

HERITAGE AMERICA NEWSLETTER

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Bob Vallone, Editor

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HIPAA Confusion—What's the real deal?

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HIPAA

(Health Insurance Portability and Accountability Act)

Should your Living Trust and Health Care Power of Attorney be amended because of HIPAA?

A successor trustee named in a Living Trust takes over responsibility for the management of the trust if the grantor can no longer serve as trustee. The mechanism for this usually provides for certification of the original trustee's disability by one or more of his personal or attending physicians, or a similar procedure. Obviously, for a physician to certify the incapacity of his patient, he needs to review the patient's medical records.

Congress passed the Health Insurance Portability and Accountability Act, ("HIPAA") to better ensure the privacy of a patient's medical records. Final regulations became effective earlier this year which mandate that any hospital or doctor (among others) require a specific authorization for the release of a patient's medical records before they are released to anyone. This is relatively simple, if a patient admits himself for elective non-emergency treatment and the need for the release arises in non-emergency circumstances. But, in those circumstances, it would not be likely that the patient is threatened with a disability so severe that he would not be able to continue acting as a trustee after he completes treatment. The greater danger occurs when the grantor enters the hospital unable to sign a medical release, or later suddenly becomes incapacitated. Since it is impossible to know when that might happen, advanced preparation is essential in all cases.

The way to prepare for these emergency situations is to have specific language in the revocable trust authorizing the release of the medical records to the named successor trustee. For existing revocable trusts, this means that an amendment to the trust must be executed by the grantor. Since revocable trusts are also amendable, there is little difficulty in actually making the legal changes. The only problem is probably just to do it.

For revocable trusts, obviously the terms of the trust must be revised to permit the release of medical records of the original trustee to the successor trustee. If you have a revocable trust you may need an amendment to bring the provisions of your living trust in compliance with HIPAA.

It probably would also be best to amend the Health Care Power of Attorney documents to include a HIPAA authorization to be sure that an agent acting under the health care power of attorney will have access to medical records and be able to communicate with the doctor without the doctor fearing a HIPAA violation.

HIPAA-fear has reached near hysteria, but you have to play the game and most health care providers will want to see a HIPAA release or authorization (whether or not it is really required). The law does not require a HIPAA authorization in a health care power of attorney, but if a health care provider "thinks" you need the authorization, do you really want to go through that hassle? It's better to give your health care power of attorney "street credibility" by having a HIPAA authorization. So we are recommending that clients update their power of attorney for health care documents to include the HIPAA authorization. For current Heritage America members, there is no charge for this and it can be done by e-mail or regular mail.

Send your request via e-mail to:
bobvallone@heritageamerica.com

Or by regular mail to:
HERITAGE AMERICA
11022 Southwest Highway
Palos Hills, IL 60465

Senior Housing When it's time to move on.

No matter how old you are, moving is one of those good news/bad news events. The optimist looks forward to a "fresh start," while the pessimist views the experience as "having to start over." Both are right.

There are many positive reasons to scale down to the easier lifestyle of a formal retirement community: safe, comfortable designs; liberation from difficult household chores; the convenience of lock-it-and-leave-it; recreation, educational and social activities; meal preparation, cleaning, and laundry services; transportation; on-site emergency response and medical care.

One way to handle the downside of a move is to cast the new home in a favorable light. As people age, it is natural for them to feel more vulnerable, so housing designed for safety and access can provide a psychological lift. Proximity to medical, social and support services can be a welcome change. For those who live alone, moving to a community of peers may offer the promise of a new circle of friends.

Making the decision to move is the first, but not necessarily the hardest step. After making the initial decision, seniors need to tackle a number of essential tasks: taking inventory of accumulated possessions, deciding what to keep and what to dispose (and doing it), selling existing residence, planning arrangement of new space, packing up, and moving—out and in. For many seniors who will be downsizing to smaller homes or apartments, a major obstacle is how to deal with a lifetime accumulation of 'things'.

Finding appropriate housing for seniors can be an overwhelming and complex task for everyone involved. Family members often feel frustrated and wrought with guilt. Seniors often resist change for fear they are losing their independence.

To help overcome procrastination, seniors may want friends and family to join the planning process and help with transitions. Or they may prefer to enlist the professional services of an objective third party. Many seniors find this arrangement less tense than working with their own children. In most areas, services are available to help seniors plan and carry out all phases of the decision to scale back and actually move.

Also, online support tools have been created to make these decisions easier. We recently found Total Living Choices (www.tlchoices.com), a free Internet-based service that helps seniors identify the appropriate senior living facility no matter where they live or what types of services or amenities the senior requires. To provide additional insight to facilities that match a user's personal criteria, the service offers an objective five-star rating system measuring the overall quality, breadth of services and amenities. In addition, the website provides information for seniors who want to continue living in their own homes, but may need to make some lifestyle adjustments.

Housing options generally fall into three categories, based on level of services and/or care provided:

- **Independent Living Retirement Communities-** These complexes are for seniors who are able to live on their own, but want the convenience of a comprehensive service package. Meals, house-keeping, activities, transportation and security are provided to active older adults.
- **Assisted Living Facilities-**In addition to the services mentioned above, these facilities provide personal care assistance to residents. This means that, in addition to housekeeping services, residents receive assistance in managing their medications, and a helping hand with bathing, grooming, and dressing. Assisted Living Facilities come in all shapes and sizes. Settings can range from three or more older people in a homelike setting, to dozens of residents in an institutional environment.
- **Nursing Homes-**For individuals already disabled to the point of requiring daily nursing care, as well as other support services, nursing homes provide comprehensive care services in a single setting. While most older persons and their families see nursing home care only as a last resort, they may in fact be the best setting for disabled persons with multiple problems and requiring multiple types of services.

Another option may be to purchase **In-Home Services**, to cope with declining abilities. For a fee, an army of workers will show up to cut your grass, wash your windows, cook your meals, do the shopping, and even provide personal care and/or skilled nursing care. This may be the option for you, depending on the amount of help you need. However, this can be expensive and will require a lot of management and coordination.

To order Retirement Relocation Brochures from top retirement states, towns, developments and more, go to:

www.wheretoretire.com/freeinfo.cfm

Check the appropriate boxes, complete the short form and submit. There is no limit to the number you may order, and they are free!

If computers aren't your thing:

Total Living Choices 1520 Eastlake Ave. E. Suite 201 Seattle, WA 98102 (206) 709-2801

Where To Retire 5851 San Felipe Street, Suite 500 Houston, TX 77057 713-974-6903
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Common Scams

How you can defend yourself.

Unfortunately, con artists are creative and there are many more scams than could possibly be described in this brief rundown. However, scams often fall into certain types:

Home Repair Cons

Seniors living in their own homes are especially vulnerable to these bad guys. Some common examples:

- The Scam: Your yard worker's bills balloon from \$20 before the job is done, to \$100 afterwards.
- The Scam: The person does the job poorly, or not at all, and takes pay in advance.
- The Scam: A con artist might pose as a city official coming in for a check-up; he or she then finds supposedly dangerous conditions and offers to fix it on the spot for a fee, or refer "a friend" to perform repairs.
- The Scam: The "repairman" needs a great deal of money upfront for "supplies".

Defend Yourself:

- Use local companies and get referrals from friends and family.
- Be wary of door-to-door solicitors; most legitimate repairmen operate through advertisements and referrals.
- Get estimates for repair jobs from several companies and compare them.
- Be careful of contracts and seek a second opinion from a trusted source.
- Pay with a check or money order, never with cash, and only pay after the work is completed to your satisfaction.
- While legitimate repairmen might request money upfront for supplies, con men will not provide you with an itemized list showing the costs of the necessary materials. Ask for one.

Sweepstakes, Contests and "Free" Prizes

Callers or solicitors contact you with high pressure, "act now" deals. Some common examples:

- The Scam: Scammers ask you to prepay taxes or shipment costs on these prizes.
- The Scam: Fraudulent companies might demand your credit-card information for "verification".

Defend Yourself:

- It's illegal for contest to require prepayment to get a prize, so never trust callers who demand it.
- Ask for written information on these great deals; a legitimate company would be happy to send you information.
- Never give out numbers for your credit-cards, bank accounts or social security.
- Check out the company's complaint history at the Better Business Bureau (BBB)

Telemarketing and Investment Frauds

Callers offer high pressure, "act now", get rich quick schemes. Some common examples:

- The Scam: Some scams include rare coins, gemstones, oil and gas leases, and art.
- The Scam: Other scams might involve refinancing your home or other expensive possessions.

Defend Yourself:

- Legitimate investment firms rarely operate by phone. Ask for written information, referrals, and time to consider the offer.
- Ethical companies are happy to give out information on their products and services.
- Sometimes these unethical companies call day after day; ethical companies will not pressure consumers this way.
- Call the Better Business Bureau (BBB) to check out the company's complaint history.

Counterfeit Charities

Callers from these charities often give names of fake charities that sound similar to real charities. The money rarely goes to the cause that the "charity" says it does.

Defend yourself:

- Ask the charity to mail you written information about their cause and how the money gained from donations is distributed.
- Check out the charity through local resources, or the Better Business Bureau (BBB).

Recovery Scams

The slimiest. Lists of seniors who have lost money in scams are sold from one con artist to another, and a "recovery expert" (a con artist who bought a list with your name on it) will call seniors who were scammed and offer to get back the lost money, of course for a fee.

Defend yourself:

- Government agencies do not charge any money for recovering money lost in scams.
- Tell these "experts" to leave you alone and stop calling.

What Are Some Signs That Someone I Care About Might Be a Victim?

- The person is having sudden problems paying their bills or buying needed items; he or she bounces checks or have overdrawn/closed accounts.
- The person is receiving numerous frequent calls from telemarketers or charities.
- The person has lots of cheap items that were purchased in order to be eligible for "valuable prizes".
- The person has numerous checks or money orders to unfamiliar companies.
- The person has couriers visiting or many unexplained courier receipts.

Heritage America
11022 Southwest Hwy
Palos Hills, Illinois 60465

(800) 487-8780 toll-free
(708) 974-3232 local
(708) 974-3294 fax

We're on the Web!!!
Visit us at:
www.heritageamerica.com

TO:

ARE YOU READY FOR A MEDICAID SPEND-DOWN?
THE HERITAGE AMERICA 'APLLC' CAN HELP

THE MEDICAID FACTS

◇ Medicaid was designed by the federal government to provide nursing home care to those who "qualify".

◇ To "Qualify" you must liquidate and spend ALL of your assets except "Exempt" assets.

◇ Assets you must spend include: All of your Cash, CDs, Mutual Funds, Stocks, Bonds, Life Insurance, IRAs, Pensions, Annuities, Real Estate, Antiques, etc.

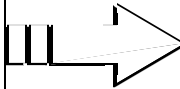
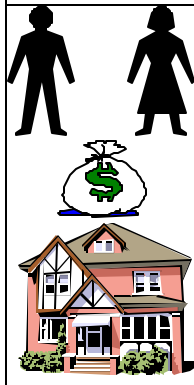
◇ "Exempt" assets include personal property and about \$2,000. If you are married, your home, one car, and about \$80,000 of other assets are exempt - during your lifetime.

◇ After the death of you and your spouse, Medicaid will place a claim against your estate to take back anything they paid on your behalf. At this point, your home, and any remaining assets, may be confiscated by Medicaid.

◇ Assets used for "self-support" in a business are classified as an "Exempt" asset and Medicaid can not force it to spend it's assets!

◇ Assets in the APLLC can NOT be confiscated by Medicaid after your death - the assets inside of it are SAFE!

Assets Placed in an APLLC Are Safe !!!



Asset Protection Limited Liability Company

- ◆ You Stay In Control Of Your Assets.
- ◆ This "Business Device" Will Protect Your Assets From A Medicaid Spend-Down.
- ◆ A Nursing Home Can Not Reach The Assets.

The APLLC Provides Other Benefits!!!



Asset Protection Limited Liability Company

- ◆ Income flows back to you!
- ◆ If you go into a nursing home, your home becomes "rental property" and provides you income.
- ◆ If tax "losses" are generated, they flow out to your personal return.
- ◆ Adding a "living trust" allows you to pass control to your heirs, and avoid an "Estate Recovery".

For more information on the 'APLLC'
Please contact your Heritage America representative
Or the home office at:
(800) 487-8780