



The Anchor

ELDER LAW PRACTICE OF TIMOTHY L. TAKACS ♦ 201 WALTON FERRY ROAD, HENDERSONVILLE, TN
Serving Middle Tennessee and the Upper Cumberland Region

Fall 2011 Issue 40

Coming Events

October 10

Tim Takacs takes viewer calls on MorningLine. 8 a.m. Newschannel 5+. (Check your cable provider for channel details.)

October 20

Caregiver Senior Expo, Hyder Burks Pavilion, Cookeville. 9 a.m. (931) 432-4111.

November 16

Family Caregiver Webinar on Patient/Doctor Communication. 12 p.m. (615) 867-2205.

November 22

Tim Takacs takes viewer calls on OpenLine. 7 p.m. Newschannel 5+. (Check your cable provider for channel details.)

Early Stage Memory Loss Support Group

Call (931) 526-8010 for dates, times and locations in the Upper Cumberland area.

Alzheimer's Family Care Network

Call (615) 292-4938, ext. 15 for dates, times and locations closest to you.

Multiple Myeloma Support Group

Every third Wednesday. 11 a.m., 1707 Division Street, Nashville. (615) 322-4887.

For more events, visit www.ElderLawEducation.com.

The "Clouded Title" Dilemma

Few things are simple when it comes to selling real estate of deceased elderly relatives. Consider this example.

After a long illness, an elderly woman died. Her daughter planned to sell the residence and use the proceeds to fund a Special Needs Trust established in her mother's Will for her elderly father's ongoing care.

Just before the closing, the daughter was told that the title company would not write title insurance for the property until one year had elapsed from the date of the woman's death. Why? The daughter was told that the title insurance company considered the property to have a "clouded title."

According to Tennessee law, a title is "clouded" when there is an actual or apparent

outstanding claim on the title to real property. "Clouds" can include an old mortgage or deed of trust with no recording showing the secured debt was paid off or an unresolved levy by a creditor or a taxing authority. Because creditors of a deceased person must file their claims in probate court not later than one year from the date of death, the "cloud" might even include claims by unknown creditors. In this example, the title insurance company considered a potential claim as a "cloud."

"In Tennessee, real estate passes to heirs named in the will outside the probate process unless the will says otherwise or the real estate is brought into the probate estate to pay creditors," says Certified Elder Law Attorney

Timothy L. Takacs. "Because TennCare estate recovery laws are ambiguous, some title insurance companies base their decision not to insure a title on concerns that the state may pursue an estate recovery claim against the property even though it has already changed ownership." This ambiguity makes underwriters overly cautious, despite the fact that under current law TennCare does not have a lien against real property to recover properly paid benefits.

"This law does not bar TennCare from ever obtaining reimbursement," Takacs says. "It just means that TennCare cannot pursue recovery against property sold to a bona fide purchaser. Instead,

Families may need to shop around to find a closing attorney with a good understanding of current Tennessee law.

Continued on Page 2

Questions & Answers

Q *Is there a difference in qualifying for Medicaid in the nursing home or for in-home care (CHOICES) in Tennessee?*

A The process for qualifying for Medicaid in the nursing home or for in-home care (CHOICES) in Tennessee is the same. There are two overall steps to qualification for each.

Q *I am named as my father's agent on his Durable Power of Attorney. My father is moving*

to a different state. Does he need to get a new Power of Attorney?

A Change in residence alone does not trigger a new Power of Attorney. Most Powers of Attorney signed in other states will be valid. Because state laws may vary, it is best to seek the advice of an attorney.

Q *Does Medicare cover dental care or dentures?*

A Original Medicare generally doesn't cover routine dental ser-

vices or dentures. However, some private Medicare Advantage plans do offer dental coverage. If you have a Medicare Advantage plan, check with your plan to see if dental services may be covered. You may also want to look into free or reduced-cost dental clinics in your area run by hospitals, community health centers, and dental schools. To learn where to find a dental clinic near you, visit www.medicareinteractive.org.

The "Clouded Title" Dilemma

Continued from Page 1

TennCare has a right to recover the sales proceeds from the sellers—the heirs."

In this case, the "clouded title" issue had serious implications for the family. Not only did it threaten to derail the real estate deal, it also threatened the livelihood of the surviving spouse. Had the sale proceeded anyway, the proceeds would have been placed in escrow for one year, effectively holding hostage the funds the deceased wife had intended for her husband's care.

According to Takacs, this is a problem rarely encountered just a few years ago "Our clients are finding that they need to shop around to find a closing attorney aligned with an underwriter with a good understanding of current Tennessee law," Takacs says. "Apparently, the fact that several cases on this subject have been in appeal keeps title companies on edge."~



ELP Sponsors Trust School for Clients

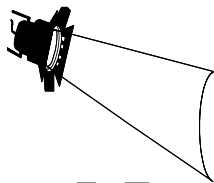
Elder Law Practice clients and their families are invited to attend a free workshop on Trusts from 3:00 to 4:30 p.m. on Thursday, October 20, 2011 at the Elder Law Practice office at 201 Walton Ferry Road in Hendersonville.

Certified Elder Law Attorney Timothy L. Takacs will explain what Trusts are, when they are used and how they work.

RSVP requested. Call (615) 824-2571 to reserve a seat.~



"What you see..."



GUEST COLUMN

Communicate and Connect

Natalie Stadelman of Hudson, OH had been observing her grandmother, who had Alzheimer's disease, slowly slip away—becoming withdrawn and silent. But, then, Stadelman produced a DVD with family photos and soundtracks of her grandma's life story.

As her grandmother watched, "For the first time in months, she didn't just look at me, but she *saw* me," the teen wrote in a college scholarship essay for the Alzheimer's Foundation of America.

In that moment, Stadelman and her grandmother not only communicated—they connected.

For the 5.1 million Americans with Alzheimer's disease and their families, like Stadelman's, communication typically falls victim to this brain disorder. Typical symptoms include impaired verbal and written skills, forgetting and not understanding words, confusion about time and place, and short-term memory loss.

The expected decline in communication high-

lights the importance of early diagnosis of Alzheimer's disease. Earlier on, individuals can more likely express wishes regarding treatments, long-term care, hospice, and legal and financial issues—thus also relieving the decision-making burden on families.

As cognition falters and/or as behaviors change, the rules of communication and connection change. So, in general, the more knowledgeable caregivers are about the disease, the easier it will be to face these challenges.

Among key strategies, it's critical to interact with people with Alzheimer's disease—even if they can't hold up their end of the conversation like before or at all.

Caregivers should also consider these strategies:

- ♥ Speak slowly.
- ♥ Use simple words.
- ♥ Maintain a calm and friendly tone and body language.
- ♥ Give one-step directions.
- ♥ Use non-verbal gestures.

- ♥ Approach the person from the front.
- ♥ Address the person by name.
- ♥ Eliminate distractions.
- ♥ Offer simple choices.
- ♥ Allow time for responses; rushing increases confusion.
- ♥ Provide positive reinforcement.
- ♥ Use humor, although not at the person's expense.

Do not take what the person says or does personally; it is the disease "talking."

Experiment with various techniques and be adept at re-strategizing when needs change in order to keep communicating—and connecting.

Carol Steinberg is executive vice president of the Alzheimer's

Foundation of America (AFA), a national nonprofit organization

focused on providing care-related programs and services. Visit www.alzfdn.org or call (866) 232-8484.~



Medicare Open Enrollment Period Approaches

In the past, Medicare's *Open Enrollment Period* (OEP) was November 15 through December 31. Beginning this year, 2011, the Open Enrollment Period has been changed to October 15 through December 7. Changes made during this period will be effective January 1, 2012.

This is the time of year when existing Medicare beneficiaries may change their Medicare Part D prescription drug plans or Medicare Advantage Plans. Note: if an individual has both Medicare and Medicaid (known as "dual eligible") he/she is *not limited* to the OEP. Dual

eligible recipients may make changes any time throughout the year under a *Special Enrollment Period*. There are other circumstances which may also constitute a *Special Enrollment Period*. People who are new to Medicare have an *Initial Enrollment Period* which is also different from the OEP.

Medicare Prescription Drug Plans and Medicare Advantage Plans contract with Medicare on an annual basis. This means that plans are allowed to make annual changes within certain guidelines. Plans are required to send advance written notice by September 30 to its members regarding any changes for the upcoming

year. With all the mail that is sent during the OEP, it is easy to overlook important change notices. *Medicare beneficiaries and those who care for them should try to pay attention to any mail received from their Medicare Drug Plan or Medicare Advantage Plan this fall.*

Medicare resources include a help-line at (800) 633-4227, a website (www.medicare.gov), and State Health Insurance Assistance Program, (877) 801-0044. In addition, Elder Law Practice has a Medicare Specialist on hand to assist clients as needed.~



"Be a good listener..."

Planning Makes Nursing Home Visits Enjoyable for All

Nursing home visits can be uncomfortable for some people. The following tips will make nursing home visits rich and interesting for families and loved ones.

- ♥ Share activities that the elder enjoyed in the past, such as music, old movies or playing cards.
- ♥ Bring the family pet to the nursing home. Be sure to contact the administrator in

advance to make arrangements.

- ♥ Share videos of family events like graduation ceremonies, little league games and school plays. Showing the resident family photographs will serve the same purpose.
- ♥ If the elder is a female treat her to a manicure or hair styling.
- ♥ Take dictation from the elder so he or she can write letters. The letters

he or she receives in response will be greatly cherished.

- ♥ Need more ideas? Check with the facility's activity director for ideas, inspiration and possibly materials with which to work.

To read more tips for visiting loved ones in long-term care facilities, visit www.longtermcareliving.com/pdf/visiting_tips.pdf.~

Takacs Tidbits

Tim is pleased to introduce Barbara Boone McGinnis, the latest addition to the Elder Law Practice staff.

As Associate Attorney, Barbara provides legal expertise on a wide range of client issues with a focus on Medicaid appeals, Veterans benefit appeals and probate matters.

Before joining the Elder Law Practice in mid 2011, Barbara spent more than 20 years as a Registered Nurse and Gerontological Nurse Practitioner working in a variety of settings. Most recently she spent seven years at Amedisys Home Health, Inc. where she worked in business development, served as

Director of Training and Development, and worked as a Wound Program Manager. She also spent more than nine years as the Director of Nursing Services at McKendree Village in Hermitage.

Barbara's passion for helping people deal with the changes that aging brings extends beyond her clinical experience. Her father had Alzheimer's Disease for more than eight years before he passed away and Barbara helped her mother care for him and deal with difficult decisions. Being a part of her father's journey has given her tremendous empathy for families fac-

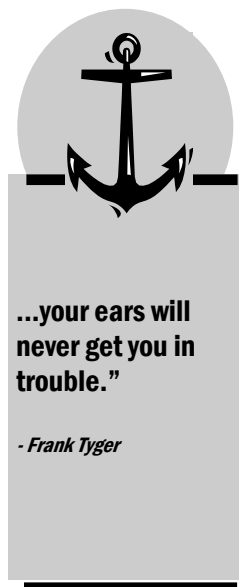
ing the prospect of long-term illness of an aging loved one.



Barbara holds a Bachelor of Science degree in nursing from Austin Peay State University in Clarksville, Tennessee, a

Master's degree as a Gerontological Nurse Practitioner from Vanderbilt University in Nashville, and a Juris Doctor degree from Nashville School of Law.

In her spare time, Barbara enjoys spending time with her infant granddaughter, scrapbooking about her adventures, and taking care of her six pets.~



...your ears will never get you in trouble."

- Frank Tyger

Tips for Managing Caregiver Guilt

For many caregivers, guilt is a constant companion. Why? Some worry that they aren't doing enough. Others may experience guilt for feeling trapped, tired, angry or irritable. Caregivers may also experience guilt when they take some time to care for themselves.

Caregiver guilt is destructive. It slows the normal grief process as it drains

the energy needed to work through the loss.

How can caregivers manage guilt?

- ♥ Accept that guilt is normal.
- ♥ Discuss concerns with a physician, nurse or support group.
- ♥ Discuss concerns with family and friends.

- ♥ Ask neighbors for help.
- ♥ Reach out to community organizations.
- ♥ Look for the higher purpose in caregiving

Instead of berating themselves, caregivers can alleviate guilt by focusing on the knowledge that their efforts made a difference in the last days of loved ones.~

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 2011.

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

BARBARA BOONE MCGINNIS, ASSOCIATE ATTORNEY

LISA LOVE, OFFICE MANAGER

BRYSON EUBANKS, PUBLIC BENEFITS SPECIALIST

CAROL MOSELEY, RN, ELDER CARE COORDINATOR

DEBRA KING, LMSW, ELDER CARE COORDINATOR

PATSY GENTRY, RN, ELDER CARE COORDINATOR

BONNIE WOODARD, MEDICARE SPECIALIST

CHELLE MCMAHAN, OFFICE ASSISTANT

MIDDLE TENNESSEE

PHONE: (615) 824-2571 | FAX: (615) 824-8772

UPPER CUMBERLAND REGION

PHONE: (931) 268-5761 | FAX: (931) 268-1071

CALL TOLL-FREE AT (866) 222-3127

ON THE WEB: WWW.TN-ELDERLAW.COM

VISIT OUR EVENT CALENDAR AT
WWW.ELDERLAWEDUCATION.COM

ADDRESS SERVICE REQUESTED

201 Walton Ferry Road
Hendersonville, TN 37075

ELDER LAW PRACTICE
OF TIMOTHY L. TAKACS
Life Care Planning Firm



*** 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. ***

PRESORTED
STANDARD
U.S. POSTAGE
PAID
NASHVILLE, TN
PERMIT NO. 3731