

## An offer of certainty in a COVID world: Estate planning and Medicaid

**E**ven though 2020 may have seemed like a lifetime instead of a mere 365 days, 2021 has finally arrived. With the flip of the calendar comes continued uncertainty. (Don't call it the "new normal" because it is anything but normal). The unexpected and unsettling events caused by the COVID-19 pandemic rippled through every area of our lives and have only heightened the need for a personal strategy to address the concerns and challenges of aging.

You may have become a caregiver for an elderly or disabled family member in addition to having to learn how to teach your children while working remotely, adding daunting obligations to your busy life. Your investment, savings and retirement plans may be thrown off-course. Whether you deem yourself wealthy or consider your savings and retirement accounts modest, your decisions now can impact how you age and the legacy you leave to your loved ones.

Addressing your estate planning needs can provide certainty and peace of mind. Updating — or finally creating — a plan can protect your wishes and assets and provide a roadmap for family members. The heart-breaking inability to see loved ones in person during the pandemic vividly illustrates the need for a plan and backup players to support your needs. We can no longer assume that an adult child can simply step in, especially if they are located outside New York state. And the long-term effects of the virus are still unknown for survivors, including disability planning within your estate plan (which may have been focused on tax savings alone in the past), which is an excellent reason for an update. Here are three key questions to ask yourself and those in your circle:



### VIEWPOINT

Lisa M. Powers

**Do you have an estate plan?** It's critical to have the essentials: a will, power of attorney and health care proxy. Your planning documents, however, need to be tailored specifically to your needs, addressing elder care concerns such as asset protection options and hiring care managers and providing for alternate agents to act on your behalf if your primary choice becomes ill, loses capacity or dies. Naming your spouse alone is not enough as 2020 proved when many families saw both spouses become ill or die and no one could reach anyone in a facility to make crucial changes. Attorneys became creative and did signings through windows at assisted living and locked-down senior communities, but for those in hospital or nursing home settings, no mechanism existed to arrange for signature. Now is the time to ensure your plan is put in place and provides alternative agents.

**Have you considered that you might need Medicaid to pay for care?** The pandemic has prompted many families to decide to take care of their loved ones at home, which means an increase in the use of community-based services. However, many families cannot afford to private pay for ongoing care when the daily rates for home care can actually exceed assisted living or nursing home care for personalized delivery, especially if you need 24/7 care. Working with an experienced elder care at-

torney who understands Medicaid eligibility, including the new, harsh rules that penalize transfers of assets for home care, is critical in planning to protect assets and receive care in a setting of your choice rather than a default placement where there is an available bed. Misconceptions about the planning options and application process abound. Trusted professionals can review legal strategies to protect your assets and help you qualify to receive care at home. Do not wait until you have exhausted your savings, or worse, liquidated your IRA to pay for care. You have choices now. Let us share them with you.

**Who is on your team?** The pandemic proved the need for a coordinated approach. No financial advisor, accountant or estate planning attorney alone can provide everything you need for a comprehensive plan that will work when you need it. We prefer a team approach and love referring to other experts, especially community support services and care managers who can make the crucial difference in preserving your choices for care in a cost-effective way. Proper estate planning and Medicaid planning is never appropriate as a do-it-yourself project.

Bottom line: The stresses of COVID-19 cannot pull your attention away from your estate plan, preserving assets and taking care of your loved ones. Work closely with your attorney and other trusted professionals to get certainty and peace of mind in these otherwise uncertain times.

*Lisa M. Powers is senior counsel at Harris Beach PLLC and a member of its Wills, Trusts and Estates Practice Group.*