



Surprenant & Beneski, P.C.

Estate, Tax, Medicaid and Special Needs Planning

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Elder Law Today

Grandma Got Run Over By a Reindeer: An Elder Law Christmas Story

You know the classic song "Grandma got run over by a reindeer coming home from my house Christmas Eve." A typical law school exam question would be: what legal issues arise from this tragedy? Here are the facts: Grandma was taken to the hospital. She is unconscious, bruised and has a broken hip. The doctor declares Grandma legally incompetent. What happens next depends on Grandma and Grandpa's estate planning. What do you think happened?

Option 1: Grandma doesn't have a health care proxy. Grandpa is told by the doctor that he can't bring Grandma home because Grandpa doesn't have the legal authority to make Grandma's decisions. Instead, Grandpa has to go to the probate court to become Grandma's legal guardian. This process is very time consuming and expensive. Even with an emergency temporary guardianship, Grandma isn't able to come home for Christmas. It takes several months and cost thousands of dollars for Grandpa to finalize the guardianship.

Since, Grandma doesn't have a Durable Power of Attorney Grandpa can't take money out of Grandma's retirement account to pay for her care. He also can't protect their home from a Medicaid lien if Grandma uses MassHealth to pay for care. Grandpa has to go back to the probate court to get appointed Grandma's legal conservator. As conservator, Grandpa has to file a financial plan with the court explaining how he is going to spend Grandma's money. He has to ask the court for permission to protect Grandma's money from the high costs of long term care and for permission protect his own home from a Medicaid lien. And Grandpa had to buy a bond to insure that he doesn't steal Grandma's money! Overall the conservatorship and bond cost several thousand more dollars. Grandpa has spent over \$5,000 in legal and court costs.

Coincidentally Grandma's medical bills are really high and Grandpa isn't sure how to pay for care. He decides he has to sue Santa. Grandma wins a judgment of \$21,000,000!! After, the attorney's fee, Grandma has \$14,000,000! Unfortunately, Grandma dies from the shock of winning so much money If only Grandma had put her money in a trust then when she died it would pass on to Grandpa in trust without any probate. Grandpa would get the money quickly and at minimal expense. The Trust could also shelter \$5,000,000 from Federal Estate tax and \$1,000,000 from Massachusetts Estate Tax. But Grandma didn't even have a Will. So the \$14,000,000 had to go through "probate" to get to Grandpa. Probate costs several thousand dollars more. It takes about a year before the estate is finally settled. When Grandpa dies the estate has to pay over \$2,000,000 more in estate taxes because Grandma didn't create and fund a tax shelter trust. (2011 exemption rates used).

-OR-

Option 2: Grandma has a Massachusetts Health Care Proxy so Grandpa is able to make her medical decisions. He gets her checked out of the hospital and brings her home for Christmas.

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Meanwhile, Heat Miser is trying to convince Grandpa to sue Santa. Grandpa doesn't want to sue Santa but Grandma's medical bills are really high and Grandpa isn't sure how to pay for care. Using Grandma's Durable Power of Attorney, Grandpa is able to take some money out of Grandma's retirement account to pay for her care. He's also able to use the Durable Power of Attorney to work with Surprenant & Beneski P.C. to protect his and Grandma's assets and still get Grandma's care paid for by MassHealth. Surprenant & Beneski, P.C. helps Grandma and Grandpa protect their home so that it won't be lost to a Medicaid lien. Grandpa decides he doesn't need to sue Santa.

I am happy to say that Grandma is alive, well and fully recovered. She and Grandpa have an estate plan. Santa has not been sued. Please make sure that you and your family are protected as well.

I wish you a Merry Christmas and a Happy New Year! I hope it is healthy, happy and prosperous for you and your loved ones. If we can help you with your estate planning, please call and make an appointment.

Mark Your Calendars For These Upcoming Events in December!

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

Is it Time to get your Ducks in a Row?

**Tuesday, December 6th (code: Hyannis) 6:30pm-8:00pm
The Cape Codder, 1225 Iyannough Road, Hyannis, MA 02601**

**Thursday, December 8th (code: Wamsutta) 1:00pm-3:00pm OR 6:30pm-8:00pm
The Wamsutta Club, 427 County Street, New Bedford, MA 02740**

**Thursday, December 15th (code: Brockton) 6:30pm-8:00pm
Holiday Inn Taunton, 700 Myles Standish Blvd, Taunton, Ma 02780**



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.



COASTLINE ELDERLY NUTRITION NEWS

From the desk of Kim Ferreira, MS, RD, LDN

Coastline Elderly Services, Inc.

Contact me with any questions at (508) 999-6400 x194 or email: ksferreira@coastlineelderly.org

HEALTHY HOLIDAY RECIPES

The holiday season is upon us and like many of you; food is a center piece for gatherings, parties and celebrations. While the temptation to over-indulge is high during the holidays, it **IS** possible to enjoy the wonderful flavors of your favorite holiday recipes without all of the calories, fat and sugar. Check out some of these healthy recipes that you can incorporate into your holidays!

Spinach-Pear Salad with Mustard Vinaigrette

2 Bosc pears, cored and thinly sliced
 1 (6-ounce) package fresh baby spinach
 3 tablespoons water
 2 tablespoons balsamic vinegar
 1 teaspoon sugar
 5 teaspoons extra virgin olive oil
 1 1/2 teaspoons stone-ground mustard
 3/4 teaspoon salt
 1/2 teaspoon coarsely ground black pepper
 1/4 cup (1 ounce) shaved Parmigiano-Reggiano cheese

Combine pear slices and spinach in a large bowl. Combine water and the next 6 ingredients (through pepper), stirring with a whisk. Drizzle vinaigrette over salad, and toss gently to coat. Sprinkle with cheese.

Yield: 12 servings (serving size: 2/3 cup)

Calories 52; Fat 2.7g; Carbs 6g; Sodium 215mg; Protein 2g

Rosemary Roasted

Pork Tenderloin

1/2 cup apple juice concentrate
 1/4 cup Dijon mustard
 1/4 cup chopped fresh rosemary
 8 cloves garlic, minced
 3/4 teaspoon coarsely ground pepper
 3 (1 pound) pork tenderloin

In a bowl, combine the first five ingredients; mix well. Set aside 1/3 cup; cover and refrigerate. In a large resealable plastic bag, combine the pork and remaining marinade. Seal bag and turn to coat; refrigerate overnight.

Drain and discard marinade from meat. Place meat in a roasting pan coated with nonstick cooking spray. Pour the reserved marinade on top. Bake, uncovered, at 350 degrees F for 40-45 minutes or until a meat thermometer reads 160 degrees F. Let stand for 10 minutes before slicing.

Pumpkin Pie Dip

3/4 cup fat-free cream cheese
 1/2 cup packed brown sugar
 1/2 cup canned pumpkin
 2 teaspoons maple syrup
 1/2 teaspoon ground cinnamon

Place first 3 ingredients in a medium bowl, and beat with a mixer at medium speed until well blended. Add syrup and cinnamon, and beat until smooth. Cover and chill 30 minutes. Serve with apples or pears.

Yield: 12 servings (serving size: 2 tablespoons dip)

Calories 55; Fat 0g; Carbs 12g; Sodium 125 mg; Protein 2g

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Thank YOU
for recognizing our efforts by sending your
friends & family!

Ann Mosher
Atty. David Reservitz
Atty. Edward Reservitz
Atty. Heath Antonio
Atty. Tiffany Gillis
Brandon Woods of Dartmouth
Douglas Riley
Franca Kuppig
Joseph J. Beneski
Louisa Surprenant

Margaret Turpin
Marion Senior Services
Mary Ann Ferro
Maureen Mullaney
Robert Santos, Merrill Lynch
Rochester COA
St. Anthony's Church
St. Luke's Hospital
New Center for Legal
Advocacy

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!

Wishing each and everyone of you the happiest of holidays. May the spirit of the season be with you now and throughout the coming year!

The Staff at Surprenant & Beneski, P.C.



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