



# The Anchor

Elder Law Practice of Timothy L. Takacs

201 Walton Ferry Road, Hendersonville, TN • 1680 S. Jefferson, Suite A, Cookeville, TN

Spring/Summer 2007 Issue 26

## Prepaid Funeral Contracts Not for Everyone

### Coming Events

June 4, Tim Takacs guest on Morning Line, NewsChannel 5+ (Comcast Cable Channel 50) 8am

June 21, Sandy Reynolds speaks on Elder Law at St. Clair Sr. Center, Murfreesboro, 12pm—12:30pm

June 27, Life Care Plan Training Module on Nursing Home Care Plan, Hendersonville 6pm—7pm

July 12, Tim Takacs guest on Open Line, NewsChannel 5+ (Comcast Cable Channel 50) 7pm

July 19, Bonnie Woodard speaks on Medicare at St. Clair Senior Center, Murfreesboro, 12pm—12:30pm

July 25, Life Care Plan Training Module on Caregiving, Hendersonville, 6pm—7pm

August 30, Debra King speaks on Advanced Directives Network, Homewood Residence, Nashville, 2pm

Individuals who are applying for Medicaid are sometimes given quick advice by others to purchase an irrevocable funeral contract.

A prepaid funeral contract is a legal agreement which allows a person to pay now (with money or securities) for funeral services that will be needed sometime in the future. This contract may include the funeral, burial, cremation, other services and/or merchandise.

A prepaid funeral contract may be revocable or irrevocable. Irrevocable means the contract cannot be canceled, but may be transferred to another funeral home if chosen.

In the state of Tennessee, an irrevocable funeral contract is not counted as an asset for Medicaid purposes. A

funeral trust could be set up instead, but only up to \$6000.

A burial plot includes the purchase of a grave site, opening and closing of a grave site, cremation urn, casket, outer burial container and a headstone or marker. There is no limit on how much can be spent on a burial plot.

Before purchasing, you should follow this consumer checklist:

- Find out about the funeral home.
- Ask your family and friends for recommendations. Get a written statement of the prices and of the goods and services you select.
- Make sure you really need all the services that are being offered.
- Ask the funeral director to explain the services and fees.
- Clarify whether the fees can be reduced if you do not need all the services.

- Be sure that any contract you sign clearly specifies the responsibilities of the funeral home.
- Ask the funeral director to describe the investment risk and rate of return of every option.
- Contact the escrow agents directly to ask about their management policies.

When planning for long-term care, a prepaid funeral contract may or may not be a good approach, particularly if it involves a Special Needs Trust. In such cases, different rules may apply. Life Care Planning at the Elder Law Practice includes a blend of strategies that are customized according to the client's individual needs and objectives. An irrevocable burial trust might not be recommended for all clients.~



## Questions and Answers

**Q** *What is a Medicare benefit period?*

**A** Medicare uses a period of time called “benefit period” to determine how many hospital or skilled nursing facility (SNF) days you have used. A benefit period ends:

- When you have not been in a SNF or a hospital for at least 60 days in a row, OR
- If you remain in a SNF, when you have not received skilled care there for at least 60 days in a row.

**Q** *If my husband is going into a nursing home, can he transfer all of his assets to me and qualify for Medicaid?*

**A** Probably not. To determine the eligibility of the spouse who is going into the nursing home to receive Medicaid, all of the non-exempt assets held by the husband or wife are added together and then divided equally between the spouses. Of the half attributed to the spouse going into the nursing home, that spouse is disqualified from

receiving Medicaid until his or her share of the assets are reduced to \$2000.

**Q** *Isn't it wrong to hide assets in order to qualify for Medicaid?*

Hiding assets in order to qualify for Medicaid is a crime. That's not what elder law attorneys who help their clients become Medicaid-eligible do. It is not illegal to structure one's assets in an effort to qualify for Medicaid nursing home benefits. The cardinal rule is full disclosure to the government's Medicaid agency.~



“Write down the advice of him that loves you, though you like it not at present.”

- English Proverb

## Tips for Using a Financial Planner

**H**iring a financial advisor can be very useful because they: 1) are more *knowledgeable* about investing, 2) are more *comfortable* about investing, and 3) more *confident* about having enough for the future.

It is possible for someone with little or no specialized training in this area to call him/herself a “financial planner.” Some professionals are licensed by a government agency with regard to only one particular instrument (such as insurance poli-

cies). Also, be aware that with the “baby boomer” age, there is a growing trend of “senior advisors.” It is illegal for senior advisors and financial planners to provide legal advice if he or she is not an attorney. Caution should specifically be given to those who promote “Medicaid Planning.”

Before hiring a financial advisor, you should:

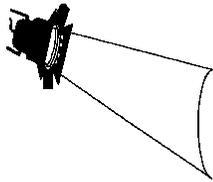
- understand any initials behind the name and research certifications
- interview more than one

- talk to prior clients
- check his/her credentialing with the National Association of Securities Dealers (800) 289-9999 or [www.nasd.com](http://www.nasd.com)

How are financial planners paid?

1. One way is by a fee charged to clients, or
2. he/she might receive commission by companies (insurance, some mutual funds, etc.) whose products are purchased, or
3. some receive a blend of both of the above.~





## Guest Column

# Council on Aging Warns Against Scams

### SCAMS Seniors Concerned About Money Schemes

Senior citizens are frequent victims of many different types of financial exploitation. During 2006, the Council on Aging of Greater Nashville studied many of the more common scams both nationally and in the Middle Tennessee area. Following are some tips compiled by the Council.

#### Preventing Financial Abuse

##### 1. Stay Socially Active

Social isolation increases your risk of becoming a victim of abuse. Become familiar with the many programs in your community designed to bring people together and the help seniors and their families.

##### 2. Document Your Financial Arrangements

By putting your financial arrangements in writing, you not only protect yourself but you also reduce the likelihood of future misunderstandings of legal proceedings. Remember to be specific

and keep complete financial records. Keep your documents in a safe place.

##### 3. Don't Give Property Away

Before you enter into an agreement for lifelong care, discuss the arrangement with a trusted friend or advisor. Document the agreement and specify the compensation, if any, paid to the caregiver. If you have someone that helps you with your personal finances, get a trusted third party to review your bank statement.

##### 4. Get to Know Your Banker, Attorney and Financial Consultant

Establish relationships with the professionals who handle your money. They can help detect changes in your financial activity that may signal a problem.

##### 5. Be Cautious of Joint Accounts

Both parties of a joint account are equal owners of the account and both have equal access to the money.

### TIPS to Prevent Identity Theft

- Destroy receipts that contain any of your credit card numbers.



- Destroy unused credit card offers and other paper containing your bank account numbers or Social Security Number.

- If you receive a piece of mail with an offer that sounds too good to be true, trust your instincts. It is probably a scam designed to extort money or personal information from you.

#### What you should do if you think your identity has been stolen.

1. Contact the fraud departments of any one of the three major credit bureaus to place a fraud alert on your credit file.
2. Close the accounts that you know or believe have been tampered with or opened fraudulently.
3. File a police report and get a copy of the report to submit to your creditors and others that may require proof of the crime.



"He who asks is a fool for five minutes, but he who does not ask remains a fool forever."

- Chinese Proverb

## Council on Aging Warns Against Scams *(continued)*

### Some Classic Cons

Watch out for these scams that have been around but are still in use by con artists:

#### *The Bank Examiner*

Someone posing as a bank official or government agent asks for your help to catch a dishonest bank teller. You are to withdraw money from your account and turn it over to him/her so the serial numbers can be checked or the money marked. You do, and you never see the money again.

#### *The Pigeon Drop*

A couple of strangers tell you they've found a large sum of money or other valuables. They say they will split their good fortune with you if everyone involved will put up some "good faith" money. You turn over your cash and you never see your money or the strangers again.

#### *The Pyramid Scheme*

Someone offers you a chance to invest in an up and coming company with a guaranteed high return. The idea is that you invest and ask others to do the same. You get a share of each investment you recruit. They recruit others and so on. When

the pyramid collapses (either the pool of investors or the swindler is caught), everyone loses — except the person at the top.

#### *Government Look-Alike Mail*

Seniors get tons of mail that appears to be "official." They sometimes request tax payments or charitable donations. **Most of these are scams.** Don't respond to them.

#### *Are They Legitimate or a Fraud?*

It's sometimes hard to tell if a sales pitch is real or not. You can't judge it by the tone of someone's voice, or how friendly or sincere the person seems. Good salespeople are convincing, and so are crooks. But it's probably a scam if:

1. You get a call or postcard from someone telling that you've won a prize and asking for payment for processing or administrative fees, customs, taxes or any other reason. *Legitimate sweepstakes or prize offers don't ask for payment because it's illegal to do so.*
2. The caller says you have to take the offer

immediately or you'll miss the opportunity. *Legitimate companies don't pressure people to act without time to look into the deal.*

3. The caller refuses to send you written information before you commit to anything. *Legitimate companies are always glad to send information about what they're offering.*

4. The caller claims that you can make huge profits in an investment with no risk. *All investments are risky and legitimate companies must tell consumers about the possible risks involved.*

5. The caller asks for your social security number. *Legitimate companies NEVER ask for that unless you contacted them and are applying for credit and they need to check your credit report.*

*The Council on Aging (COA) of Greater Nashville was founded in 1985 as a recommendation from a Mayoral task force on senior issues. Their mission is to find comprehensive solutions for the unmet needs of seniors and their caregivers. Most of the work of COA is done in its various committees through volunteers. For more information, visit [www.councilonaging-midtn.org](http://www.councilonaging-midtn.org).*



"A handful of patience is worth more than a bushel of brains."

- Dutch Proverb

## Takacs Tidbits

Tim has been practicing Elder Law for more than a decade using an innovative model which involves a team approach. To meet the growing need, the Practice branched out into the Upper Cumberland region in 2004.

David L. McGuffey, also a Certified Elder Law Attorney and long-time colleague of Tim's, has been managing the Cookeville

office for more than a year.

David, a member of the National Academy of Elder Law Attorneys (NAELA) is well known for his excellent writing and presentations, a few of which include:

“Care Planning Across the Long-Term Care Continuum: Fundamentals” *Annual NAELA Symposium*, 2007.

“The Basics of Elder Law” Tennessee Bar Association/NAELA 2004

“Touring the Nursing Home: Issues for the Elder Law Attorney” *Annual Elder Law Forum*, Tennessee Bar Association, 2003.

David McGuffey and his team, Patsy Gentry, RN and Angela Riley have become a valuable extension of the Practice.~

## Anchor Line

Each month, our Elder Care Coordinators offer training modules to help our Life Care Plan families better understand their strengths and stressors in caring for an elderly relative with a chronic illness, including dementia. Following are some highlights from the *Caregiving Refresher Course*.

Early planning can help a trip to the hospital become less stressful.

First, register your loved one for a SAFE RETURN bracelet through your local Alzheimer's chapter (800-272-3900). The bracelet will provide essential identifying information.

For trips to the hospital, it is recommended that you choose a family member



or trusted friend who can go with you at a moment's notice. One can take care of paperwork while the other stays with the patient.

Put together an *emergency bag* containing the following:

- A list containing patient's name, address, insurance information, and doctors.
- A list of important contacts such as family members, minister and helpful friends.
- A list of current medicines and dosage instructions (keep updated).
- A list of medicines taken that have ever caused a bad reaction and a list of any allergies.
- Copies of important papers such as of Durable Power of Attorney, Health

Care Power of Attorney and Living Will.

- A change of clothes and extra adult diapers if the person usually wears them.
- A card that states your loved one has a memory disorder (try not to discuss in front of the patient).
- Writing pad and pen.
- Snacks in a sealed bag and bottled drink.
- Moist hand wipes.
- A reassuring object such as a portable radio.
- Small amount of cash.
- Place a note on the outside of the bag to take your cell phone, if you have one.

*Life Care Plan clients and their families are encouraged to attend the one hour training modules. Invitation and reminder cards will be provided.~*



“You've got to do your own growing, no matter how tall your grandfather was.”

- Irish Proverb

*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.  
Copyright 2007.

Elder Law Practice of Timothy L. Takacs

Tim Takacs

Certified as an Elder Law Attorney by the National Elder Law Foundation

Certified as an Elder Law Specialist in TN

David McGuffey

Certified Elder Law Attorney

Lisa Love

office manager

Joanne Bass

Public Benefits Specialist

Carol Mosely, RN

Elder Care Coordinator

Sandy Reynolds

Elder Care Coordinator

Debra King, CMSW

Elder Care Coordinator

Patsy Gentry, RN

Elder Care Coordinator

Bonnie Woodard

Medicare Specialist

Bo Siler

Office Assistant

Debra Zemke

Administrative Assistant

Angela Riley

Office Assistant

Phone: 615-824-2571 Hendersonville Fax: 615-824-8772

Phone: 931-526-3828 Cookeville Fax: 931-526-3835

Web address: <http://www.tn-elderlaw.com>

\*\*\* NOTE: If you did not receive this issue by mail but would like to be added to the mailing list for future *Anchor* issues, please contact (615) 824-2571. \*\*\*



ELDER LAW PRACTICE  
OF TIMOTHY L. TAKACS  
201 Walton Ferry Road  
Hendersonville, TN 37075