

Elder Law Today



SURPRENANT & BENESKI
Estate, Tax, Medicaid and Disability Planning

35 Arnold Street, New Bedford, MA 02740
P: 508-994-5200 F: 508-994-2227

336 South Street, Hyannis, MA 02601
P: 508-477-1102



January, 2010

Happy New Year!

Welcome to 2010! To me the past year just flew by. Thank you again for all your support. Our biggest source of new clients is referrals from old clients, family and friends. We are proud of this fact because it means you are happy with the service we have given you. We hope you will continue to refer to us regularly in the future.

Well, we all survived the recession of 2009. The economy seems to be turning a corner but for many of us, it doesn't seem like we are out of the woods yet. Here's an update on significant elder law events that we saw in 2009 and what we expect going forward.

Medicaid/MassHealth

One important effect of the poor economy has been the significant challenges facing Medicaid and Medicaid applicants. In 2009, the time it takes to process an application became longer, the information requests became more burdensome and the denials more frequent. Why? Well like all government agencies, MassHealth's budget has been cut and they are severely understaffed which means less people to get the work done, less patience (sometimes) with missing information, more denials. This isn't a problem I see getting any better in the future.

What does this mean to the average family? Well, it means MassHealth applications are harder to do on your own and are more work for us to do for you. Protecting assets from the cost of care is also harder to do. If you know someone who hasn't planned to protect their assets from the cost of care send them to us ASAP. In many cases five year planning is needed. Planning has also gotten more complicated. It can be done but new court cases and laws are appearing regularly that effect how and what we can do. At Surprenant & Beneski, P.C. we are constantly learning and studying so that we can stay up to date and give you the best information.

Medicaid Spousal Impoverishment Standards kept the same for 2010. Each year Medicaid sets the dollar amount a spouse of a nursing home Medicaid applicant can keep in his or her own name before any spend down. In 2009 the amount was set at \$109,560. Usually the amount goes up a few thousand dollars a year but for 2010 Medicaid has announced that the amount will stay at \$109,560. REMEMBER – for most married couples we can help the spouse at home keep ALL of the family assets. Don't try to do this on your own, it's too hard call us and we will help make sure the spouse at home is protected.

The Massachusetts Uniform Probate Code (MUPC)

Probably the biggest law change this year was the enactment of the Massachusetts Uniform Probate Code. Effective July 1, 2009, the law changed the rules surrounding Guardianships and Conservatorship. If a person becomes incapacitated and has not selected someone to make legal, financial and medical decisions for her through a valid Durable Power of Attorney and Massachusetts Health Care Proxy then the Probate Court will appoint someone (called a Guardian or Conservator) to make those decisions for her. This process has gotten more protective of the incapacitated person. It also has gotten more burdensome on the person named Guardian or Conservator. We estimate the new law has increased the cost of obtaining and maintaining a Guardianship by 50%.

(continued on next page)

It is more important than ever that you have a valid Massachusetts Health Care Proxy and Durable Power of Attorney. These two documents will save your family time, stress and money if you should become unable to manage your own affairs. With these documents you will avoid the need for a Guardian or Conservator most of the time. If you don't have them, call our office and set an appointment ASAP. It could save your family thousands of dollars.

Veteran's Benefits

There is some good news here. More War Veterans and surviving spouses of War Veterans are learning about the availability of a Veteran's pension to help pay for home care, assisted living care and even nursing home care. This important benefit can pay between \$1052 a month for a surviving spouse of a War time Veteran to \$1949 to a Veteran and spouse who both need care. The rules are tricky. The application processing time has gone from 3 to 6 months during 2008 to 6 to 9 months to process an application in 2009. If you want more information on this important benefit go to www.veterans-legal-help.com and order our FREE Nut's & Bolt's Guide to the VA's Aid & Attendance Program.

Federal Estate Tax

If you died during 2009, the Federal government imposed an estate tax on all your property worth more than \$3.5 million dollars on the date of your death. Massachusetts imposes an estate tax on all property worth more than \$1 million dollars on the date of your death. The Massachusetts exemption amount is not changing. But the Federal exemption amount is scheduled to become unlimited on January 1, 2010. If this happens then if you die during 2010 you will not pay any Federal estate tax. But then in 2011 the Federal estate tax is due to come back with a \$1 million exemption.

Most tax attorneys never believed we would reach 2010 and not have an estate tax of some type. But as of the day I am writing this article (December 15, 2009) the 2010 federal estate tax elimination has not been repealed. The U.S. House of Representatives has passed a bill to permanently set the estate tax exemption at \$3.5 million dollars. The U.S. Senate has not taken up the bill and it isn't clear what is going to happen. It is difficult for me to believe that the Federal government facing the budget challenges it currently has will allow the elimination of a source of revenue worth billions each year. We will keep you apprised of what happens.

Changes at Surprenant & Beneski, P.C.

In 2009 we redid our web site. If you haven't checked it out go to www.the-sb-lawfirm.com. With the re-launched web site we began an ezine (online newsletter/magazine). If you aren't receiving it go to www.the-sb-lawfirm.com/newsletter to sign up. It goes out each week on Tuesdays and keeps you up to date. We also have a blog and lots of great information available for the public. If someone you know is looking for good elder law information please send them to www.the-sblawfirm.com

Our Cape office moved from Mashpee to Hyannis (336 South Street) in 2009. We love our new digs. There is plenty of room for us and our clients. The Cape practice is growing steadily. Thank you for all your support.

Attorney Robert L. Surprenant is taking a 3 month vacation at the beginning of 2010 becoming officially "retired". But he will still be around to provide us his wisdom and guidance when he and Diane aren't traveling the world. We expect to see him in the office again in the spring on a semi-regular basis. Attorneys Daniel Surprenant and Michelle Beneski will be meeting his client's needs. Everyone will be well taken care of.

Well that's all the news for now. Thank you again for making 2009 such a big success. We appreciate all of your support. We are looking forward to serving you in 2010 and beyond.



COASTLINE NUTRITION NEWS

From the desk of Kim Ferreira, MS, RD, LDN Coastline Elderly Services, Inc.
Please contact me with any questions at (508) 999-6400 x194 or email: ksferreira@coastlineelderly.org

NEW YEAR, NEW YOU!

It's the New Year and like many people, weight loss is on the top of the list for New Year's resolutions. This may not be the first time you have claimed, "*This is the year!*" or "*I'm going to lose 30 pounds by the summer!*" While these familiar phrases are positive, it's important to keep your goals simple, measurable and **REALISTIC!** Let's take a look at how to keep a healthy approach when it comes to weight loss goals:

#1 - ARE YOU READY?

On a scale of 1-10, how motivated are you to make lifestyle changes to achieve weight loss? If your motivation factor is less than a 7, you may want to reassess your goals. If your motivation factor is between a 7 and 10, you are ready to lose weight!

#2 – DISCARD “DIET” FROM YOUR VOCABULARY

Now that you are ready and motivated to lose weight, it's important to look at goals as lasting changes. When the word “diet” comes to mind, it is often accompanied with impressions of sacrificing and/or avoiding certain foods. “Diets” are typically short-lived and stressful.

#3 – SET ACHIEVEABLE GOALS

Safe and successful long-term weight loss is 1 to 2 pounds a week. Remind yourself daily **why** you want to lose weight. Reward yourself each time you reach your short-term goals. Write down what you eat and the specific changes you are making. For example: “I will enjoy ice cream once a week instead of everyday”.

#4 – BALANCE AND MODERATION

Enjoy ALL foods; just be aware of the portion you are eating and how often you are eating it. Choose nutrient-dense foods often such as fruits, vegetables, whole grains and soups. These foods are higher in fiber & water and lower in fat & sugar. You will feel full longer and consume less.

Mark Your Calendars For These Upcoming Events in January!

Call 1-800-929-0491 to Reserve Your Seat!



Living Trust Seminar

Thursday, January 28th (code: WLT) 6:30pm-8:00pm

The Wamsutta Club, 427 County Street, New Bedford

Long Term Care Presentations, including Veteran Benefits and Living Trusts

Thursday, January 21st (code: Wamsutta) 1:30pm-3:00pm and 6:30pm-8:00pm

The Wamsutta Club, 427 County Street, New Bedford

Long Term Care Presentations on the Cape

Tuesday, January 12th (code: Cape) 1:30pm-3:00pm

Cape Cod Island Association of Realtors Conference Center
22 Mid Tech Drive, West Yarmouth

If you prefer, you can also register for our seminars on-line by going to:

<http://www.the-sb-lawfirm.com/upcoming-events/long-term-care-planning-workshop> for long term care seminars. <http://www.the-sb-lawfirm.com/upcoming-events/revocable-living-trust-planning> for trust seminars.

Elder Law Today



SURPRENANT & ENESKI
Estate, Tax, Medicaid and Disability Planning

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

Brad Constant
Catherine Wroble
Davis & Polly Ernlita
Donna Fortin
Gertrude Belevance
Jodi Dawson
Kimberly Ferreira
Michael Surprenant
Sunrise of Plymouth

Brooklawn COA
Cedars Assisted Living
Diane Connolly
Dorothy Soczek
Gloria Perry
Karen Hambilton
Marquita Aporte
Mike Robinson
Tina Gaudette

Carlos Paiva
Christine Ryder
Diane Foundas
Edward Adamowski, CPA
Joanne Correia
Kathy Marginson
Mashpee COA
New Bedford Rehab Hospital

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!

35 Arnold Street, New Bedford, MA 02740
P: 508-994-5200 F: 508-994-2227

ESTATE, TAX, MEDICAID AND DISABILITY PLANNING
SURPRENANT & ENESKI

