been withdrawn.



A growing chorus of lawmakers and retirement industry trade groups complained that the economic downturn was putting older Americans in the position of having to sell assets into a down market. That had the potential to seriously diminish the retirement nest egg for many who would have been affected by the long-standing RMD rules. *From www.plansponsor.com*

FREE TOUR AT THE FRIST

The Mid South Chapter of the Alzheimer's Association and the Frist Center for the Visual Arts are sponsoring a free tour program for individuals with Alzheimer's disease and their family members or care partners. Specially-trained museum educators highlight themes, artists, and exhibitions during an interactive program in the Museum's galleries. 2009 programs are scheduled for the second Tuesday of every other month at 1:00 pm. For reservations, call (615) 744-324.

Takacs Tidbits

Tim is pleased to introduce Elder Law Practice's newest staff member,



Bryson Eubanks. As Public Benefits Specialist, Bryson guides clients through every step of the application process

for a variety of public benefits, including Medicaid. Before joining the Elder Law Practice, Bryson spent 18 months as an Eligibility Counselor for the Tennessee Department of Human Services office in **Lebanon, TN**. Bryson earned a Master of Arts degree in Gerontology

from Appalachian State University in Boone, NC and a Bachelor of Arts degree in Psychology from Carson-Newman College in Jefferson City, TN.

For more about Bryson, visit www.tn-elderlaw.com.

Short Cuts

SSA Launches Online Application Process

The Social Security Administration has launched an online application that will allow people to apply for retirement benefits in as little as 15 minutes. The new program has no paper forms to sign and usually requires no additional documents. In-person applications typically took 45 minutes or longer.

For more information, visit www.socialsecurity.gov and click on "Filing Online for Retirement Benefits."

Tips for Coping with Alzheimer's Changes

An Alzheimer's diagnosis raises many questions. How will the disease progress? How will levels of ability and behavior patterns change? How

difficult will the care challenges be? These six tips can help you get ready for the journey:

Be prepared for changes in your loved one's communication abilities as the disease progresses.

Schedule visitors so the elder has something to look forward to. Social contact is valuable even if the elder does not recognize visitors.

Establish routines in activities of daily living.

Set up a safe home environment.

Get outside help to relieve caregiving burdens.

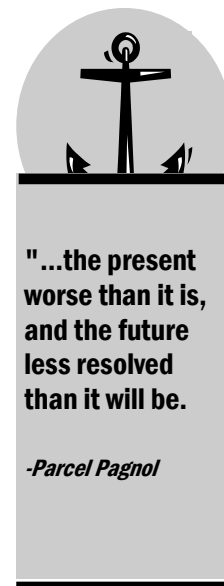
If caring for your loved one at home becomes overwhelming, consider placement in a skilled nursing facility.

From www.helpguide.org

Don't Fall for the Jury Duty Scam!

Here's how it works: the caller claims to be a jury coordinator calling about missed jury duty. If you protest that you never received a summons for jury duty, the scammer asks you for your Social Security number and date of birth so he or she can verify the information and cancel the arrest warrant. Give out any of this information and your identity was just stolen. This scam is particularly insidious because scammers try to bully people into giving information by pretending they are with the court system.

Learn more at www.fbi.gov/page2/june06/jury_scams060206.htm



"...the present worse than it is, and the future less resolved than it will be.

-Parcel Pagnol

The Anchor is a quarterly newsletter designed to enhance the service we provide to our clients. We hope you enjoy the publication and welcome your feedback.

Elder Law is a unique specialty of law intended to serve the needs of the elderly, disabled, and their families. The costs of utilizing such services are usually offset by the financial benefits gained as well as peace of mind.

Some clients who seek our services might feel like they are being tossed in a storm. Forces beyond one's control can catch a family off guard and easily drift them into a crisis situation. With professional assistance, including careful analysis and strategic planning, costly mistakes can be avoided while enhancing the quality of life for those involved.

While the Elder Law Practice of Timothy L. Takacs cannot stop the storm, we can provide the necessary anchor to help steady families during their season of turmoil.~

Information contained herein may contain general explanations of laws. It should not be considered as legal advice. Please seek counsel from an attorney regarding legal planning.
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