

# SNIPPETS™



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*SCHLOSSBERG & ASSOCIATES, P.C.*  
*COUNSELORS AT LAW*  
AN ESTATE AND FINANCIAL PLANNING NEWSLETTER

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WELCOME !!!!!!!

*The SNIPPET publication, which our office generates for our clients, is designed to give our estate planning clients the latest ideas and trends in that area of the law. We also publish a separate business newsletter for our business clients. For our new clients and friends, we welcome you to this publication and hope you find it informative. Our Estate Planning Department consists of David Titus, who has been practicing in the area of estate planning for over 30 years; Jeff Schlossberg, who has a Masters in Tax Law, and is accredited by the National Association of Estate Planners who works with estate planning for the business owner; Our recent addition to our firm is Brett Kaufman, who also has a Masters in Tax Law and has been recognized as a Rising Star in the area of estate planning by Boston Magazine; Keith Phifer, who is currently pursuing his Masters in Tax Law and also works with the closely held business owners. Lastly, Joyce Petersile, our dedicated probate paralegal that has worked in probate administration for many years. We welcome the opportunity to serve you and hope you all have a safe and happy summer.*

## Lessons from the Stars: Long Term Care

*By Brett A. Kaufman*

"No well-planned retirement should be without long term care insurance. It is the very cornerstone of retirement security." - Suze Orman.



We now take it a step further – no Estate Plan should ignore long term care insurance.

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The need for long-term care can happen to anyone at anytime. Celebrities such as Montell Williams was 42 when he was diagnosed with multiple sclerosis, the late Christopher Reeves was 42 when he became paralyzed following an equestrian accident and Michael J. Fox was only 30 when he was diagnosed with Parkinson's disease. Although, you can't always prevent your need for long-term care, you can protect your assets, preserve your choice of care, and reduce the burden on your family by buying long term care insurance ("LTCI").

The landscape of the LTCI industry has drastically changed over the last 20 years. You should not think of LTCI as nursing home insurance or that LTCI is paying expensive premiums for something you may never need. LTCI has expanded from simple nursing home coverage to covering care in assisted living facilities and in an individual's own home. In fact, most claims are not nursing home related, but instead are for in-home care and assisted living care. In 2007, the average cost of a private room in a nursing home in eastern Massachusetts was \$302 per day or \$110,285 annually, the monthly rate for a private one bedroom at an assisted living facility was \$4,754 or \$57,042 annually, and the cost of a home health aide ranges about \$20-30/per hour.

Long-term care goes beyond medical care and nursing care to include all the assistance you could need if you ever have a chronic illness or disability that leaves you unable to care for yourself for an extended period of time. Though older adults most frequently use long-term care services, a young or middle-aged person who has been in an accident or suffered a debilitating illness might also need long-term care, as seen with Montell Williams, Christopher Reeves and Michael J. Fox, etc. Again, if it is your goal

to remain in your home, you will need financial assistance.

Generally, those who need long-term care are left to privately pay for it themselves. Our government has made it clear through various curtailments and cutbacks that it is not their obligation to provide this benefit to its citizens. Combined with the fact that our society is living longer, and an increased cost of healthcare, there is every indication that LTCI is a solution to our changing society. Long-term care is not fully covered by Medicare, Medicare supplemental coverage (also known as Medigap insurance), or standard health insurance policies. That leaves most of us with two options when faced with such expenses: privately pay out-of-pocket or rely on long-term care insurance. Most people choose to privately pay out-of-pocket; however, due to the rising costs of long-term medical care, this option should be seriously reconsidered. As the above indicates, the cost for care has risen over the years, and will continue to rise in the years to come. Paying for your own care has two significant problems. First, and the most obvious, is that it quickly depletes your assets that could have gone to your family upon your death. Second, and not so obvious, is that family members providing your care can suffer lost time, lost wages, missed events and missed opportunities. How do we place a value on that?

LTCI coverage is not limited to any type of care or daily rate. LTCI policies are tailored according to the premiums you can afford. You can go to any facility your LTCI policy covers, and you don't have to sell, spend down or gift away your assets to pay for your care. One of the difficulties in shopping for long-term care insurance is that the different policies are almost impossible to compare. When shopping for long-term care insurance make sure you take your time

and compare the features of several policies. The following is a list of features you should carefully examine before purchasing a long-term care policy.

**Company Reputation and Legitimacy.** It's a good idea to deal with companies, which know the business and have been stable in the past. This is due to the fact that it may be several years before you need the policy and it's difficult to change companies when you're older and have developed medical problems. Make sure the insurance companies under consideration are licensed in your state and that they carry favorable financial ratings from well-known ratings agencies such as A.M. Best Company, Moody's Investor Services, Inc. or Standard & Poor's Insurance Rating Services,

**Adequate Daily Benefit.** Long-term care policies generally limit benefits to a maximum dollar amount or a maximum number of days and may have separate benefit limits for nursing home, assisted living facility, and home health care within the same policy. For example, a policy may offer \$150 per day up to five years of nursing home coverage and only up to \$80 per day up to five years of assisted living and home health care coverage. To determine how much coverage you need, research the costs for suitable facilities in your area and then figure out how much of the bill you could financially contribute to the cost of the facility. It is not an all or nothing approach. It should be viewed as a subsidized approach.

**Length of Elimination Period.** This is like a deductible and works like one. The length of the elimination period is the period of time the insured must wait before the policy will begin to pay benefits. Most policies range from zero to 180 days. You will have to privately pay for long-term care expenses

while you wait. Typically, the longer the elimination period, the lower the premium. Again, how much can you afford? You need to be reasonable in your approach.

**Benefits Protection.** The daily benefit you buy today may not be enough to cover higher costs years from now. A 3% inflation rate can cut the value of your dollar in half in 25 years. Therefore, you should consider that your policy include an inflation adjustment feature to ensure that benefits stay in line with rising care costs. A rule of thumb some advisors follow is that purchasers under age 70 should purchase an inflation rider and those over age 70 need not.

**Policy Eligibility.** Long-term-care policies carry exclusions for preexisting conditions, which usually won't be covered for six months or a year after a policy is in force. You should find out if the policy requires certain benefit triggers to determine when you will be eligible to receive benefits. Such triggers could include activities of daily living that the insured needs help with, such as bathing, eating, and dressing; cognitive impairment, such as Alzheimer's disease; or a prerequisite hospital stay for nursing home benefits.

The lesson to take from Montell Williams, Christopher Reeves and Michael J. Fox's unfortunate circumstances is that you should buy a long-term care policy long before you expect to need benefits. You cannot wait until catastrophe strikes to then decide that you need it. How much does it cost? It depends on age and the above criteria; however for a 60 year old couple, you can figure the cost will be between \$2,000 and \$5,000, depending on the package. It is deductible and can be discriminatory in a company sponsored benefit plan. Since we cannot predict our future, medical conditions

resulting in long-term care can happen at anytime which make you uninsurable and at risk of losing a significant portion (if not all) of your assets to provide for your care.

## ESTATE PLANNING OPPORTUNITIES UNDER THE CURRENT LAWS

The federal estate tax exemption is scheduled to increase to \$3.5 million in 2009, with the repeal of the estate tax scheduled for 2010. However, unless Congress takes action, the federal estate tax will be reinstated in 2011 with the exemptions and rates that were applicable in 2002 (\$1 million). For this reason, the federal estate tax continues to be a "hot topic" in Congress and the current system will most likely not remain as scheduled.

According to several experts, we should anticipate Congress or the next president (whether Senator Barack Obama or Senator John McCain) to reach a compromise that will still leave us with some type of estate tax. Under Senator Obama's proposed plan, the federal estate tax exemption would continue to increase to \$3.5 million in 2009, and would remain at \$3.5 million going forward with a top estate tax rate of 45%. Alternatively, under Senator McCain's proposed plan, the federal estate tax exemption would be increased to \$5 million, and continue to remain at \$5 million going forward; however, the top estate tax rate would be reduced to 15%. It is important to keep in mind that both plans are proposed and would most likely be revised in some form before it becomes law.

Regardless of what happens on the federal level, Massachusetts residents must consider the impact of the Massachusetts estate tax on their estate planning. The Massachusetts exemption is currently \$1 million and is not scheduled to change. Therefore, clients should give consideration to planning strategies that include:

1. A review of the tax-related formula provisions in their planning documents to reflect the potential for a disparity between the federal estate tax exemption and the Massachusetts estate tax exemption;
2. The acceleration of lifetime gifts to utilize the full amount of the federal estate tax exemption (\$1 million) because there is no Massachusetts gift tax. Therefore, those lifetime gifts would presumably not be taken into account in calculating the Massachusetts estate tax;
3. A review of the location of assets will become increasingly important. One of the objectives in planning for out-of state real property generally includes the avoidance of probate in the other state. This can be accomplished through the use of a revocable living trust; and
4. Consideration should be given in appropriate circumstances to a change of legal residence. In doing so, it will be important to consider all of the tax implications, including whether the new state of choice has a state estate or income tax.

