

ESTATE PLANNING ATTORNEYS: PROFESSIONAL PESSIMISTS?

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Lisa H. Halbert

A friend of mine recently referred to estate planning attorneys as “professional pessimists.” As a self-described cheerful person, it stung a bit to be called a pessimist. But while the remark wasn’t personal, it was accurate. In fact, the more I thought about it, the more I realized that we estate planning attorneys would do well to consider our “pessimism” a vitally important part of our profession.

It’s true, we ask clients hard questions. We ask about illness, we ask about end-of-life, we ask about finances, family relationships, hopes, dreams, and expectations. Then, we work to plan for preferences and likely circumstances, while simultaneously trying to anticipate and plan for the unexpected.

A properly drafted Durable Power of Attorney document is one of the most important elements of estate planning. New clients often tell me they do not want Durable Powers of Attorney, because all their assets are jointly owned. While joint ownership of assets is sometimes desirable in estate planning, such designations do not replace the authority of a Durable Power of Attorney, which allows for transfers during lifetime.

Consider this common pattern: Two spouses are married and own their home. They want

their estate plan to provide for the survivor between them, and then for their children. They also want to avoid spending their savings on end-of-life care. One spouse is older and ill, with the other spouse providing care for the first. They ask for Wills leaving all their assets to each other.

But I, now a Proud Professional Pessimist, must protect them by playing the “what if” game. What if the older spouse needs a nursing home? What if the younger spouse happens to die first? Without the proverbial “crystal ball” to tell us exactly what will happen and when, we run the risk that either or both spouses may require expensive (and potentially long-term) care in a nursing home setting, thereby jeopardizing assets they had hoped to leave behind for their children.

In a situation like this, the flexibility of the Durable Power of Attorney document is invaluable. The Agent named in a Durable Power of Attorney has the ability to transfer any and all assets, including the spousal home. Additionally, a properly drafted Durable Power of Attorney will allow the Agent to act quickly and in real time, as specific needs arise. Depending on each unique situation, this may mean transferring assets to or away from a spouse with a terminal illness, or in some cases transferring assets directly to children or loved ones.

These procedures are not appropriate for every situation, and naming an Agent to take charge of family assets requires very careful consideration. But when illness or infirmity strikes, and minds or bodies might no longer

be capable, the Durable Power of Attorney document offers important protections.

Attorney Lisa L. Halbert practices law with the regional firm of Bacon Wilson, P.C. Lisa focuses her practice on all aspects of asset protection including estate and tax planning, and long-term care planning, together with matters related to trusts and estates, probate, guardianship, and conservatorship. Lisa works primarily from Bacon Wilson’s Northampton location, and may be reached at 413-584-1287, or via email at LHalbert@BaconWilson.com.

The views expressed in this column represent general information. To address your particular and specific needs consult your own attorney. If you need help with referral to an attorney, contact the Franklin County Bar Association at (413) 773-9839 or the Worcester County Bar Association at (978) 752-1311. Elder law resources may be found through the National Academy of Elder Law Attorneys, Massachusetts Chapter, at massnaela.com or 617-566-5640.

Community Legal Aid (CLA) provides legal services free to people age 60 and older for civil legal matters with an emphasis on access to health care coverage (MassHealth and Medicare) and public benefits as well as tenants’ rights. A request for legal assistance can be made by phone at 413-774-3747 or toll-free 1-855-252-5342 during their intake hours (Monday, Tuesday, Thursday, and Friday from 9:30 a.m. to 12:15 p.m. and Wednesday from 1:30 p.m. to 4:15 p.m.) or any time online by visiting www.communitylegal.org.

WALKATHON 2019: POET’S SEAT HEALTH CARE CENTER RECOGNIZES VALUE OF THE MEALS ON WHEELS PROGRAM

For the past 10 years, Poet’s Seat Health Care Center has consistently appeared on lists of walkers and supporters of LifePath’s annual Meals on Wheels Walkathon, now in its 27th year.

“We and our residents look forward to joining the Walkathon again in 2019,” shared Poet’s Seat Health Care Center walkathon team member and Human Resources Director Marjorie Huslander, as they gear up for the April 27th event.

They appreciate the service LifePath’s Meal on Wheels provides and are happy to support fundraising efforts. Plus, employees have a competitive spirit, so capitalizing on that has been helpful and fun. She also points out that this support of elders feels like a true extension of their own philosophy of providing care at Poet’s Seat Health Care Center, and it brings awareness to the needs of many in the community while offering an opportunity to contribute.

At LifePath, we are fortunate, year after year, to have dedicated teams like the one



“This support of elders feels like a true extension of their own philosophy of providing care at Poet’s Seat Health Care Center.”

from Poet’s Seat Health Care Center return to participate in our largest fundraiser of the year.

Join Poet’s Seat Health Care Center and the other 35 teams we will welcome back this year by forming your own team to fundraise in support of our Meals on Wheels and congregate dining centers.

More information and pledge forms may be found online. For question, please contact Carol Foote, Development Director, at 413-773-5555 x2225 or giving@lifepathma.org.

DECLUTTERING YOUR HOME

Decluttering and downsizing can be overwhelming. Whether it's to move from a family home to a small apartment, into an assisted living facility, or for some other reason, the task at hand can be challenging for all those involved.

by Laurie Deskavich,
 Information and Caregiver Resource Center
 Program Director

Decluttering and downsizing can be overwhelming. Whether it's to move from a family home to a small apartment, into an assisted living facility, or for some other reason, the task at hand can be challenging for all those involved.

Q: When I want to declutter my home or help a loved one, where do I begin?

A: It is important to recognize that although this task is necessary, it can be emotionally and physically draining. Remember that there may be items that you or your loved one cherishes and needs to keep. Start slow and be respectful of everyone's feelings during the process.

Begin by identifying your possessions into categories, such as:

- Keep • Donate • Sell • Discard

Have a system for identifying which category each item belongs in. This is also a perfect time to designate or give items to loved ones.

The Family Care Alliance at www.caregiver.org

"Start slow and be respectful of everyone's feelings during the process."

encourages those helping another with the process to "be patient and allow time at this stage for your [loved one] to talk about memories, to reminisce about family activities or relatives no longer with you, to acknowledge emotions. This can be a nice opportunity for you

both to remember the stories and incidents that are part of your history and that make each family unique."

Decide what paperwork is important to keep and shred what is no longer relevant. Pack photos and go through them at a later date as this takes time and may be emotional.

Then begin the process of donating, selling and discarding the items. There may be items you wish to have appraised if the value is not known. You may want to contact estate sale companies or consignment shops, or hold a yard sale to sell items. Contact local charities for them to pick the items you wish to donate.

People who feel overwhelmed by clutter and do not know where to begin may not be ready for the steps outlined above. Fortunately, there are programs available to help people feel more ready to declutter. For local resources, reach out to the Information & Caregiver Resource Center at LifePath: call 413-773-5555 or 978-544-2259, email info@lifepathma.org, or visit LifePathMA.org.

MOVEMENT WORKSHOP AND DINNER FOR LGBT ELDERS COMES TO GREENFIELD

Les Ballets Trockadero de Monte Carlo will share their passion for dance

Les Ballets Trockadero de Monte Carlo, or "The Trocks," have taken a playful approach to classical ballet since 1974. An all-male company, the Trocks have reveled in playing with gender roles and identity over the last 40+ years. One part parody and one part loving homage, The Trocks simultaneously honor the traditions of ballet with high-level performance while also poking fun at the conventions that define ballet. They will be coming to the area in preparation for a performance at the UMass Fine Arts Center on Tuesday, April 2, and have added a community workshop and dinner specifically for local LGBT elders while they are here.

Hillary Rathbun of the UMass Fine Arts Center (FAC) helped make the connection between the Trocks and Rainbow Elders. "When the FAC learned about the strong LGBT elder community here in the Pioneer Valley, we asked the Trocks if they would hold a workshop and dinner with the community, to be led by the Trockadero's ballet master. LifePath's Rainbow Elders was the perfect group to facilitate the workshop."

On Monday, April 1, The Trocks' Raffaele Morra, Ballet Master, will lead a movement workshop with a ballet flavor. Dance training is not necessary, but participants should be willing to do their best to move around. Frequent breaks will be given and seating will be available for observers. Please wear comfortable clothing that will allow movement to the floor and back up. The Trocks' version of Anna Pavlova's 1905



dance "The Swan" will be taught -- a piece of dance history with a comic touch!

Following the workshop, please join us for a community dinner with Mr. Morra (attendance at workshop not necessary).

All attendees of the workshop or dinner will

also be invited to the concert on Tuesday, April 2, 7:30 p.m. at the UMass Fine Arts Center Concert Hall, as special guests of the Trocks!

Space is limited! To register, visit LifePathMA.org/RainbowElders or call 413-773-5555 x1242.

There is no charge for this event, but donations are welcome and will be used to cover expenses for this and future Rainbow Elders events. The workshop and dinner are funded in part by the Expeditions program of the New England Foundation for the Arts, made possible with funding from the National Endowment for the Arts, with additional support from the six New England state arts agencies. LifePath also thanks Rockridge Retirement Communities, The Arbors, University of Massachusetts Fine Arts Center, Les Ballets Trockadero De Monte Carlo, and host Greenfield Senior Center for their support of this event.

LGBTIQA : L=Lesbian, G=Gay, B=Bisexual, T=Transgender, I=Intersex, Q=Questioning and Queer, A = Asexual, Aromantic, Agender, and Allies



"She loves being a part of the family. She's always leaving me notes of appreciation."

—AFC Caregiver

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