# How to Protect Your Family, Assets and Legacy from the Cost of Catastrophic Illness and Long-term Care – Part I, Legal Perspective

### Our Challenge and Trends – Planning During Good Health and Judgement

Morgan Stanley's research report, Planning for Long-Term Care, located on our web site at http://stchristopherschatham.org/personal-planning, states that many people underestimate the need for long-term care in the future to protect their families and assets from catastrophic illness costs. As a result, some postpone the decision to purchase coverage until they reach the age where it is more expensive or perhaps even unavailable because they are uninsurable. Many families also do not take appropriate legal measures to protect their assets and legacy.

What is the chance that you will need long-term care (LTC) after age 65? The estimated years of LTC after age 65, according to The 2014 Sourcebook for LTC, American Association for LTC Insurance are:

- None – 31%
- 1 year or Less – 17%
- 1 – 2 years – 12%
- 2 - 5 years – 20%
- > 5 years – 20%

Long-term care costs have soared in recent years and are expected to rise even higher. According to the Genworth's 2014 Cost of Care Survey, here's what you can expect to pay for a private room in a nursing home, assuming an approximate 4% annual increase in costs:

| | 1 Year of Care | 3 Years of Care | 5 Years of Care |
|---|---|---|---|
| Cost today | $87,600 | $273,452 | $474,470 |
| In 15 years | $157,763 | $492,472 | $854,493 |
| In 30 years | $284,122 | $886,914 | $1,538,894 |

### Qualifying for Medicaid as a Funding Source & Protection for Long-term Care

According to the Law Offices of Kathleen Fowler, LLC, Irrevocable Trusts can shelter assets from being spent down for nursing home care. One type of Irrevocable Trust can shelter the principal of the Irrevocable Trust from a nursing home "spend down" by giving the Grantor of the trust the right to receive all income. The income would be used to pay nursing home costs, but the principal could be protected assuming that the trust does not allow distributions of principal to the Grantor (and Grantor's spouse) and a five year look back period has expired. (Currently Medicaid law considers any asset given away in the five year period that precedes the Medicaid application as available to the applicant.)

Another type of Irrevocable Trust can shelter the income and principal of the Irrevocable Trust from spend down, but the Grantor (and Grantor's spouse) cannot have any interest in the Trust at all. For example, a mother creates an Irrevocable Trust for her children and then makes a gift of an investment account. Five years from the date of the transfer to the Irrevocable Trust, this investment account will not be an asset subject spend down if the mother needs nursing home care and has no other assets.

**Medicaid Eligibility Requirements**

- Applicant can have no more than $2,000 in his or her name.
- Applicant's spouse can have no more than $119,220.
- The equity in the Applicant's house in excess of $828,000 is not counted towards his or her asset limit as long as the Applicant has a spouse, a child under 21 years of age or a blind or disabled child (regardless of age) residing in the property; otherwise, the excess equity will be counted.
- There are no transfers/gifts within 5 years of the Medicaid application.

### Use of Trusts to Reduce the Value of an Estate for Estate Tax Purposes & Control

The legal objective is to reduce the value of the taxable estate (for state and/or federal estate tax purposes) and/or to protect assets from long-term medical care costs.

**Estate Tax Reduction**

Estate tax law allows every person to give away assets during their lifetime. These gifts are subject to federal gift tax law with certain exclusions and exemptions. Charitable gifts are not subject to gift tax at all. Gift tax free summary:

- Annual exclusion gifts (now equal to $14,000 per Grantor per beneficiary) – reduces the taxable estate immediately.
- Lifetime exemption amount – for Federal calculations in 2015, this amount is equal to $5,430,000 per Grantor and is indexed to inflation; in Massachusetts, the exemption is $1,000,000.

**Where are Gifts Going?**

The Law Offices of Kathleen Fowler, LLC recommends the use of Irrevocable Trusts as the recipient for gifted assets. Why?

- Trusts provide additional benefits to the beneficiaries that include creditor protection and estate tax protection in the beneficiary's estate. In other words, assets that are held in trust for the beneficiary cannot be accessed by that beneficiary's creditors (divorced spouse, tort liability, employment-related exposure and/or future long-term health care costs).

In addition, if the Grantor of the trust allocated his or her generation skipping tax exemption to the trust for that beneficiary, then when that beneficiary dies, none of the assets in that trust are subject to estate tax in the estate of the beneficiary.

- Trusts also keep the gifted assets under the control of the Trustee, an advantage when the Grantor has a particular plan for the assets or the beneficiary needs assistance with asset management or has special needs.

- Trust planning for spouses can allow each spouse access to an Irrevocable Trust created by the other spouse resulting in estate tax savings, but with the possibility that the Trustee will exercise their discretion and make distributions of gifted assets back to a spouse if need be.

- Tax law provides that certain types of Irrevocable Trust have additional benefits, such as income being taxable to the Grantor, which will further reduce the value of the Grantor's estate.

The Personal Planning Committee (PPC) suggests that you consult with an elder law professional on this very important topic.

**St. Christopher's**
**Personal Planning Committee**

Formed to provide education about personal planning and referrals to qualified professionals in fields of legal, financial and health planning, the Committee works to encourage parishioners to develop and keep updated their personal health, financial and asset or estate plans. We encourage discussions within families.

CLOISTER SOCIETY

We manage the Cloister Society and celebrate those who have made or planned gifts to St. Christopher's, unless they choose to remain anonymous.

We will be long-term stewards of St. Christopher's, cooperating to build the church's Endowment.

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ST. CHRISTOPHER'S

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# Protect Your Family from Catastrophic Illness & Long-term Care Costs – Part I

Conversations we should have

Questions we should answer

Personal Planning
for Your Future