

# **Estate Planning Council of Northern Nevada** **January 14, 2014**

## **Social and Legal Issues in Eldercare**

- I. The least restrictive environment:
  - a. Utilization of care managers.
  - b. Placements in locked facilities and false imprisonment.
  - c. Hiring in-home healthgivers: employees or independent contractors.
  - d. Mandatory care directives vs. healthy spouse's capacity to provide care.
  
- II. The durable power of attorney for health care – going beyond the basics:
  - a. Dementia and intervening illnesses.
  - b. Care plan provisions.
  - c. Placement authority-based upon care plans and doctor affirmation.
  - d. Out of state agents and nomination of guardian – waiver regarding out of state guardian's appointment.
  - e. Restrictions on termination of agent's authority if guardian appointed.
  
- III. Legal and financial Issues:
  - a. Tax deductions for cost of care.
  - b. Annual gifts (or other gifts) vs. eligibility for nursing home entitlements; the sole purpose rule.
  - c. Emerging issues of "care assessments" by Trustees.
  - d. Stopping exploitation.
  - e. Duty of spousal support for necessities of life and Medicaid as exception to this rule.
  - f. The financial agent's gifting authority and the Medicaid look back period.

g. The "Affordable Care Act" does not change basic rules for institutional (nursing home) Medicaid coverage.

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