

# PART I : CAREGIVER AGREEMENT IS A WIN-WIN!

BY BEN KINIRY, ESQ.

Author's note: This is a two part article, hence the title. I didn't want to shorten the article as a shorter version would not give you enough detail to get a good sense of the topic. I hope you will read Part II next month.

Believe it or not, you, yes you, may eventually have a decline in health, and experience difficulty with things such as the activities of daily living, memory problems, falling and forgetting to take your medications. You may need some assistance, or perhaps you will need full-time care, or something in between.

But who will provide you with assistance? In many cases it will be someone close to you, such as an adult child. In my experience, your adult child and his or her spouse will team up to help you in your time of need. Perhaps they move in with you or you move in with them.

This caregiving child of yours may have a job and now they have a second job, assisting you. They may even be compelled to take a leave of absence from employment or quit their job in order to be the one who helps you. In



short, there is some type of sacrifice being made (after all you may not be the easiest person to deal with). There is a sense of duty to take care of ones parents and by taking on this task there is a significant time commitment and responsibility on behalf of your child.

What can and should be done to improve this situation, given basic family dynamics and the law? I would strongly suggest the creation of a contract often referenced as a Caregiver Agreement, which solidifies this type of relationship in many respects. This may seem totally unnecessary, and you may have even thought



to yourself "this is a private family matter, we don't need a written contract!" I can certainly appreciate this type of reaction, however, I would have you read to the end of this article to learn more on this topic and then decide.

A Caregiver Agreement may provide the caregiver child a sense of security in that they will not be harmed financially for their efforts (this may not concern your child, but it may concern your child's spouse and would likely concern you as well). At the same time, you as the person receiving the benefit of the care from a loved one, know that you will be well taken care of in comparison

to a complete stranger coming into your home. It is a win-win.

What is a Caregiver Agreement? As always, I'm so very glad you asked.

A Caregiver Agreement is a contract between a person in need of assistance and a person who is willing to provide the assistance (in the realm of Elder Law this is generally a parent and their adult child). The purpose of a Caregiver Agreement is multifaceted. In a simplistic sense, it describes what the caregiver child will be providing for services on behalf of his or her parent.

(Continued to page 17)

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## Caregiver Agreement cont'd. from pg.8)

Some of the typical services to be provided are personal care, grocery shopping, preparing meals, transportation, overseeing healthcare, housekeeping, financial management (utilizing the Durable Power of Attorney as needed), monitoring and managing medications, tracking changes in health, and acting as a liaison with healthcare practitioners (utilizing the Durable Power of Attorney for Health Care as needed). Of course, the Agreement will also spell out how much the Caregiver child will be compensated for their efforts (the contract would generally provide that the compensation may be adjusted upwards as more care is needed).

Writing a contract and then explaining how it works to the other members of the family, as well as what the contract accomplishes (very important in the context of a future Medicaid application for long-term care (keep reading), can assist in keeping the peace within the family (side bar: I'm a big fan of sharing the parties intentions and the actual planning (in most cases) with all members of the family. You may find this shocking, but when information is not shared with all the adult children, they will start creating scenarios in which their sibling is stealing or is otherwise taking the parent for a ride, financially speaking.

What is NOT evident, is the need to create an employer-employee relationship and to lay out the details, such as how taxation will be handled, whether workers compensation and health insurance will be provided, as well as the agreed upon vacation and sick time and who will be stepping in to take over the Caregiver's responsibilities in their absence. As you can imagine, there is a significant

amount of detail to be worked out in these types of Agreements.

You may just have thought, "Well hold on Ben, this seems extreme and unnecessary, paying taxes, workers compensation, you lawyers make everything more difficult than it needs to be!" (almost like I've heard this previously, isn't it?). This is a very normal reaction (for some), but we have to discuss the bigger picture here, which is the need for long-term care in the future and with it, an application for Medicaid to pay for that long-term care. This is where those who don't follow my advice will pay the price, quite literally.

How is that, you ask (wow, you really ask the right questions)? Eventually, as the parent's health declines, the child's ability to take care of their parent will fail. At that time, professionals will need to be hired. As you are aware, the cost of long-term care can eat up a person's life savings in a relatively short duration of time. When a person no longer has the ability to pay for those services, an application for Medicaid is the next logical step. The Medicaid program has many rules and if you don't abide by them, you will lose (You: "hey Ben, that sounds like a scare tactic" Me: "you have no idea what you are up against and for your sake, I hope you continue reading").

To be concluded in the next edition of the Bow Times.

The information provided in this article does not constitute legal advice. I don't believe for a second that you thought it did, but this is just what lawyers write at the end of articles. I hope you did not take offense to it, it certainly was not intended.

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## DUNBARTON NEWS

By Nora LeDuc



**READ WITH DOGS** Call to schedule Kids Read with Dogs at the Library. Jake will be away March 21, April 4, April 18 and May 2. He will be competing at Boykin Field Trials, and then onward to vacation. During this time, only one dog will be on the schedule. Cali and Sherman will alternate weeks. Don't forget to reserve your spot.

**VOLUNTEERS - WREATHS ACROSS DUNBARTON** Mark your calendars for Sat. March 23 at 10am. You will meet at the Town offices/Center Cemetery to pickup the wreaths and wreath stands from the 4 town cemeteries. Bring wire cutters to separate the bows (they're saved and reused for next year) from the wreaths which will go to the Transfer Station. You should be all done by 11am. Any Questions, contact Don 774-3500

**THE NEXT TOWN HALL RESTORATION CONCERT** will feature singer Alisa Amador on Saturday, March 23 at 7 PM in the Town Hall foyer. Enjoy a variety of songs from rock, jazz to alternative folk. Suggested donation \$20 (that all goes to the artist). Check out the Town Hall Restoration website at [www.tinyurl.com/DunTownHall](http://www.tinyurl.com/DunTownHall).

**CHAIR YOGA** Tues. March 26, will be held at the library. Arrive in time to start at 10:30 am. Class is an hour. Wear Comfortable clothes.

**DISCOVER THE OWLS OF NEW ENGLAND** at the library on Tues, March 26 at 6:30pm. Peter Christoph's beautiful photography presentation will feature stunning photos of his favorite owls, combined with stories that will entertain, educate and inspire the audience. Learn secrets to find and photograph these same owls in the wild in their natural habitat.

**PLANT-BASED EATING MADE EASY** at the library on Thurs. March 28, 6:30pm to 7:30pm. Whether you are ready to go all in with plant-based eating, or take it slow and cut back on animal products, you will notice a dramatic change in your overall health and energy level! Presented by Michelle Smith, MS, RDN, LD Concord Center for Health Promotion

**NEW HISTORICAL DUNBARTON VIDEO** an interview with Bob Blackman has been posted by the Dunbarton Historical Awareness Committee and can be accessed through the video link posted on the town webpage, YouTube and FB.

**NH PROJECT FIRST GRANT** The Town of Dunbarton is one of five communities throughout the entire State of New Hampshire that applied for *and was awarded* the NH PROJECT FIRST GRANT in the amount of \$13,716. Thanks go to our Police Department, in partnership with our Fire Department. The grant is funded through the First Responders: Comprehensive Addiction and Recovery Act (FR-CARA) made possible by the Substance Abuse and Mental Health Services Administration (SAMHSA).

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