

# Elder Law Today



Surprenant & Beneski, P.C.  
Estate, Tax, Medicaid and Special Needs Planning

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*We invest 100% of our time & energy to delivering first-class service to our clients. As a result, our valued clients, partners, & friends refer their family, clients, friends & associates to us. We build strong, lifelong relationships, one person at a time!*

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www.myfamilyestateplanning.com

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## What the heck is a Trust?

Trusts are legal documents steeped in mystery. Most people have heard of them but few people understand what they are and what they can do. Actually, a trust is merely a written set of instructions on how property owned by the trust may be used. Like people trusts come in many different types. All trusts have three important roles in common. The first is the person who creates the trust, known as the grantor. The grantor states the rules under which the trust property may be used. The trustee is the person who administers the property according to the rules the grantor set up. The last important role is the beneficiary. The beneficiary is the person who gets to use property in the trust or benefit from the property in the trust. Beyond these three roles almost every trust is different depending upon the reason the grantor is creating the trust.

For example, many families create revocable living trusts for the purpose of avoiding probate, minimizing estate taxes, and keeping family assets private. With a revocable living trust during the lifetime of the grantor, the grantor acts as grantor, trustee and beneficiary. The grantor is free to do whatever the grantor wishes with the trust property. After the grantor dies, a new trustee takes over and must follow the rules the grantor laid out. The property now must be used for the benefit of the beneficiaries who may or may not include the trustee. If the family desires to minimize estate taxes then certain articles must be included in the trust to accomplish that goal. If a grantor wants to make sure that a beneficiary receives \$2,000 a month then the grantor includes an article stating this. The biggest mistake that most people make in creating a revocable living trust is not re-titling real estate, bank accounts, brokerage accounts and insurance death beneficiaries into the name of the trust. If assets are not re-titled into the name of the trust then when the grantor dies, usually the property will have to go through probate to get into the trust. If one of the goals in creating the trust is to avoid probate then this goal will not be reached unless assets are in the trust at the time of the grantors death.

Another type of trust is an irrevocable trust. Irrevocable generally means that the grantor cannot demand that the property in the trust be returned to the grantor. However, even the grantor of an irrevocable trust can reserve the right to change certain things about the trust. For example, it is not unusual for the grantor to reserve the right to change the trustee of the trust and/or the right to change who receives the property (beneficiaries) after the grantor dies. Irrevocable trusts are used for many different purposes. In our practice we create irrevocable trusts to hold money to be used for grandchildren's education. We create irrevocable trust to protect assets from creditors. We use irrevocable trusts to protect homes from Medicaid liens. Like all trusts, the irrevocable trust must set out rules for the use of the property that accomplishes the goal the grantor created the trust for.

Another terrific use of a trust is to hold property for the benefit of a disabled person. This type of trust is known as a special needs trust. It is designed so that a person receiving government benefits will not be disqualified from those benefits because the person receives inheritance. If the inheritance is left to a special needs trust for the benefit of the disabled person then usually the person would not lose benefits. This is a great way to provide a nest egg for a loved one and not have to cut them out of your estate plan.

Continued from page 1

I hope this article clarify clarified some of the mystery surrounding trusts. If you are interested in learning more about trusts call our office at 508-994-5200 to see if you qualify for a no-cost initial consultation. We generally charge \$500 for consultation but this fee will be waived if you mention this article.

This information is for general informational purposes only and does not constitute legal advice. For specific questions you should consult a qualified attorney. This article was written by attorney Michelle D Beneski of Surprenant not Beneski PC. The law firm has offices in New Bedford and Hyannis in Brockton. It specializes in estate tax Medicaid and special needs planning.

**Mark Your Calendars For These Upcoming Events in August!**

Estate Planning 101 presentations! Call 1-800-929-0491 to reserve your seat! You can also register by going on-line to: [www.myfamilyestateplanning.com](http://www.myfamilyestateplanning.com)

***Is it Time to get your Ducks in a Row?***

**Tuesday, August 2nd (code: Hyannis) 6:30pm-8:00pm**  
Hyannis Cape Codder, 1225 Iyannough Road, Hyannis, Ma 02601

**Thursday, August 11th (code: Brockton) 6:30pm-8:00pm**  
Taunton Inn and Conference Center, 700 Myles Standish Blvd, Taunton, Ma 02780

**Thursday, August 18 th (code: Wamsutta) 5:30pm- 7:00pm**  
Wamsutta Club of New Bedford, 427 County Street, New Bedford, Ma 02740



***Here's What You'll Learn...***

- How living trusts avoid probate, why wills don't and what good trust planning costs.
- How your Healthcare Proxy, Living Will and the new HIPAA release must work together.
- How to avoid death taxes, guarantee IRA stretch outs and plan for disabled kids or grandkids.
- How to "bulletproof" your children's and grandchildren's inheritances from their divorces, debts, lawsuits, medical expenses, irresponsible life styles and transfers out of your bloodline.
- How to protect your home and savings from \$8,300/month nursing home bills and Medicaid without buying long-term care insurance – even if you or a loved one is in a nursing home now.
- How qualified veterans and their spouses can get up to \$1949/month for at-home health care or assisted living costs from a little-known VA benefit for non-service connected disabilities.



**The Massachusetts/New Hampshire Chapter of the Alzheimer's Association** will be presenting two Legal/Financial Programs. Attorney Michelle Beneski will be one of the speakers.

- Monday, August 8th, 5:00pm to 6:30pm at the Center for Non-Profit Management in Easton (part of Stonehill College)
- Monday, September 19th, 4:00pm to 5:30pm at the Plymouth Library

For more information, contact Pam McCormack, Regional Manager, at 508-880-0055 or [Pam.McCormack@alz.org](mailto:Pam.McCormack@alz.org)

COASTLINE ELDERLY NUTRITION NEWS

From the desk of Kim Ferreira, MS, RD, LDN  
Coastline Elderly Services, Inc.

# How Healthy is your Eating?

If you would like to know how healthy and nutritious your eating habits are, please do the following tests. Add your points and check your score!

When deciding what to eat, or when you eat, how often do you.....	Most of time (2 pts)	Sometimes (1 pt)	Rare/Never (0 pts)
Think about your health condition?			
Have 3 regular meals per day?			
Eat healthy snacks between meals?			
Eat variety of foods?			
Try new foods or new preparations?			
Eat at least 6 servings of bread/cereal?			
Eat at least 3 servings of vegetables?			
Eat at least 2 servings of fruits?			
Eat at least 2 servings of milk or dairy?			
Avoid foods high in fat?			
Avoid foods high in sugar?			
Drink at least 6 glasses of water daily?			
Drink alcohol in moderation?			
Balance eating and your exercise?			
<b>TOTAL</b> (add the columns to get your total)			

**Results**

- 24 + points:** Very good! You are eating healthy, nutritious foods
- 23 – 16 points:** Good! You are eating well. You may want to try to improve in the areas where you responded "sometimes" or "rarely/never".
- 15 – 9 points:** You are eating well sometimes but not as frequently as it should be to have good nutrition and prevent some health problems.
- 9 – 0 points:** You should review your eating habits and try to incorporate some healthy, nutritious changes to your eating practices.

Sources: Jean Mayer USDA Human Nutrition Research Center on Aging at Tufts University

**Coastline Elderly Nutrition News.** Contact me with any questions at (508) 999-6400 x194 or email: [ksferreira@coastlineelderly.org](mailto:ksferreira@coastlineelderly.org)