

Caring for Aging Parents Takes Planning Ahead and Patience

Having legal documents in order and planning for the cost of care will help make an already difficult time a little bit easier to handle.



(Image credit: Getty Images)

Many professionals now find themselves as the “sandwich generation,” where one has to care for young children and aging parents at the same time. While many planning concepts may be similar (save, budget, project, etc.), the dynamic and emotions involved when caring for aging parents are dramatically different. This article will address some of the common considerations as one enters into this stage in life.

Having Proper Legal Documents and Plans in Place

As addressed in my article about planning for a young family, help your parents put the proper legal documents in place, including powers of attorney, health care proxies, living wills and wills and burial arrangements/instructions.

A power of attorney appoints an agent (called the attorney-in-fact) to step in to handle any legal or financial matters on behalf of a parent should there be a need. There are generally two types of power of attorney – springing power of attorney and durable power of attorney.

In a springing power of attorney, the document becomes effective at a future time, usually upon a certain event such as incapacity of a parent. That’s when it “springs” into effect.

In a durable power of attorney, the document is “durable,” meaning it becomes effective immediately upon signature regardless of future events.

A discussion should be had with your parent to see which is best for their individual circumstances. If there are siblings involved, it would be important to have an open and honest dialogue as to who should serve in this role as the attorney-in-fact.

Often, I see clients name all their children in the role with shared responsibilities. While that may sound good in theory, it can become a logistical issue if you have to obtain multiple signatures and consent before one can act on behalf of a parent. If it is indeed a parent's wish to name multiple people in this role, then it would be important to clearly document how decisions are made — by any one of the attorneys-in-fact, by majority or by unanimous consent.

The health care proxy appoints an agent to make medical decisions on behalf of a parent in case of incapacity. A living will or an advanced directive provides a parent's wishes on medical treatment when it comes to end-of-life decisions. In some instances, a living will and health care proxy can be the same document.

I often get asked what's the difference between the two, as they both deal with medical decisions. Think of the living will or advanced directive as the *written memorialization* of a parent's wish and the health care proxy as the *person* who is going to carry out those wishes.

A will provides for the disposition of probate assets upon death. Of special consideration is understanding a parent's wish as it relates to burial preferences. This may or may not be documented in the will. If there is any pre-determined or perhaps even paid-for burial arrangements, it would be advisable to have all those documents on hand.

NYSUT NOTE: Dealing with legal documents when it comes to your aging parents can be overwhelming. This is why NYSUT members have access to the NYSUT Member Benefits Trust-endorsed Legal Service Plan. Provided by the law firm of Feldman, Kramer & Monaco, P.C. this plan offers access to a national network of attorneys that deal with personal legal matters, including crucial legal documents. This plan also allows for NYSUT members' parents and grandparents to receive access to discounted legal documents and elder law attorneys. [Visit the website](#) for more information.

Obtaining Needed Information in Advance

The most difficult part of caring for parents is often having all of the right information. Knowing a parent's full financial picture, including assets, liabilities and cash flow needs ahead of time is an important foundation you will need should you have to step in, which unfortunately for many people, happens unexpectedly when a parent suddenly falls ill or becomes incapable of handling his or her finances.

Transparency to this level can admittedly be a challenge, and so at a minimum, I would advise that you know where and who to go to for this information if and when the times comes. Make a list of a parent's financial adviser, accountant, attorney and other trusted adviser, so you know *who* to call if needed.

Know where all the important legal and financial documents are so you know *where* to look if needed.

Accounting for Parental Care Cost

Just as you do with your childcare cost planning and retirement planning, it is important to understand the care cost for a parent and the various funding options. What resources do your parents have that are available for their care? Are there liquid or easily accessible investment assets, retirement accounts and/or a long-term care insurance policy in place?

Understanding the sources and extent of each funding source is important, because not all assets are created equal when it comes to timing or eligibility for government benefits. For example, qualified retirement accounts are unique because they get a degree of creditor protection, and they may impact Medicaid eligibility benefits. So it may be advisable to look to non-qualified accounts as the primary and first funding source to the extent that required minimum distributions (RMDs) are not sufficient to cover the costs of care or are not yet being taken.

On the other hand, if a parent's investment account has significant appreciated assets that if liquidated would incur significant capital gains taxes, then it may be wiser to use other funding sources with less of a tax bite.

This is all situational and requires a detailed analysis of the various accounts and funding sources.

In addition, ask yourself the honest question of whether you, yourself, may be willing and able to be a funding source. How much of the parental care will you be shouldering, and how would that fit into your own budget and plan? Have you had the conversation with your spouse or significant other on what that amount may be? If you have siblings, how will each contribute?

These are all tough questions that should be addressed well before an event happens which undoubtedly will cause additional stress on the entire family.

Medicaid and Elder Law Planning

Medicaid is a federally funded health insurance program administered by each state for people with income and resources under a certain level. While the vast majority of Americans may be above that threshold, there are some planning opportunities for those who wish to avail themselves of the benefits of the program.

At a very high level, to be eligible for Medicaid benefits, one must meet both a resource and income test. The threshold varies state by state and is generally around \$2,500 in monthly income and \$16,000 in assets. Depending on where your parent lives, certain assets may be exempt from the calculation, such as qualified retirement accounts in payout status, primary residence up to a certain amount, irrevocable funeral/burial arrangements and certain qualified trusts.

The planning strategy is for a parent to divest personal assets so that they fall below the threshold amount. This way, when the time comes for medical needs, a parent could apply for and receive Medicaid coverage and benefits.

Timing is incredibly important because there is generally a look-back period of 60 months or less (again, depending on the state). Therefore, advanced planning to divest of property and income below the threshold level needs to be done well in advance of medical needs.

A “penalty period” may also add a “wait time” to the beginning eligibility period if transfers were made during the look-back period.

All of this, of course, assumes that a parent would be comfortable in either spending down, gifting or setting up a trust structure that would bring his or her financial situation to below the threshold amount.

Medicaid planning is a very specialized area of law and varies significantly from state to state. Consulting a qualified elder law attorney well versed in the locale where your parents live would be key.

Preparing for the Emotional Side of Planning and Caring

It is not easy to switch roles with a parent and be the “caretaker” and the one “in charge.” It takes an incredible emotional toll not only because it can be financially significant, but also because it can be time-consuming in terms of the energy needed to pay bills, gather information, help with medical care and appointments and handle various day-to-day matters.

Even the best-laid plans will require time and energy to implement. Preparing oneself for this mentally and setting expectations up front with other interested parties, whether it be siblings, spouse, significant others or other caregivers, would be helpful.

Aging is a difficult journey for parents, too, as they often struggle to acknowledge their own limits and the need for help.

The best situation is when you have a willing party on both sides where the planning can be a collaborative process in which parents are openly sharing their wishes and information, and the children are prepared to step in and able to honor those wishes.

One of my colleagues in this space said it best: “Think of planning for aging parents as a continuum of care designed to support a parent’s transition from independence to dependence.”

It’s a long journey, just as life, and the more planning you do, the more prepared you’ll be.

NYSUT NOTE: Caring for aging parents as well as young children can be complicated. But with the new NYSUT Member Benefits Peer Support Line, life doesn’t have to be. This new confidential helpline -- staffed by trained in-service and retired individuals who understand the unique professional and personal challenges of NYSUT members -- is offered at no cost. Find answers, resources, and empathetic support when you need it. [Visit the website](#) today for more information.

About the Author

Alvina Lo

Chief Wealth Strategist, Wilmington Trust

Alvina Lo is responsible for family office and strategic wealth planning at Wilmington Trust, part of M&T Bank. Alvina was previously with Citi Private Bank, Credit Suisse Private Wealth and a practicing attorney at Milbank, Tweed, Hadley & McCloy, LLC. She holds a B.S. in civil engineering from the University of Virginia and a JD from the University of Pennsylvania. She is a published author, frequent lecturer and has been quoted in major outlets such as "The New York Times."

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