



Your Family Matters™

Helping You Protect Your Family.....Today and Tomorrow

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KEYTLAW, L.L.C.

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Health Care Directives and Living Wills... in Critical Condition

Experts estimate that only 25 percent of adults have medical directives in place, and the majority of these people are elderly or already ill. Because serious accidents can happen to anyone at any time, it's important for people of all ages to have instructions in place and appropriate people designated with the authority to make these decisions.

END-OF-LIFE ISSUES DYING TO BE CONSIDERED

Three major situations are bringing end-of-life care concerns to the forefront of the health care industry. They are:

1. The debate over how the nation's limited health care resources should be rationed.
2. Religious concerns and beliefs about when life should end.
3. High-profile cases regarding these issues.



The recent battle in Florida over Terri Schiavo, a brain-damaged young woman with no written living will, brought intensive media attention to the issue. In this case, Schiavo's parents and her husband were in a drawn-out legal battle over the termination of life support. Although the woman had no written legal document, her husband testified that Schiavo told him she didn't want life support. Her parents, however, disputed this claim, and said that she wished to die naturally.

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New Tax Shelter Helps Grow Your Nest Egg

Napoleon Bonaparte once said that “Ability is nothing without opportunity.” Now Americans have the ability to get more out of their health insurance premiums by taking advantage of the opportunity opened by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. The government has created Health Savings Accounts (HSAs), a new financial vehicle that enables you to make tax-advantaged contributions that can be accumulated over the years and withdrawn tax free at any time for qualified medical expenses.

In many ways, this is even more advantageous for accumulating retirement funds than IRAs, which are taxed either when the money is contributed (Roth) or when it’s withdrawn (traditional).

THE ABCs OF HSAs

Here’s how an HSA works. First, you purchase a high-deductible health plan (HDHP), which is an insurance policy with a minimum deductible amount of \$1,000 for a single person, or \$2,000 for an entire family. Then, you invest funds into a separate HSA, which could be a savings account or mutual fund. These funds would accumulate tax free, and could then be used for qualified medical expenses including:

- Doctors, dentists and hospitals
- X-rays
- Chiropractic services
- Eyeglasses and contact lenses
- Acupuncture
- Artificial limbs
- Physical therapy
- Nursing home expenses
- Psychotherapy
- Nursing home insurance premiums
- Prescription drugs
- COBRA payments, when you are unemployed
- Laboratory expenses
- Premiums for long term care insurance



There are, however, certain limitations on the use of HSAs. You cannot be covered by any other health insurance policy. You must be under 65, and you cannot be claimed as a dependant on someone else’s tax return.

The IRS issues yearly guidelines on the maximum contribution levels for HSAs. For an individual, the minimum deductible in 2005 is \$1,000 and the maximum contribution is \$2,650. For a family, the minimum deductible is \$2,000 and the maximum contribution is \$5,250. If you’re between the ages of 55 and 65, you can make an additional catch-up contribution of \$600.

DISTRIBUTIONS

The funds you contribute to your HSA can be withdrawn at any time tax free if they are used for qualified medical expenses. If the need arises, you can withdraw the funds at any time for any reason, but they will be subject to your ordinary income tax rate, plus a 10 percent penalty. Once you reach age 65, withdrawals for non-medical expenses are subject to income taxes, but no additional penalty is imposed.

INVESTMENT ANGLE

The tax advantages are seductive because all contributions are tax free. The funds in the HSA can then be used for investment growth until you need it for medical expenses.

In theory, these accounts can accumulate huge investment gains over the years. If you’re a 50-year

old and have a family HSA, you can contribute approximately \$5,000 annually. If you're lucky enough to have low medical expenses, you can pay them out of your own pocket while the funds in the HSA can accumulate tax free. By the time you reach age 65, you may have accumulated upwards of \$75,000 in your tax-deferred account, not including potential investment gains or interest. That amount could fund a long term care insurance policy, pay for Medicare Part A or B, or fund your retirement health insurance premium. At the very least, the money can offer peace of mind for covering unexpected medical emergencies that may arise.

YOU CAN TAKE IT WITH YOU HSAs, which can be purchased through an employer or as an individual policy, give you total control over the investments in the account. They are also yours whether you change jobs, become unemployed or retire. You can maintain the same account, even if you move to another state.

As Gen. Douglas MacArthur once said, "There is no security on this earth; there is only opportunity." But the great military strategist couldn't envision the HSA, and the opportunity it offers to create additional retirement security. ■



Health Care Directives and Living Wills in Critical Condition

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Despite the involvement of the Florida Supreme Court, Governor himself, Congress, and even the President, this case was not easily resolved. This situation exemplifies the family anguish that can be caused by the lack of planning for health care.

FAMILIES DON'T ALWAYS KNOW BEST

A recent breast cancer patient, Randy Goldstein, has strong wishes about having a "good death." She realized that if her prognosis was grim, she would need someone to communicate her wishes on her behalf. She chose her best friend as her health care proxy on the proper legal form, after admitting that her husband would not be emotionally capable to abide by her wishes.

CHURCH AND FATE

Many religious beliefs impact end-of-life health care decisions. The Jehovah's Witnesses, for example, believe that no blood, in any shape or form, be fed into their bodies. These wishes need to be included in their health care directives. Even the Pope got into the fray; in

April of 2004, he issued a statement declaring that feeding tubes should never be withdrawn from a patient until his last breath. This may or may not conflict with a person's personal health care wishes, and needs to be addressed in a health care directive.

TWO MOST COMMON MISTAKES

The two most common mistakes we see with health care directives are:

1. State law typically regulates healthcare documents. Therefore, if a client has moved to another state, the power of attorney or living will needs to be updated.
2. Health care documents need to be updated to be compliant with the HIPAA Act of 2003.

Consult with your estate planning attorney to ensure that all your documentation is properly in place. You have a voice in the way you live your life; be certain you have a voice in the way it ends. ■

The Piano: 300 Years of Great Music

Early in the 18th century, Bartolomeo Cristofori started to experiment with the harpsichord. The instrument had no way to vary the volume of sound, which limited an artist's interpretation of a musical piece.

Cristofori created an almost identical instrument in which the metal strings were struck by small hammers. The harder the musician hit the key, the louder the sound. People called it "soft loud," or piano forte in Italian. Later, the name was shortened to piano.

It took a long time for the new instrument to gain acceptance. Johann Sebastian Bach didn't like the feel of it. Mozart didn't like it, and some organ and harpsichord players said it was too difficult to master. But when Franz Liszt played the piano in concert, people in the audience wept with joy at the effect.

The first pianos were very expensive and played only for royal audiences. They became a status symbol.

It was American mass production that brought the piano into the homes of middle-class families. The first piano manufacturing firm was started by Jonas Chickering in 1823. He was soon followed by Steinway and Sons, with assembly-line techniques and standardized piano parts.

Within the next 50 years, the piano became the home entertainment center of its time. ■



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For more information about Wills, Trusts and estate planning for Arizona residents, visit the online Arizona estate planning library on the internet at www.keytlaw.com/ep. Some of the articles about Arizona estate planning on Richard Keyt's website are:

ARIZONA ESTATE PLANNING FREQUENTLY ASKED QUESTIONS -- www.keytlaw.com/ep/epfaq.htm

GUIDE TO WILLS & TRUSTS -- www.keytlaw.com/ep

ARIZONA ESTATE PLANNING FORMS -- www.keytlaw.com/ep/azepforms.htm

LEGAL FEES FOR WILLS & TRUSTS -- www.keytlaw.com/ep/epservice.htm

BIOGRAPHICAL INFORMATION

Arizona estate planning attorney Richard Keyt prepares Wills, Trusts and simple and complex estate plans for Arizona residents on a fixed fee basis. Rick, a former partner in one of the largest law firms in Arizona, has practiced law in Arizona since 1980.

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