

## **Notes on Workshop on Aging and Finances, October 13, 2018 (15 present, plus 3 presenters)**

The presenters were all from Intervention Associates (IVA): Lisa Pettinati (Executive Director and Care Manager; Nego Pile (Guardianship Manager); and Lisa Rogers (Senior Care Manager).

Lisa P: Exec Director and Care Manager. Friends Life Care of which Intervention Associates is part, is the oldest Life Care Community without walls. 2500 members. IVA has been around for 30 years providing care management.

Staff of IVA: mostly social workers, some nurses, accountant, behaviorist, lawyer. They work with all ages, mostly aging in place or in a supported setting. They can work with people with dementia and Alzheimer's, and complex aging situations. They serve mostly in PA and NJ and Del. Guardianship is available only in PA.

Care Manager: is an advocate who can take away the burden of the coordination of care. By advocating, they can ensure highest quality of care, provide problem solving strategies, collaborate with attorneys, financial and other professions as needed. They partner with healthcare and community resources.

Nego Pile: Power of Attorney (POA) is a fiduciary relationship where someone else is acting on your behalf and for your interests. A Power of Attorney is a written document; it cannot be an oral statement.

Durable Power of Attorney: The "Principal" is the person giving the other person power to act on their behalf. The "Agent" has the POA. The scope can be as wide or narrow as you want (eg: selling your house when you are out of town would be a "limited power of attorney"). Durable POA means the agent can continue to act for the principal after the principal becomes incapacitated. It has to have "durable" in the title.

Health Care Power of Attorney: you authorize an agent to make health care decisions whenever you are unable to. HCPOA remains active if you become terminally ill or unconscious. It is signed by you and 2 disinterested witnesses (not family or the agent). IVA can serve as Health Care POA. There needs to be a conversation ahead of time with the agent so they will honor your wishes.

Financial Power of Attorney: This authorizes the agent to make financial decisions whenever you are unable to do so. It must be notarized and signed by you, agent and 2 disinterested witnesses (not a beneficiary of will, not family, not the agent). You must sign a notice form that you understand what you are giving over. IVA is in the process of beginning to serve as financial POA.

Guardianship: is a measure of last resort, when everything else is not working. It is a legal relationship between an individual (guardian) given legal authority and duty to make decisions on behalf of another individual (the ward) who lacks sufficient capacity to manage their own affairs. It has to be determined medically (psychiatrist or md, psychologist, mental health professional, who administer tests) and legally. If deemed medically incapacitated, then there is a hearing before Orphans Court (in PA). This court has a broad authority over orphaned children, but also adults who are unable to make decisions for themselves. The judge will listen to the evidence and can determine that person is incapacitated and name a guardian. Anyone nominated has to go through some scrutiny, which is a good thing so that the ward is not taken advantage of. Laws have been strengthened in terms of reporting more often. Judge

will ask guardian questions about financial issues (debt), and their relevant qualifications to assist the ward.

Generally if you have a durable POA, you don't need guardianship, if the POA is not limited in scope. It depends on the language in the durable POA. If it is not broad enough, then you may still need guardianship. However, a POA is volitional, whereas a Guardianship is court determined. A person could change the POA to someone else and it only works if you have capacity when you set it up. It gets very tricky when someone has set up a POA but then becomes incapacitated and wants to change it. It would have to go to court. There is no supervision with a POA. If you see malfeasance, you can tip off County Office of Aging, or police. You should let other people know. With guardianship, there is oversight, and annual reporting requirements. You can nominate someone to be your guardian, but they still have to go through court process.

Incapacity = individuals over 18 who cannot make decisions for themselves.

PA has a good guardianship process. In SE Pennsylvania, at least, the judges really pay attention.

Every court has a list of guardians but they only get \$100 a month if the person has no income to pay for a guardian. So it can be hard since it really costs more than that. In order to be a guardian, a person has to have a background check, take guardianship courses annually, and have insurance to cover self professionally.

Who might be a guardian? Guardians can be individuals, a corporate fiduciary, non-profit org, guardian support agency, or a county agency. IVA can do it. If there are concerns about a guardian's behavior, you can alert the court. Judge could grant freezing of bank accounts.

Guardian Duties: general care, maintenance and custody, deciding where the person should live, assuring that person received educational, medical and vocational assistance, assisting in self reliance, making financial decisions.

Guardians cannot consent to abortion, sterilization, psychosurgery, etc or removal of healthy body organ. They cannot prohibit a marriage or consent to a divorce, consent to any experimental biomedical or behavioral medical procedure. They cannot admit an incapacitated person to an inpatient psychiatric facility or center for the mentally retarded, or consent to relinquishment of the person's parental rights.

Types of guardian:

Guardian of the person (personal care, supportive services, annual report to court, help move,

Guardian of the estate - managing finances, pay bills, sell house, estate planning etc, - annual report with court.

Limited Guardianship: Applicable where a person is partially incapacitated and in need, not all powers granted.

Emergency guardianship can be filed when lack of guardianship could result in irrep harm - done in 72 hours.

Plenary guardianship: when persons are determined to be completely incapacitated.

POA stops at the death of person. Guardian can request to be estate administrator if no one else steps up. POA also ceases when a guardian is appointed.

Guardianship duties are statutory, whereas POA has to be specific as to powers. You can look at the statute and pick off the list what powers you want to give the POA.

IVA can be the backup POA and or guardianship. Initial fee plus more when service kicks in. \$155 per hour for guardianship and POA. \$135 an hour for care management. Requirement of 1 visit a year, and periodic phone calls. Need to know the person so can step in with knowledge.

Nego: in response to a question about online forms for wills etc. He is not a big fan of online forms; he has had to undo what people created online. Online resources don't look at whole situation like a care manager would do. Online doesn't look at your future – the form may or may not work out. It is important to have sound planning. But it is also good to do something, rather than nothing. You can ask for a free consultation (get a list from IVA), and if you don't get a free consultation, move on. Look for an elder law attorney. (Nego has PA and NJ license and his consultations are free).

When is it time to call IVA? Often they get called by an adult daughter when one parent is gone and something happens like a fall. She doesn't know what to do - should dad move? Care manager does a comprehensive assessment and moves forward from there. Social workers meet people where they are and talk with dad and daughter. What does dad want out of life? What are their concerns - fear of falling? What does he need now and in the future? They have an Occupational Therapist CAP person (certified in Aging in Place) who can look at the home). IVA looks at safety, can they pay their bills?, get food etc. They can help the daughter with her concerns; tell her what to look for in warning signs. If dad wants to stay home, maybe he just needs a few hours of help a day - help shower, pay bills etc, or maybe if they have the means, could get 24 hours care with multiple caregivers.

Call if concerned about person's mental capacity, or family members are in conflict, you want to review whether current plans/decisions are in your loved one's best interest, you have a gut feeling that keeps you awake at night, you have a general question. You don't have to sign a contract initially. The office is in Plymouth Meeting and they give a free consultation. And they can refer to organizations that could help you if you don't have the means to pay them.

Care managers are hired for experience and values. They want clients to have best life they can.

What financial concerns do care managers address? - they evaluate costs of care, moving somewhere else, how to pay bills etc.

They can recommend that someone else do driving evaluation so someone else gives the bad news. State of NJ asked for driving test for a dad and took away his license. But he drove anyway so they had to take the battery out of the car.

Is there a list of what a person getting older needs to think about? Elder law attorney could do it, or a care manager could do. AARP does have a list of at least 10 things (this month). IVA could be a consultant.

They can help do long term plans. Medicare will cover short term rehab (20 days at 100%, then there is a copay up to 100 days). But if the person goes home, and then back to the hospital, and back to

nursing home, the clock does not go back to zero, but keeps running from the last nursing home visit. If you run out of Medicare coverage, then nursing homes are \$200-400 a day, or they'll talk to you about Medicaid. They can help plan where you can go or what to do; a concern could be that one spouse is in facility and other is at home and how to manage this financially. IVA knows places. Lisa R. Is leery of ratings online which may not represent the actual level of care.

You are more marketable when you have some money to pay privately for a while before Medicaid kicks in (\$100,000). Make sure you check out the skilled nursing part of anyplace you visit.

Part of planning is looking at long term care, and it is worth your time to check in with an elder law attorney to protect some assets before going on Medicaid. Not all nursing homes accept Medicaid. Is there a state advocate for those in nursing homes? Each county has an ombudsman who can advocate for residents when contacted. Every county has a County Office of Services to the Aging and can be contacted with concerns. You can get a limited case manager that way. County nursing homes are not bad places and they accept Medicaid.

Free-standing personal care homes don't accept Medicaid; costs are a la carte so they can increase. At a CCRC you pay a set fee. Medicare covers hospice services, but not room and board.

Care Coordinator for Friends Life Care will visit you annually and do assessments, but involvement is not as intensive as IVA. You are buying care, and as your needs increase, they will provide more care. They have member meetings, workshops. IVA is more comprehensive and has smaller caseloads.

Notes by Lynne Piersol