

# Long-term care or nursing home?

By Linda T. Cammuso

People generally recognize the importance of long-term care and nursing home planning — just not always when it comes to themselves or their loved ones. Many people live in denial that they would ever face that situation. As an estate planner, I often meet people from the “it-can-never-happen-to-me group,” who have fallen into crisis mode and wonder why it took a crisis for them to finally face reality.



## Legal Briefs

The first step to avoiding crisis mode is simple awareness of the following common long-term care planning and nursing home planning mistakes:

- Assuming that you (or your loved one)

will never need nursing home care: The number of people needing nursing home care continues to increase as the older population increases. However, younger generations are also not exempt — people aged 31 to 64 now make up the fastest growing proportion of individuals needing nursing home care. And it is estimated that within 15 years, 3.9 million nursing home beds will be needed.

- Assuming that your estate is either too large or too small to worry about planning. Anyone with concerns about long-term care affordability should consider proactive planning.

- Assuming that Medicare will cover long-term nursing home care. It does not.

- Not understanding the MassHealth /Medicaid financial eligibility rules, or ignoring them. You’ve probably heard the expression on a legal TV show, “ignorance of the law is no defense” — the same is true for Medicaid. You will be subject to their rules whether you know about them or not.

Planning without considering Medicaid rules can result in inadvertent Medicaid disqualification if nursing home care is ever needed.

- Making annual gifts to children and not realizing the implications of the Medicaid five year look back period. The idea of making annual gifts — \$10,000.00, \$12,000.00, etc. — is a gift tax rule, not a Medicaid rule. These gifts will incur Medicaid penalties.

- Doing the MassHealth (Medicaid) application yourself. The process is more complicated — and filled with landmines — than the application would lead you to believe. Working with a professional can greatly increase your chances of approval.

- Being so focused on nursing home and long-term care planning issues that you ignore other important aspects of estate planning such as taxes, asset protection, etc. Much like the old Rubik’s Cube game, you don’t win unless the colors (or in this case, the legal issues) match on all sides.

- Making direct gifts to children or other

family members instead of using a trust. Putting your home or money into someone else’s name, while you’re still living and relying on those assets, poses a great risk to your financial security. A trust can protect assets from long-term care expenses without exposing them to other people’s creditors and liabilities during your life.

Now that you’ve glimpsed the bigger picture, there is no excuse for waiting until you, or a loved one, are in a crisis mode. Contact an attorney who specializes in long-term care planning today.

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