Planning for Senior Clients: CPA Elder Care Services

By Joel Mendler

CPA elder care services refer to a multi-disciplinary team approach for providing an array of services to older adults beyond return preparation, bookkeeping and bill paying. Many CPAs enjoy a close, trusted relationship with their clients and their families. They are in a unique position to act as the coordinator, collaborating with elder law attorneys, physicians, geriatric care managers, bankers, trust officers, investment advisors, insurance agents and clergy, to meet older clients' concerns and needs, such as retirement, divorce and remarriage, physical and/or mental incapacity, physical abuse and/or financial exploitation, and long-term managed care.

Retirement Issues

Longevity is one of the most serious economic challenges facing older clients who are about to or have already retired. Healthcare and drug costs, coupled with declining investment interest, pose a serious threat to older, middle income households that they will outlive their money.

Clients need counseling as to when to apply for Social Security benefits. Most Americans elect reduced early retirement benefits at age 62. CPAs should consider the client's financial needs, anticipated longevity, whether the client will continue to have earnings and its impact on benefits, and that Medicare does not begin until age 65.

For many older clients, a significant portion of their wealth may be in a traditional rollover IRA. Consider instituting programs to insure that a client's minimum required distributions are correct and timely to avoid penalty taxes, especially if an older client's mental capacity begins to decline. Make sure that current beneficiary designation forms meet the client's family goals and tax objectives. Counsel families about stretch and spousal rollover opportunities upon the client's death.

Clients concerned about outliving their life expectancy can invest a portion of their IRA in a Qualified Longevity Annuity Contract (QLAC), deferring distributions up to age 85 and excluding the QLAC from the calculation of required minimum distributions. For some older clients with large IRA balances who are betting that income tax rates will increase, run the numbers on the advantages and disadvantages of converting a traditional IRA into a ROTH IRA.

Marital Issues

Estate plans should be reviewed upon divorce, including Wills, trusts and beneficiary designation forms for non-probate assets, such as life insurance, annuities, retirement plans and IRAs. Divorce in Louisiana generally automatically revokes bequests in a Will and beneficiary appointments in a revocable trust to an ex-spouse. Nevertheless, it is wise for the divorced client to review and revise all estate planning documents. The automatic revocation provisions do not apply to beneficiary designations for non-probate assets or rights under ERISA plans.

Seniors are finding love later in life after divorcing or losing a spouse and are remarrying. This raises planning issues for "blended" families, consisting of "his", "her" and sometimes "our" children. Sometimes these relationships are far from "blended". The prevalence of multiple marriages for older clients presents unique problems, unintended financial consequences and planning opportunities in the family context.

A marriage contract is an excellent tool to modify or eliminate community property laws, to identify each spouse's separate assets, and to regulate what happens upon divorce. It also can address other issues, such as responsibility for pre- and post-nuptial debts and obligations, how the couple will handle their finances during their marriage and share expenses, dwelling decisions both as to the matrimonial domicile, changes in domicile and division of sale proceeds, consent to gift-split exclusions and exemption amounts for gift tax purposes, and portability of unused estate tax exemption amounts, to name a few. A marriage contract has limitations. It cannot alter Louisiana rights of a "poorer" spouse to demand a marital portion from a "richer" deceased spouse's estate, which often arises in remarriage situations where one spouse has substantial separate property compared to the other. Secondly, it cannot prohibit a spouse from changing his or her Will.

Remarrying older couples should consider healthcare, disability and potential long-term care costs, particularly since they face a greater likelihood of becoming disabled or requiring long-term care than younger clients. This may include, with the client's consent, getting their children involved in the discussions regarding the use of Powers of Attorney and the desig-

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nation of the Agent. Some adult children fight to retain control over healthcare decisions (as well as financial decisions), especially if their relationship is hostile to the new spouse. Professional counselors also must discuss the issues of long-term care and its attendant costs since Medicaid eligibility for nursing home care is determined based upon the assets of both spouses, regardless of community or separate property laws or any provisions in a marriage contract.

Planning for Incapacity

Planning for the older client includes quality of life decisions and protecting and preserving the older client's personal autonomy, independence, dignity and assets at a time when the client may be frail, perhaps less mentally acute than in the past or suffers or is likely to suffer impaired decision-making over the course of representation.

Without proper planning for incapacity, a judicial interdiction may be required, with its attendant costs, delays, stigmatization, limitations on the powers of the curator, constant court involvement and, of course, the person ultimately appointed curator by a court may not be the person the older client would have chosen. The common planning devices for incapacity are Advance Directives, namely a financial power of attorney, a healthcare power of attorney and, for end-of-life decisions, the Living Will and/or the Louisiana Physician Order for Scope of Treatment (LaPOST). These documents allow the client to retain personal autonomy by designating persons of their choice to make decisions when they are unable to do so as well as specifying their specific healthcare and end-of-life treatment decisions if unable to do so themselves at the time. Clients do not give up the right to make their own decisions by signing a Power of Attorney. They continue to make their own decisions, if competent, and, in fact, can revoke their Power at any time.

Financial Powers of Attorney are potent documents. They are susceptible of abuse by the appointed Agent, including family members and professional advisors. Choosing the right Agent and, possibly, back-up Agent are imperative. Pre-printed forms rarely address the myriad of issues and protections which competent legal counsel can incorporate into the document.

Physical and Financial Abuse

Of special concern to older clients and their families are physical abuse and financial exploitation. Unfortunately, most financial exploitation is by family members and caregivers. Since exploitation may depend upon manipulating an elderly person's emotions, who better to do so than a family member or caregiver close to the elderly victim. There are many professionals on the front-line who are in a position to detect, prevent and report financial exploitation of the elderly, including bank tellers and bank officials, trust officers, accountants, investment advisors and clergy. CPAs are in a unique position since their client relationships lead to an intimate knowledge of clients' financial, business and family circumstances. CPAs should understand the risk factors for financial abuse of their older clients, recognize indicators that exploitation is or may be occurring, and respond to such abuse. CPAs should report suspected cases of physical, emotional and financial abuse to appropriate persons, including other family members and governmental authorities such as Louisiana's Adult Protection Services (APS). Louisiana requires mandatory reporting by all persons of suspected cases to APS. A person who fails to report can be fined or imprisoned. Reports are confidential. APS is required to investigate and take appropriate action.

Long-Term Care Financing

Most older clients and their families are not prepared for the potentially disastrous costs of long-term care. Long-term care refers to a variety of medical services in a variety of settings, such as home care, assisted living, continuing care retirement communities and nursing homes. For some, long-term care needs may last only a few weeks or months. For others, particularly those who contract Alzheimer's disease, the long-term care needs may continue for years.

The elderly client either must pay for care out of his/her own resources, be "poor" and qualify under the financial eligibility standards of governmental programs, such as Medicaid and Veterans benefits, or have private long-term care insurance (LTCI). The crisis of paying for long-term care is primarily a middle class" problem — the elderly person (or couple) who has worked all of his life, managed to own a home and perhaps saved $250,000-$750,000 and has no LTCI.

In terms of using one's own resources to pay for long-term care, at one time many older clients were rich in home equity, but poor in cash. However, in today's economic environment, more and more older clients do not own their homes debt free but continue to have a conventional mortgage on their home. For those that do have debt free equity, many are on fixed incomes and their dividends and interest on investments are negligible due to the current low interest environment which may continue for the next few years. Therefore, tapping into home equity with a traditional home equity loan may be unavailable if the older client cannot qualify for credit or cannot afford the monthly loan repayment.

Reverse mortgages are heavily marketed to the elderly as a solution to their long-term care, medical and other financial needs. Unlike a home equity loan, in a reverse mortgage, the homeowner makes no interest or principal payments during the life of the loan. Instead, interest is added to principal and the loan becomes due when the homeowner either sells the home, moves, leaves home for more than 12 months (e.g., enters a nursing home) or dies. In some situations, reverse mortgages are very appropriate and actually can improve seniors' lives by providing funds to meet retirement, medical and other needs. But some elderly are being subjected to high-pressure or unethical tactics to take out loans with variable interest rates, high fees and costs, and urged to put loan proceeds into unprofitable investments, such as high-commissioned, unsuitable annuities. The vast majority of reverse mortgages are insured by the FHA, which has its own requirements and some built-in protections for consumers.

The probability of children paying for a parent's long-term care needs is remote. Children are struggling with their own issues, such as unemployment or underemployment, a house note, funding children's educational costs, etc. To expect them to contribute $80,000-$100,000 annually to the cost of a parent's long-term care needs in most cases is unrealistic.

LTCI can provide benefits not only for nursing home costs, but also home care and assisted living. However, existing policies are becoming increasingly expensive due to rising premium costs, which impact older seniors on fixed income. Many prominent insurers no longer offer LTCI. Insurers still writing LTCI offer policies with lots of bells, whistles and options, but have increased medical underwriting criteria. Consider teaming up with life insurance professionals who are knowledgeable about LTCI to analyze products and make recommendations to clients. Some insurers are re-entering the long-term care market, offering hybrid products which combine LTCI with life insurance or annuity products.

Medicare pays only a limited amount of skilled nursing home care. Medicaid is the primary program covering nursing home long-term care payments. Medicaid currently does not cover assisted living and only limited in-home care services. To qualify, the recipient must have limited countable income and limited countable assets under $2,000. The family home, one car, household furnishings, a pre-need funeral and some other assets generally are not counted. However, for married individuals the assets of both spouses are counted, although to avoid total impoverishment, the non-institutionalized spouse is permitted to keep up to $119,220 of countable assets in 2016. Gifting assets to children or others to meet Medicaid's financial eligibility requirements triggers a period of ineligibility if made within five years of applying.

CPAs who offer elder care services, directly and in conjunction with other professionals, not only may increase revenues from existing clients, but also may attract and retain new clients and their families with elder issues. ❖

About the Author

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