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ELDER LAW MINUTE

A subscriber asked me recently whether there are any special considerations to keep in mind while preparing Wills and Powers of Attorneys for elderly clients. In fact there are.

Let's assume that Mary and John Evans, ages 80 and 81, have contacted you about putting their affairs in order. John is in the early stages of Alzheimer's Disease. Given these facts, what is different about the planning that you might recommend?

They both need thorough Powers of Attorney. John might appoint Mary as his primary agent and one of their children as successor. Mary would probably not want to appoint John as her agent given his declining health. The Powers of Attorney should specifically allow the agent to make gifts and to purchase real estate since these are techniques commonly used to protect assets for Medicaid and V.A. purposes. It should also allow the agent to create trusts for the principal.

They each need an Advance Directive for Health Care Management. In these documents John and Mary should be as specific as possible about their wishes with regard to life support. Again, Mary should probably not appoint John as her agent.

All assets should be put into just Mary's name. In her Will, Mary may want to bypass John and leave all assets to their children if she trusts the kids to care for John should she predecease. Doing so will allow John to qualify for Medicaid after Mary's death and there should be no Estate Recovery after John's death.

If John's income is over \$1,911 per month, he should also execute a Qualified Income Trust while he is able to.

Don't forget to visit my website, www.IraLeff.com. Doing so allows you to keep in touch, make effective referrals, and access the Elder Law Minute archives.

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