

TO: OUR ATTORNEY COLLEAGUES

FROM: DEBORAH K. BLUM-SHORE

INTERVENTION AND PARTNERING OPPORTUNITIES:
WAYS YOU CAN HELP YOUR CLIENTS ADDRESS THEIR CHANGING NEEDS

Astounding fact: according to the BBO, there are over 55,000 currently practicing attorneys in the Commonwealth of Massachusetts (and even more astounding, over 93,000 currently licensed!). But of that very large number of practicing attorneys, less than 1% of us concentrate our practices in Elder Law. We are a proud part of the 1% and welcome the opportunity to help you help your clients plan for the many challenges of aging and disability. Together, we can help our clients to protect themselves, their families, their homes, and their other assets, and to access and pay for the best possible care.

Traditional estate planning is typically focused on tax avoidance, and traditional estate planning documents therefore typically include language designed to address tax concerns. In “long term care world,” however, traditional estate planning strategies are often no longer helpful and we need a plan with a different focus and broader powers. Elder law attorneys approach planning with an eye towards present and future eligibility for government assistance programs that help clients cover the now \$12,000/month cost of a nursing home bed, and the strategies that are available to help a family maximize and preserve their assets when care is needed. We all hope that our clients will remain healthy for years and years to come, but we help them prepare for and address changing health needs. We emphasize planning ahead in order to have the most options, but we can also always help a family in crisis.

Ideal Referrals

- Clients who are 55+ years old, who are concerned about planning for future long term care needs (anyone who mentions worry about costs of nursing home care, concerns about “I don’t want the nursing home to take my house”)
- Clients of any age who have been diagnosed with a progressive illness such as dementia, Alzheimer’s, Parkinson’s, MS, etc. and are beginning or in the throes of the long term care journey
- Clients of any age who are caregivers for their elder or disabled parents, grandparents, siblings, or other loved ones who express any concern about how to find care, access care, and/or pay for care
- Older Clients who are about to be – or have just been – widowed. Married couples have planning opportunities not available once the first spouse has died. And newly single clients now have a completely different set of eligibility issues for government assistance programs, as well as new estate planning needs.

- Clients of any age who have special needs children or grandchildren
- Senior clients who are about to sell their home (or who have just sold their home). Government assistance programs all treat real estate differently than cash assets; a new infusion of cash significantly impacts a senior's future eligibility for benefits
- Clients who are trying to deal with the MassHealth agency on their own (DIY is great, but with a \$12,000/month nursing home bill at stake, DIY is not the best plan for Medicaid applications or appeals); anyone who has been denied MassHealth benefits
- Clients who have a spouse already on MassHealth who have not yet done post-eligibility retitling of assets or any new estate planning to address the family's changed circumstances
- Veterans and their surviving spouses who are interested in learning about and applying for special long term care benefits available through the VA

How We Can Help

- Planning for disability and avoiding guardianship/conservatorship by reviewing, updating, and/or creating comprehensive "disability planning documents" (DPOA, HCP, Living Wills, HIPAA Releases)
- Preparation of trusts designed to protect assets for the benefit of ill or special needs clients, spouses, children, parents
- Counseling about the entire continuum of long term care opportunities in our local area, and assisting clients to become eligible for government benefits programs (Community MassHealth, Long Term MassHealth, Veterans Aid & Attendance)
- Advance planning for long term care needs
- Crisis planning for families in the throes of a medical emergency ("the nursing home says that Medicare ends tomorrow ... what do we do??!")
- MassHealth planning, application, and appeals, including new planning necessary after first member of a couple has become eligible for benefits
- Sales and transfers of real estate to make sure that previous asset preservation planning does not inadvertently get "undone" in connection with a closing, to help a client preserve government benefits he/she may already be receiving, and to advise families on how to manage, protect, and maximize the sale proceeds
- End of life planning to review the status of one's assets to see if there is any work that can be done quickly to avoid probate when the person dies, if steps may be taken to avoid estate recovery claims by the Commonwealth, and whether there is any last minute shuffling of asset ownership and document preparation that can provide years of protection to the survivors

- Estate and Trust Administration: Ideally, for most clients, if we have done everything right in advance, there will likely be no estate to administer when one of your clients dies. However, it is always prudent to take an hour or so after someone dies to review the status of any assets, retitle assets as needed, change beneficiaries, and perhaps change the estate plans of the surviving family members. And, in cases where we have elected probate as an affirmative strategy, we will want to begin the process as soon as possible after the family is ready to focus on finances. If your own practice does not include estate administration, we are happy to help.
- Referrals to our extensive network of professionals in the health care and financial services worlds, and to our elder law colleagues throughout the country

Referrals to You

Because our practice is so specialized, we often find ourselves in a position to refer existing and prospective clients out to other attorneys. Over the years we have had the pleasure of referring out matters involving personal injury (big and small), divorce and other domestic relations issues, business formation and succession planning, employment concerns, special education issues, real estate matters (especially buyer representation), and estate planning for high end estates requiring sophisticated tax planning strategies. We look forward to learning more about your practice to discuss ways we might partner.