

**FREE Legal Guide**

# HOW TO HAVE “THE CONVERSATION” WITH YOUR AGING PARENTS

**So You Can Protect Your Parents From Losing Their Home,  
Bank Accounts, and Other Assets From Long-Term Care Costs**



**Weatherby & Associates, PC**  
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# HOW TO HAVE “THE CONVERSATION” WITH YOUR AGING PARENTS

**So You Can Protect Your Parents From Losing Their Home,  
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Fifty-seven percent of people never talk to anyone about the potential for long term care.

But even if you dread the conversation, the situation can become much worse by NOT talking about long-term care, asset protection and other important topics.

At the same time by having a conversation with your parents now, their comfort, quality of life, and a good measure of independence can often be maintained with reasonable preparation.

It's never too soon to start talking about the future with your parents, no matter what stage of life they are in right now. By establishing plans now, you will help protect your parents so they can continue to live on their own terms, as fully as possible throughout their entire life.

## How to Start the Conversation

So how do you talk to your parents about aging, long-term care, asset protection and other uncomfortable topics? Starting the conversation is not the easiest, but it will be one of the most important conversations you will have. And both you and your parents will be glad you made the effort and took the time.

What should you cover in your conversation? How do you get started? What do you need to be prepared for?

As a member of Elder Counsel and based on my experience practicing in the field, the following are the essentials that you should discuss in order to protect your aging parents as well as your own assets.

# Things to Know Before You Get Started

## Create A Good Environment For The Conversation.

- Arrange a time where you can talk in person. If you are out of town, plan time during your next family get-together. If you can't meet in person, use Skype, Google Hangouts, Facetime or other technology that will allow you to meet "face-to-face."
- Allow enough time to talk so you don't have to cut off the conversation early.
- Ask questions and listen. Be respectful of your parents' opinions and wishes even if you hear answers you don't agree with or aren't expecting.
- Keep the atmosphere light. This doesn't have to be a dreary conversation. It's okay to smile, and even laugh. Reassure your parents throughout the conversation.
- Be flexible. While it's helpful to have an outline of what you want to cover, be open to letting the conversation go in other directions. You never know what you may discover.
- Be prepared but don't overwhelm them with statistics and forms.
- Don't present a plan. The first step is to talk to your parents and find out what they have in place, what ideas they have and what their wishes are.
- Allow your parents to make their own choices. If their health or safety is at risk then you may need to make decisions for them; however even in those circumstances, if at all possible you'll want to consider their input and choices.

## 6 Ways to Start the Conversation

- 1) Come right out and tell your parents that you'd like to talk about their wishes surrounding their long-term care and managing their health and ask if they would be open to talking to you about it.
- 2) Start by asking about their past, their childhood and parents. Listen to their stories and learn about them. Then ask them about their future. What would be their ideal future? What worries them about the future?
- 3) Talk about someone else's situation. Think about who you, your spouse, family member or parents know who is dealing with some aspect of aging or long term care. Start with something that is either good or bad about their situation to begin the conversation.
- 4) Give your parents an article, or send them a link to information about planning for long-term care or asset protection, etc. Then use the article, story or information to open the discussion.
- 5) Tell your parents about something you are planning for in the future such as setting up an IRA or

preparing a will and ask them for their advice. This is a great way to transition into asking them how they planned ahead and if they feel fully prepared.

6) Write them a letter or email telling them what you would like to discuss and why. This is helpful if you are having trouble starting the conversation or if you live a distance from your parents and have to plan a trip to see them to have this conversation. This also allows you to think through what you want to say and edit it before you send it. Plus, it can help get your parents to begin thinking about these issues before you sit down face-to-face.

## Topics to Cover and Questions to Ask

**Lifestyle** - What expectations do you have for the future? Have you identified situations that you do not want to happen? Where would you like to live if you cannot take care of yourself?

**Legal** - Do you have a will? A durable power of attorney? Do you have a living will and a power of attorney for health care? If so, are these documents up-to-date and do they reflect your current wishes? Do you have a long-term care plan in place? When was it last updated? Where do you keep these documents in case I'd need to access them?

**Finances** – Who do you want to manage your finances if you cannot manage them yourself? Do you have a list of bills you currently pay and how you pay them? Is there discretionary income that you would want to redirect if necessary? How will the person you designate to manage your finances get access to your assets? Do you know what government benefits you may need? Do you know how to qualify for them?

**Medical care** – Who do you want to make your medical decisions if you cannot make them for yourself? What are your wishes for your medical care (i.e. do not resuscitate (DNR) ? Is there family health history recorded somewhere that is available? Do you have the proper permission granted to the appropriate people allowing the release of medical information?

**Care options** - Where would you like to receive care? At home, in a facility? What type of facility? Who would you like to provide care? When do you think it is appropriate to be moved out of your home if you are not capable of communicating your wishes?

**Cost of long term care** - How are you planning on paying for the long-term care you may need? How much do you think your long-term care will cost? Medicaid? Veterans Benefits? Savings? Long-term care insurance? Reverse mortgage?

# Reasons Elder Law Attorneys Most Often Hear as to Why a Long-Term Estate and Asset Protection Plan Wasn't Put in Place

## 1) "I/We have it covered."

- How you might respond: "I'm glad to hear that. I've just been reading a lot about how the changing laws and other factors are affecting estate plans and asset protection plans. In fact, I was just reading about some people who were in tears because they found out the plan they thought was fool-proof had become obsolete due to changes. I'd hate for you to lose anything you've worked so hard for unnecessarily. Just for my peace-of-mind, would you mind if we talked about your plans so I'll know what they are and what your wishes are?"

If they say they are all set, gently ask the following 3 questions:

How long ago did you take of all the things that need to be address?

Did you work with an attorney who focuses their practice on Elder Law?

When did you last review it with the Elder Law attorney?

The rules at the Federal level and the sttte level are change pretty regularly.

Tip: If you feel after your conversation that your parents plan might not be as up-to-date as it needs to be or is missing a key element, you might consider suggesting a visit to an elder law attorney that specializes in long-term estate planning and asset protection. It may even be worth it to offer to find the attorney and pay for it.

## 2) "I don't want to think/talk about that." Or "That scares me to talk about needing to go to a nursing home."

- How you might respond: "I know. It scares me too and I hope you never need to go into a nursing home or any other facility. The trouble is that sometimes life happens even when we don't want it to. I want to make sure your assets such as your home, bank accounts and personal treasures aren't lost or depleted due to unforeseen health care costs."

## 3) "I won't ever need to go to a nursing home." Or "I probably won't need long-term care."

- How you might respond: "You know, I certainly hope you are right. And I know this is hard to talk about because you've always been so healthy, but I still think it's important to plan for the possibility of it or for some sort of care just in case. I don't want you to lose everything you've worked so hard for. For my peace-of-mind, would you mind if we visited an attorney that specializes in long-term estate planning and asset protection?"

**4) “I already have health insurance. I’m covered.”**

- How you might respond. “I know you have health insurance, but do you have a plan for other non-medical needs associated with aging that your health insurance won’t cover? Costs associated with making home modifications should you need them or help with personal care such as help like getting dressed, bathing, eating, and getting in and out of bed - health insurance doesn’t cover these types of expenses.”

**5) “I figured you and the rest of the family will take care of me.”**

- How you might respond. This is a good time to reference an example of someone you know or a situation you are familiar with. Then discuss the impact of providing care. (Facts: Almost half of family caregivers spend more than \$5,000/year on caregiver costs. One third of caregivers spend more than 30 hours per week on caregiving.)

**6) “If I need special care, I’ll pay for it from my retirement and my savings.”**

- How you might respond. Ask them how much they expect special care might cost. Again, a story or using some simple math might help. For example, using the fact that the Connecticut median annual cost of home health care exceeds \$50,000, and in 2-3 years, you could spend \$150,000. In Connecticut the average cost of nursing home level care is \$12,364 which is over \$148,000 per year. Ask how this might impact their savings.

## **Things to Be Aware of**

### **Why it’s important for your parents to have a document authorizing someone to manage their finances.**

If your parents should become disabled and cannot manage their finances and have not executed a document authorizing someone to manage their finances for them, then the probate court will appoint someone to manage their finances for them. The court may not appoint the person they would have selected.

Your parents can select whoever they want to manage their affairs by executing a power of attorney. Once selected, your parents’ agent under their power of attorney can access their bank accounts, their retirement accounts, and their life insurance policies. Their agent can also change the deed to their home and change the beneficiary of their life insurance policies. A power of attorney is one device for their agent to use in managing their assets. However, not all power of attorney documents allow the agent to do everything that may be desired. Some allow them to do more than may be desired.

## **What About Trusts?**

A trust is a written document that defines how the property within the trust is used. The person who administers the property in the trust according to the terms of the trust is known as the trustee. A trustee can only manage property that is owned by the trust.

There are as many kinds trusts as there are instruction to babysitters. The best plan for your parents will depend on their circumstances. Some of the factors that should be considered are:

- Their age
- Current health status
- The amount of assets involved

### **Types of Trusts include:**

- Living Trust
- Irrevocable Trust
- IRA Trust
- Testamentary Trusts

Even if your parents have a trust, they should also have a power of attorney. This is because a trustee has no authority to act regarding property outside of the trust. An agent under a power of attorney can act with regard to property outside the trust but not property within the trust. These documents work together.

# **Assessing the Tools That Might Help Pay For Long-Term Care**

There are several tools/resources that your parents may have as part of their long-term care plan. Below are some of the common issues you need to be aware of with each.

## **Medicare/Medicaid**

- Medicare does not help to pay for the cost of custodial care, but it can help pay for a brief time of rehabilitation in a skilled nursing home following a hospital stay.
- It is critical to plan ahead to preserve family savings, preferably at least five years before paid care is needed. Once a person spends down to the point where Medicaid covers the cost of care, he or she must have next to no countable assets (often \$2,000 or less.) After that, your parent will only get to keep about \$30 per month from his or her Social Security check and pension.
- Never get your advice about Medicaid from the Medicaid planning office or nursing home.

They are under no obligation to tell you all of the available options to best protect your home, your assets, and your life savings. Instead talk with an elder law attorney who is familiar with the public benefits in your state and asset protection.

## **Veterans Benefits**

### **Issues regarding Veterans Benefits include:**

- Lots of red tape.
- Hard to maneuver around delays and other stonewall tactics commonly found with Veterans Benefits.
- Government finances not in the best shape—no guarantee they be there for you when you need them.

## **Long-term Care Insurance**

With long-term care insurance be aware that:

- Costs go up.
- It's expensive.
- Many policies are Use it or lose it. Once the policy-holder dies, even if there are funds unused left in the account, the funds go away and are kept by the insurance company. Explore your options to protect your assets. There are alternative programs and ways to protect assets so that all of your parents' money is not depleted by health care costs.
- If you're thinking your self-insuring, there are much better options that aren't "Use It or Lose It".

**Have "the conversation."** Make sure you understand what your parents want should you wind up with the legal power and responsibility to make decisions for them. This conversation may be uncomfortable for you and your parents, but I can't stress how critical it is. Life is unpredictable so it's important to start planning now...before you are in the middle of an event.

If you haven't mastered all of the ins and outs of a power of attorney, a living will, trusts, or a healthcare proxy find an eldercare expert or attorney to help.

For more information on planning your finances visit [weatherby-associates.com](http://weatherby-associates.com) for resources from leading lawyers on estate planning and long-term care planning.

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