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It's time to review and update!

By Brian Andrew Tully

Welcome to the winter edition of the Tully Law, PC newsletter! It is our privilege to come into your home again and share this with you. I hope you enjoy Dana's Caregiver Corner on winter safety and Amy's article on the importance of the Durable Power of Attorney. We believe that one document is the most important planning tool you can have!

It's my goal to share with you why it's so crucial to keep that power of attorney and the rest of your estate plan current and up to date. We all know that things do change and that everything has a season. It's January as we are putting this together and we know that in a few short months, the flowers will begin to crack through the soil and there will, once again, be the sound of children playing outdoors. All things change and your plans for the future may have changed too. If you happen to say that your plans or circumstances haven't changed, I encourage you to think about the following possibilities...some of which are positive and make us smile and others that sadden our hearts and make us pause for a moment. Whether it was a good change or a difficult change, it must be addressed in your updated plan.

These are the changes and life events that I ask you to think about: are there new children or grandchildren in the family that you wish to

provide for? Have you married or divorced? Have you moved? Has your health or mental fitness declined since we saw you last? Do you or your loved one now need help with everyday activities like walking or bathing? Has your spouse or loved one passed away? Have you turned 70 and not yet protected your home? Are you paying for home care or a facility? Has your executor, power of attorney agent or health care proxy become ill or even passed away? Or has he or she moved away and lost contact with you? Have your assets increased or decreased significantly? Do your children or grandchildren have any special concerns such as divorce, addiction, spendthrift issues, illness or even a disability? Have you simply changed your mind about who is to help you or inherit from you?

And of course, we can't forget the legal changes: have any laws changed since you implemented your estate or asset protection plan?

You may not know that answer off the top of your head but there's good news, we do! And in fact there have been some legislative changes to your planning documents, especially your power of attorney if yours was signed before 2010. If it was, then there are significant reasons to have us update it for you.

If you answered any of the above questions with a "yes" then it's time to update your plan.

Please call and schedule a no cost consultation with one of our attorneys to discuss any of the changes that may have happened over the years and determine if you need to update your planning documents or even start preparing for the Medicaid process. Let us know and we all look forward to seeing you again soon.



-Brian

caregiver's corner

Cold Weather Safety for Seniors

For some of us, winter is a time to enjoy a hot cup of tea next to the fire watching the snow fall delicately outside of our windows. For the elderly, snow brings an increased risk of falls, dehydration and serious injury. Unfortunately, come the colder months, seniors are more prone to slipping, experiencing a fall or suffering from an injury that may lead to hospitalization. For the elderly, injury can be much more concerning than a child's stumble as they are learning to walk. Even a simple fall can result in a dreadful outcome. Not to mention, if a senior is not in great health, they are more disposed to injury.

Below are a few tips specific to preventing winter dangers the elderly population face.



DANA J. MARCINKA LMSW, CDP

- Exercise regularly. It is necessary to keep up with your health. Seniors who work hard to maintain their strength, flexibility and balance are less likely to fall. During the winter it may be hard to sustain motivation to exercise, especially if you're homebound. There are plenty of indoor exercises that can keep you fit in the comfort of your own home. Consult with

your doctor or physical therapist to help you develop a program.

- Drink up! Most people presume that dehydration occurs only in hot temperatures during the summer. However, the cold winter weather can deplete moisture from our bodies rather quickly, leading to dehydration. Our bodies tend to lose a considerable amount of water in the winter through breathing. Seniors are especially prone to dehydration due to their body's inability to conserve water as well as they used to. As we age our thirst sense becomes less accurate and important to us. Older adults tend to eat less and sometimes may forget to drink, which adds to the risk of dehydration. It is important to drink an

adequate amount of water throughout your day to avoid the harsh effects of dehydration and other associated illnesses.

- Have a safety plan. Before you venture out into the elements, make sure you communicate with loved ones where you are going and when you plan to return. This way they will be aware you are leaving your home. If you fall, what are you going to do? Everyone should have a safety plan. For example, fall alert devices are highly recommended; with just a push of a button you will have access to help.

- Dress for the weather. If you have to go out in the frigid temperatures wear warm clothes and don't stay out in the cold for a long time. Be sure to wear loose layers of clothing. The air between the layers helps you keep warm. Grab your scarf, hat and gloves to ensure warmth around your neck, head and hands. Sturdy shoes are key in preventing falls. Comfortable, form fitting, rubber-soled shoes provide support along with traction needed for getting around outdoors in the winter.



- Check your medications. Dizziness and drowsiness are common side effects of medications. Consult with your physician to review your medications should you be experiencing altered physical/mental symptoms.

The cold winter months can surely pose as a challenge for older adults, but with preparation and awareness, you can stay healthy and experience all the joys winter has to offer. Don't hesitate to ask for help when you need it. If the weather is bad and you have to go out for an appointment or to a store, consider rescheduling and or asking a friend or family member to help.

Protect
your assets.
Protect your loved
ones. Get the care
you need.

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CONSULTATION

~Dana J. Marcinka, LMSW, CDP
Dana is the firm's Elder Care Coordinator who specializes in assessing, coordinating, advocating and supporting families and their loved ones throughout the aging continuum.

Power of Attorney Pitfalls

What is a Power of Attorney, and why should I have one?

BY AMY N. LATUGA, ESQ.

A Power of Attorney is a legal document that allows you to appoint one or more people to act on your behalf regarding financial and legal matters. A Durable Power of Attorney allows the individual(s) you appoint to act even if you do not have capacity to act yourself.



Having a properly drafted Durable Power of Attorney with the Statutory Gifts Rider is very important as it allows those you trust to handle your affairs on your behalf should you be temporarily or permanently unable to. Without a properly drafted Durable Power of Attorney, your loved ones will not have access to your finances to be able to pay bills or protect your assets and income.

A common misconception is people thinking they will be protected if they get a Power of Attorney form online or from a store and fill it out themselves. Under New York Statute, certain provisions must be included in a Power of Attorney. If the New York requirements are not met, the Power of Attorney does not have to be accepted. Many of the Power of Attorney forms available online or for purchase do not meet New York's requirements.

Having a Durable Power of Attorney that meets New York's requirements but has no added modifications is also problematic. In order for your loved ones to have the authority to handle certain matters, do asset protection planning, plan for future care needs, and obtain care for you, there are modifications that must be made to the Power of Attorney in the correct areas of the form to expand beyond what New York requires to be included. We often see Powers of Attorney done by our clients or by general law practitioners instead of Elder Law attorneys that have no modifications or insufficient

modifications that do not provide those you appoint with the necessary authority to handle all matters that may arise as you age.

If a Power of Attorney is not properly executed, it may not be valid or the improper execution could limit the authority of your loved one to act on your behalf. The worst thing to happen at a time when you can no longer sign a Power of attorney would be to have your loved ones told that the Power of Attorney you previously signed will not be accepted because it does not meet New York's requirements, was not properly executed, or does not include the necessary authority.

The only way to obtain authority to handle financial and legal matters for those without a properly drafted and executed Durable Power of Attorney is through a court proceeding to have a person appointed to handle these matters for you. This court proceeding is called a Guardianship and can be costly and time consuming.

Please feel free to reach out to us to review or prepare a Durable Modified Power of Attorney for you or your loved one.

Join our Tully Law Honor & Protect Client Care Program

All estate and elder planning clients going all the way back to 1998 have the opportunity to join this free service by simply providing us with your best email, address and phone number. Please send this information to carmen@tullyelderlaw.com and she will enter you into our Program database.

Enrollment will entitle you to the FREE exclusive membership benefits of secure online document storage, annual status and review meetings, complimentary updates to advance directives and much more. Stay tuned for the membership benefits as we roll this out.

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New York Elder Law & Estate Planning

You're Invited!

Are you a caregiver? Join us on May 4, 2019 for our 1st Annual Caregiver Promise Event!

Whether you and your family are starting to approach elder care and caregiving or you are already neck deep, come learn that you are not alone from award-winning journalist Virginia Morris, the author of *How to Care for Aging Parents*. Ms. Morris has discussed caregiving on Oprah, The Today Show, and Good Morning America. In addition, certified elder law attorney Brian Tully, founder of Tully Law, PC, will be joining Ms. Morris and will share how a united law and care team can support you and your loved one get the best care and protect the most assets possible.

For more information, please call Gloria at 631-424-2800 or go to <https://tullyelderlaw.com/caregiverpromise/>

