

URBAN AGING NEWS

Urban Aging L3C

FREE

Issue 30 | Fall 2022

Annual Caregiver Issue

Info, Insight, & Inspiration for Metro Detroit's Maturing Adults

Caregivers on the Front Line



Mariea Claxton, who has dementia, receives loving care from full-time caregiver/daughter Doria Rainey.

PHOTOGRAPHER: TODD MCINTURF, THE DETROIT NEWS



Nakia Gaither tends to the swollen feet of her mother, Dorothy Gaither.

PHOTOGRAPHER: ANDY MORRISON, THE DETROIT NEWS



Rosa E. Hunter said her 94-year-old mother, Rosa L. Hunter started showing signs of dementia in her late 70s when no one in the family knew how to manage it.

PHOTOGRAPHER: JOHN GREILICK, THE DETROIT NEWS



Rosa E. and her mother Rosa L. exercise and bond on their walks.

PHOTOGRAPHER: JOHN GREILICK, THE DETROIT NEWS

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Advice for Caregivers: Five Steps to Leap Legal Hurdles

By Norman E. “Gene” Richards



Family members of aging loved ones are increasingly stepping into the role of helper or caregiver. Fulfilling these responsibilities requires a great deal of time, energy and focus. To make the job easier, caregivers should be able to act with minimal complication and resistance - but all too frequently, caregivers instead struggle to overcome legal hurdles when making decisions for their charges. There are five steps caregivers should take to eliminate frustrating, and often costly, legal challenges.

1. Determine the legal authority needed. If an aging person merely needs guidance or prompting with decision-making, this can usually be accomplished informally. If, on the other hand, the caregiver must step in and act on behalf of the aging person, this will require formal (or legal) authority. Legal authority to act on a person's behalf comes from one of two sources: (i) through powers of attorney for financial and health care decisions, called POA authority, or (ii) through guardianship and conservatorship authority obtained through a probate court, called court authority. Generally, POA authority is preferred over court authority. Going to court should be a last resort such as when there is no POA in place, or if the POA is defective or rejected.

Each of these sources of authority has advantages and disadvantages. For example, POA authority is more efficient and less costly than court authority, but it is also less powerful and more likely to be abused than court authority. Financial institutions

may reject POA authority while medical care providers may accept it without question. POAs may be impotent if specific language is omitted from the document. And, since POA authority does not override the aging person's will, court authority may be the best solution if the aging person insists on making bad decisions. It is important to determine as early as possible the types of decisions that will be involved and whether the aging person resists the assistance of the caregiver. Regardless of the source of authority, the goal is to have a decision maker with the authority to make appropriate decisions with the least amount of resistance.

2. Prioritize Power of Attorneys. POAs come in two varieties:

- Patient Advocate Designations, called PADs: The aging person, or “patient,” gives another person, the “patient advocate,” the power to make medical treatment decisions if the patient is physically or mentally unable to do so. This document may also give authority over end-of-life decisions.
- General Durable Power of Attorney, called GDPOAs: The aging person, or “principal,” gives another person, the “agent” or “attorney-in-fact,” the power to enter into financial and legal transactions on behalf of the principal. The authority continues even if the principal later becomes incapacitated.

3. Review Existing Legal Documents. Clearly written legal documents that grant authority to act for an aging person are essential tools for caregivers. It is a mistake to assume that a POA will always work when needed. It is important that the documents are prepared correctly and contain the necessary authority, or limits on authority. These should be reviewed by an elder law attorney to ascertain if the POAs are appropriate to the situation or need to be replaced.

4. Understand Medicaid & VA Benefits for Long-Term Care. Every senior's financial situation, marital status and care need is unique. Long-term care planning — whether in advance or at the time of need — is never a one-size-fits-all task. Medicaid

and VA benefits are needs-based benefits that can be used to pay for long-term care. Each operates under complex rules that seem to change and evolve regularly. It is crucial, therefore, to plan well in advance of the need for long-term care if at all possible. It is easy to unknowingly make mistakes which can be time consuming and costly to unravel. A caregiver should always seek the counsel of an elder law attorney about Medicaid and VA eligibility rules and possible advance planning strategies.

5. Build a Team of Experts. A carefully selected caregiving team of experts is a necessary complement to an aging person's plan of care. The more support a caregiver has, the less likely they are to experience caregiver burnout and the more sustainable the plan of care will be. Keep in mind, relatives and friends are not the only ones to recruit for a care team, as not everyone has the personality, time or resources to assist. Team members can also include the following professionals:

- Physicians (Primary Care and Specialists)
- Elder Law Attorneys
- Geriatric Care Managers
- Social Workers
- Financial Advisors
- Pharmacists
- Home Care Agencies and Professional Caregivers
- Adult Day Care Centers
- Charities, Organizations and Support Programs

Taking on the role of a caregiver for an aging loved one is a difficult job. To avoid unnecessary stress and confusion, caregivers should complete these five essential steps to reduce the chances of finding themselves in frustrating, and often costly, legal challenges.

Norman E. “Gene” Richards is a partner at the law firm of Cummings, McClorey, Davis & Acho, P.L.C. where he focuses his practice on estate planning and elder law. He assists clients with the development of customized estate plans to address their specific needs, including family owned businesses, senior adults concerned about long-term care needs, and trusts for children with special needs.