

# ELDERCOUNSELOR

*A newsletter for professionals serving seniors and those who love them.*

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THE LAW OFFICE OF  
NANCY L. CHOATE P.C.

Wealth Preservation  
Estate Planning  
Elder Law

We are honored to celebrate our 25th year in business in 2016! We are grateful for your support and look forward to working together this year. Please let us know if we can assist you, your clients, friends or family.

## Underestimating the Risk of Disability – The Importance of Being Prepared

No one likes to think about the possibility of their own disability or the disability of a loved one. However, as the statistics below demonstrate, we should all plan for at least a temporary disability. This issue of *The ElderCounselor*<sup>™</sup> examines the eye-opening statistics surrounding disability and some of the common disability planning options. Disability planning is one area where we can give each and every person and family we work with great comfort in knowing that, if they or a loved one becomes disabled, they will be prepared.

### Most Individuals Will Face At Least a Temporary Disability

Study after study confirms that nearly everyone will face at least a temporary disability sometime during their lifetime. More specifically, one in three Americans will face at least a 90-day disability before reaching age 65 and, according to the definitive study in this area, depending upon their ages, up to 44% of Americans will face a disability of up to 4.7 years. On the whole, Americans are up to 3.5 times more likely to become disabled than die in any given year.

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Personalized Planning for the Present and Future

Age	% Disabled	Average duration
25	44%	2.4 years
30	42%	3.2 years
35	40%	3.4 years
40	37%	3.9 years
45	33%	4.2 years
50	28%	4.7 years

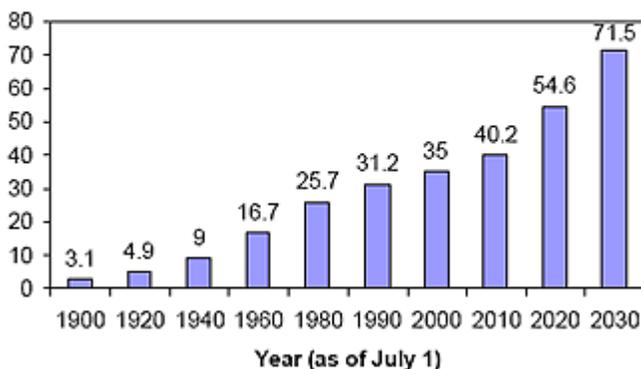
Source: 1985 Commissioner's Disability Table A (CIDA) blended 50/50 Male/Female and 50/50 Accident/Sickness

In raw numbers, over 37 million Americans, or roughly 12% of the total population, are classified as disabled according to the 2010 census. Perhaps surprisingly, more than 50% of those disabled Americans are in their working years, from 18-64. For example, in December 2012, according to the Social Security Administration more than 2.5 million disabled workers in their 20s, 30s, and 40s received SSDI (i.e., disability) benefits.

### Many Persons Will Face a Long Term Disability

Unfortunately, for many Americans the disability will not be short-lived. According to the 2007 National Home and Hospice Care Survey, conducted by the Centers for Disease Control's National Center for Health Statistics, over 1.46 million Americans received long term home health care services at any given time in 2007 (the most recent year this information is available). Three-fourths of these patients received skilled care, the highest level of in-home care, and 51% needed help with at least one "activity of daily living" (such as eating, bathing, getting dressed, or the kind of care needed for a severe cognitive impairment like Alzheimer's disease). The average length of service was more than 300 days, and 69% of in-home patients were 65 years of age or older. Patient age is particularly important as more Americans live past age 65. The U.S. Department of Health and Human Services Administration on Aging tells us that Americans over 65 are increasing at an impressive rate:

**Figure 1: Number of Persons 65+, 1900 - 2030 (numbers in millions)**



The Department of Health and Human Services also estimates that 9 million Americans over age 65 will need long term care this year. That number is expected to increase to 12 million by 2020. The Department also estimates that 70% of all persons age 65 or older will need some type of long term care services during their lifetime.

The Council for Disability Awareness provides startling examples of how disability is likely to impact “typical” Americans.

“A typical female, age 35, 5’4”, 125 pounds, non-smoker, who works mostly an office job, with some outdoor physical responsibilities, and who leads a healthy lifestyle has the following risks:

- A 24% chance of becoming disabled for 3 months or longer during her working career; with a 38% chance that the disability would last 5 years or longer, and with the average disability for someone like her lasting 82 months.
- If this same person used tobacco and weighed 160 pounds, the risk would increase to a 41% chance of becoming disabled for 3 months or longer.

“A typical male, age 35, 5’10”, 170 pounds, non-smoker, who works an office job, with some outdoor physical responsibilities, and who leads a healthy lifestyle has the following risks:

- A 21% chance of becoming disabled for 3 months or longer during his working career; with a 38% chance that the disability would last 5 years or longer, and with the average disability for someone like him lasting 82 months.
- If this same person used tobacco and weighed 210 pounds, the risk would increase to a 45% chance of becoming disabled for 3 months or longer.

Visit the Council for Disability Awareness website at <http://www.whatsmypdq.org/> to calculate your own Personal Disability Quotient (PDQ), or risk for disability.

### **The Alzheimer's Factor**

Alzheimer's is growing at an alarming rate. Alzheimer's increased by 46.1% as a cause of death between 2000 and 2006, while causes of death from prostate cancer, breast cancer, heart disease and HIV all declined during that same time period.

The 2015 Alzheimer's Association annual report titled, “Alzheimer's Disease Facts and Figures” explores different types of dementia, causes and risk factors, and the cost involved in providing health care, among other areas. This report contains some eye-opening statistics:

- An estimated 5.3 million Americans of all ages have Alzheimer's disease. This figure includes 5.1 million people aged 65 and older and 200,000 individuals under age 65 who have younger-onset Alzheimer's.
- One in nine people age 65 and older (11 percent) has Alzheimer's disease.
- About one-third of people age 85 and older (32 percent) have Alzheimer's disease.
- Eighty-one percent of people who have Alzheimer's disease are age 75 or older. The number of

people aged 65 and older with Alzheimer's disease is estimated to reach 7.7 million in 2030 - more than a 50% increase from the 5.1 million aged 65 and older currently affected.

- Every 67 seconds, someone in the United States develops Alzheimer's. Thus, approximately 473,000 people age 65 or older developed Alzheimer's disease in the United States in 2015.
- By 2050, the number of individuals aged 65 and older with Alzheimer's is projected to number between 11 million and 16 million - unless medical breakthroughs identify ways to prevent or more effectively treat the disease.

**Caregivers are at risk of developing health problems.** There were approximately 10.9 million unpaid caregivers (family members and friends) providing care to persons with Alzheimer's or dementia in 2009. According to the Alzheimer's Association, those persons are at high risk of developing health problems, or worsening existing health issues. For example, family and other unpaid caregivers of people with Alzheimer's or another dementia are more likely than non-caregivers to have high levels of stress hormones, reduced immune function, slow wound healing, new hypertension and new coronary heart disease.

Spouses who are caregivers for the other spouse with Alzheimer's or other dementia are at greater risk for emergency room visits due to their health deteriorating as the result of providing care. A study mentioned in the 2010 Alzheimer's Association report found that caregivers of spouses who were hospitalized for dementia were more likely than caregivers of spouses who were hospitalized for other diseases to die in the following year.

**Receiving care.** According to the National Nursing Home Survey 2004 Study, the most recent of its kind, the national average length of stay for nursing home residents is 835 days, with over 56% of nursing home residents staying at least one year. Significantly, only 19% are discharged in less than three months. Those residents who were married or living with a partner at the time of admission had a significantly shorter average stay than those who were widowed, divorced or never married. Likewise, those who lived with a family member prior to admission also had a shorter average stay than those who lived alone prior to admission.

While a relatively small number (1.56 million) and percentage (4.5%) of the 65+ population lived in nursing homes in 2000, the percentage increased dramatically with age, ranging from 1.1% for persons 65-74 years to 4.7% for persons 75-84 years and 18.2% for persons 85+. According to the U.S. Census Bureau, 68% of nursing home residents were women, and only 16% of all residents were under the age of 65. The median age of residents was 83 years.

See Vol. 4 Issue 5 of the Elder Counselor, *The Affordable Care Act: How It Impacts Our Senior Population*, for a discussion of the Affordable Care Act's Impact on information regarding nursing homes.

### **Long Term Care Costs Can Be Staggering**

Not only will many individuals and families face prolonged long term care, in-home care and nursing home costs continue to rise. According to the Genworth 2015 Cost of Care Survey, Assisted Living, Adult Day Services, and Home Care Costs national averages for long term care costs are as follows:

- Monthly base rate (room and board, two meals per day, housekeeping and personal care assistance) for assisted living care is \$43,200 annually, expected to increase .2% annually.
- Daily rate for a private room in a nursing home is \$250, or \$91,250 annually, expected to increase 4% annually.
- Daily rate for a semi-private room in a nursing home is \$220, or \$80,300 annually, expected to increase 4% annually.
- Hourly rate for home health aides is \$21.50, expected to increase 4% annually.

These costs vary significantly by region, and thus it is critical to know the costs where the individual will receive care. For example, the median annual cost for a private room in the state of California during 2015 was \$104,025, whereas the median cost for a year in a semi private room was nearly \$90,000.

### **Most Americans Underestimate the Risk**

Perhaps most importantly, despite overwhelming and compelling statistics; most Americans grossly underestimate the risk of disability to themselves and to their loved ones. According to the Council on Disability Awareness 2010 survey:

- 64% of wage earners believe they have a 2% or less chance of being disabled for 3 months or more during their working career; the actual odds for a worker entering the workforce today are closer to 25%.
- Most working Americans estimate that their own chances of experiencing a long term disability are substantially lower than the average worker's.

Given the high costs of care, this underestimation often leaves Americans ill prepared to pay for the costs of long term care.

### **Long Term Care Insurance May Cover These Costs**

If a parent, their spouse, or family member needs long term care, the cost could easily deplete and/or extinguish the family's hard-earned assets. Alternatively, seniors (or their families) can pay for long term care completely or in part through long term care insurance.

Most long term care insurance plans let the individual choose the amount of the coverage she wants, as well as how and where she can use her benefits. A comprehensive plan includes benefits for all levels of care, custodial to skilled. Clients can receive care in a variety of settings, including the person's home, assisted living facilities, adult day care centers or hospice facilities.

### **Planning in the Event Long Term Care Insurance is Unavailable or Insufficient**

Unfortunately, many older Americans will either be medically ineligible for long term care insurance or unable to afford the premiums. In that event, more aggressive planning should be considered as early as possible to make sure life savings are not depleted as a result of having to pay out-of-pocket for care. With the help of an elder law attorney, a plan can be created that will protect much of the assets of an individual or couple that would otherwise be at risk of being depleted.

### **All Planning Should Thoroughly Address Disability**

When a person becomes disabled; he or she is often unable to make personal and/or financial decisions. If the disabled person cannot make these decisions, someone must have the legal authority to do so. Otherwise, the family must apply to the court for appointment of a guardian over the person or property, or both. Those who are old enough to remember the public guardianship proceedings for Groucho Marx recognize the need to avoid a guardianship proceeding if at all possible.

At a minimum, seniors need broad powers of attorney that will allow agents to handle all of their property upon disability, as well as the appointment of a decision-maker for health care decisions (the name of the legal document varies by state, but all accomplish the same thing). Alternatively, a fully funded revocable trust can ensure that the senior's person and property will be cared for as desired, pursuant to the highest duty under the law - that of a trustee.

### **Conclusion**

The above discussion outlines the minimum planning everyone, including seniors and their loved ones, should consider in preparation for a possible disability. It is imperative that families work with a team of professional advisors (legal, medical and financial) to ensure that, in light of their unique goals and objectives, their planning addresses all aspects of a potential disability. Our firm is dedicated to helping seniors and their loved ones work through these issues and implement sound legal planning to address them. If we can help in any way, please don't hesitate to contact our office.

*To comply with the U.S. Treasury regulations, we must inform you that (i) any U.S. federal tax advice contained in this newsletter was not intended or written to be used, and cannot be used, by any person for the purpose of avoiding U.S. federal tax penalties that may be imposed on such person and (ii) each taxpayer should seek advice from their tax advisor based on the taxpayer's particular circumstances.*