

YOUR LEGAL ADVISOR

Essential Planning for Alzheimer's Disease

By Alex Moschella, Esq.

With more than 5 million Americans living with Alzheimer's Disease and nearly 10 million serving as caregivers, this disease has reached epidemic proportion, and the journey for those affected is often heart-wrenching. Elder law attorneys see daily the challenges these families face.

For six years, one loving husband slept with a shoe lace tied from his wrist to his wife's so she wouldn't wander away from bed during the night. A patient wife waited four hours, trapped in a dark closet by her husband when he didn't recognize her with a new haircut. A worried daughter called the police when her mom went out for groceries and didn't return.

Unfortunately, these types of daily struggles are common in families caring for loved ones with Alzheimer's. The complexity of this fatal disease is what makes it so challenging to manage. Many people mistake the early signs and symptoms as normal signs of aging, and it is often difficult to obtain



a clear diagnosis or understand the numerous ways the disease can manifest and progress. Additionally, families trying to cope with the illness have difficulty understanding, accessing, and affording the short and long-term care options.

Although the disease can span three to twenty years, the average timeframe from diagnosis to end of life is four to six years, according to the Alzheimer's Association. Thus, early legal planning is essential.

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JOIN US FOR A SPECIAL RECEPTION & PRESENTATION

Caring for a Loved One with Alzheimer's:

Accessing Community Services and Preserving Your Family's Assets

OCTOBER 5, 2010, 5-7PM AT CENTURY BANK, 400 MYSTIC AVE, MEDFORD, MA 02155

Refreshments and Hors D'oeuvres will be served. Reserved Seating.
Please RSVP to Chera Hunter at (781) 393-4104 or CHunter@Century-Bank.com.

SSDI: Social Security Disability Insurance for the Worker

By Michael Couture, Esq.

Most American employees and employers pay into the Social Security System through the Federal Insurance Contribution Act, or FICA. This is commonly referred to as a tax, but in reality, it as an insurance premium for long term disability, retirement, and Medicare benefits. Social Security Disability Insurance, or SSDI, is designed to provide relief to the American worker and his or her family from loss of work income due to long term disability or death.

Disabilities affect millions of Americans. Some suffer from obvious physical ailments, such as Multiple Sclerosis, ALS, or blindness. Other disabilities are harder to prove, such as general pain and certain mental illnesses. Applicants must not only prove they are disabled, but they also must prove their disability is long term and prevents them from performing not only their old job, but any "substantial" work in the economy.

Often times an individual suffers from an array of disabilities, none of which is singly disabling, but as a whole these medical conditions could preclude any gainful employment. Because the burden of meeting these hurdles is high, the Social Security Administration (SSA) denies more than 50% of all initial applications for SSDI. Denied applicants seeking reconsideration are again denied almost 90% of the time at this second level.

After the first two denials, the applicant can appeal for a hearing in front of an administrative law judge. Fortunately, the reversal of prior denials at this third level is relatively high, especially if the applicant is represented by experienced counsel. It



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is critical, however, that all evidence is gathered and properly presented at the hearing. We feel that cases can be lost due to failure to obtain important medical records or capacity reports, doctors not explaining inconsistencies in records, and inadequate preparation of the injured worker to testify at the hearing.

SSDI is not a financial based welfare benefit. It is disability insurance for working Americans who have paid their "premiums" throughout their working careers who suffer from an unfortunate illness or accident ending their ability to work. Benefit approval can have an enormous impact on the lives of the disabled and their families. SSDI eligibility provides benefits to not only the disabled individual, but also to his or her spouse, minor children, adult disabled children, both as dependents or survivors.

SSDI recipients are also entitled to Medicare benefits after two years. Those who are applying for, have been denied, or been terminated from SSDI should not take any chances. A skilled attorney familiar with the Social Security disability application and appeal procedure can provide an added measure of assurance for a beneficial outcome.

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Postnuptial Agreements Hold in Court

By Michelle Mulvena, Esq.

Most couples entering into wedded bliss prefer not to think about division of property or divorce, and the use of postnuptial agreements has been an under-utilized concept - for good reason. Not only is the subject touchy, but until recently, the status and enforceability of these contracts was uncertain.

In July 2010, this all changed with a landmark ruling. In the case of Kenneth S. Ansin vs. Cheryl A. Craven-Ansin, the Supreme Judicial Court of Massachusetts found postnuptial marital contracts to be enforceable in the Commonwealth. We now have a clear decision on the acceptability and standards of these agreements.

Here's what you need to know. For a postnuptial agreement to be upheld by the courts, each party must have the opportunity to obtain individual legal counsel of their choosing. The agreement also must be free from fraud or coercion, and all assets must be fully disclosed by both parties before the agreement is executed. Finally, each spouse must understand and intend that executing the agreement may limit their marital rights in a divorce.

Postnuptial agreements can serve a variety of purposes, including offering peace of mind and promise of fair support for stay-at-home spouses; protecting spouses with children from a prior relationship; ensuring an inherited family business stays in the family; and resolving marital problems and financial concerns.

Although marital agreements are meant to protect parties in times of trouble, the agreements should be executed when times are good. This helps ensure that each spouse is treated fairly, with love and respect. Rather than viewing these agreements as the beginning of the end, they should be seen as a proactive step in building a strong and happy future.

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