



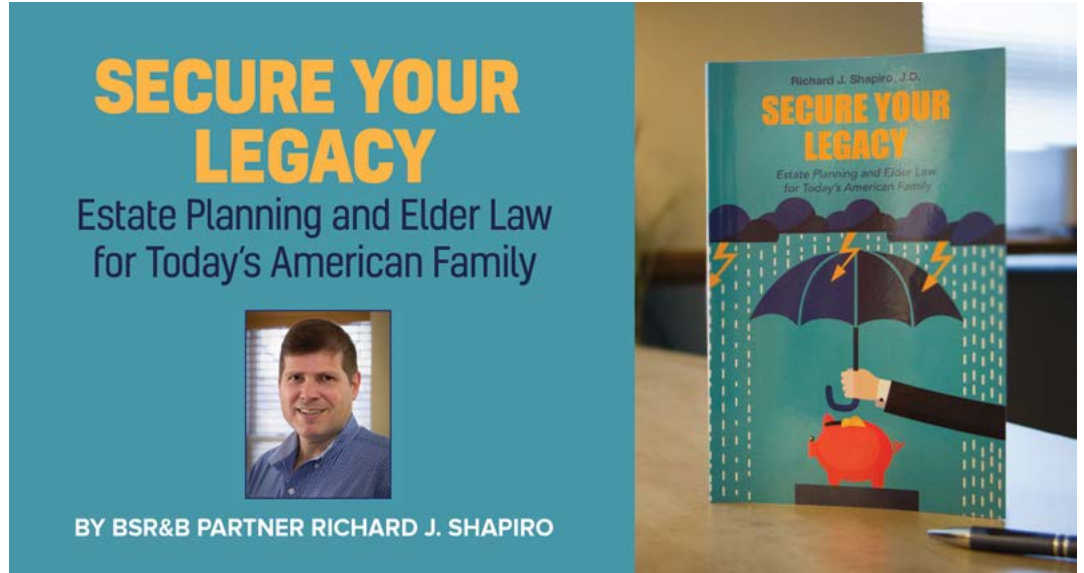
Legal Notes

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PARTNER RICHARD SHAPIRO PUBLISHES USER-FRIENDLY ESTATE PLANNING BOOK

Imagine building a new home without a set of blueprints—sounds absurd, doesn't it?

It's no different than creating an estate plan without establishing planning goals. Still, far too often people engage in estate planning without thinking about what they want to accomplish.

In *Secure Your Legacy*, Shapiro, head of BSR&B's Estate Planning, Probate, and Elder Law Department, addresses the daunting aspects of estate planning and elder law through the use of understandable language and real-world examples. The guide gives readers the critical information they need to work with an attorney to create an estate plan that protects them and their loved ones.

"Every family has different priorities, whether it be planning for a child with special needs, eliminating or minimizing taxes, making sure specific family members are provided for, or protecting assets from nursing homes," Shapiro said. "Every family seeks and deserves control of their hard earned assets."

Secure Your Legacy is now available for purchase in both paperback and e-format from

BARNES & NOBLE

amazon.com

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10 MATTHEWS STREET, GOSHEN, NY 10924
845.291.0011

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21 OAKLAND AVENUE, WARWICK, NY 10990
845.988.1515

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3 NEPTUNE ROAD, POUGHKEEPSIE, NY 12601
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The Cost of Elder Care: Options at a Glance



By Austin F. DuBois, J.D., LL.M.
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Proactively addressing the care you may require as you age is critically important. The results of failing to plan cannot only be financially devastating and result in a lack of proper day-to-day care for yourself, it can also cause significant stress on your family and even separation from your spouse. We all know someone who has had to go to a nursing home, very likely with great reluctance. The incredible expense – averaging over \$12,000 per month in the Hudson Valley – only makes the idea more devastating!

It is important to be comfortable with the idea that there is some expense involved in preventing the need for high-level care and its high cost. Working with an experienced and client-focused elder law attorney to ensure that your assets are protected and that you are managing that cost will provide comfort.

1. AGING IN PLACE

Likelihood without planning: Low
Cost: Low

Most people assume that they'll be able to stay in their house for the rest of their lives, all without any planning. As those of us who have family and friends who have required nursing care can attest, that often is not the case.

There are options that can help you remain at home as long as possible. The most important thing to do is to seek out in-home care before you have high-level care needs. All too often, someone who could use some low-level care (e.g., daytime companionship or meal preparation) doesn't bother to seek it out because they are worried about loss of independence and/or cost.

However, the cost for care in the home is relatively low, especially if you address it early enough. And for increased levels of care, Medicaid coverage is available as long as you have properly protected your assets.

All too often, someone will pass on the low level of care at home, and then have an accident or mental decline that could have been prevented. Once there is such an accident or decline, the level of care required goes up, as does the cost.

2. ASSISTED LIVING

Likelihood without planning: Moderate
Cost: Moderate to High

Many people recognize that staying in their homes forever may not be realistic. Whatever their circumstance, they prefer the idea of living in a community with other seniors where they don't have to worry about maintaining the house and the yard, preparing meals, or managing their medications, and where there is entertainment and the opportunity for a social life.

Assisted living facilities allow seniors to live independently, while freeing them from those obligations. Assisted living facilities also serve a range of care levels, such as simple meal preparation and medication management, up to higher-level care for residents who have some decline in mental capacity.

However, most do not have the highest level of care available. If you need 24-hour nursing care, you will need to leave the assisted living facility and go to a nursing home.

The cost of an assisted living facility is moderate to high, depending on the level of care you require. It typically ranges from \$2,000 to \$7,000 per month. In certain assisted living facilities, Medicaid can also cover a portion of this (again, if you have properly protected your assets).

3. NURSING HOMES

Likelihood without planning: High
Cost: High

Many people who develop significant mental or physical infirmity during their later years require round-the-clock care. At that stage, home care is almost never a feasible option, and assisted living facilities do not provide that level of care. That leaves a nursing home as the only viable option.

As mentioned before, the average cost of a nursing home in the Hudson Valley is over \$12,000 per month. The only options to pay for it are:

1. Out of pocket (spend down all your savings and possibly the equity in your house);
2. Long-term care insurance (a valuable tool if you have it, but many people don't); or
3. Medicaid (notice that Medicare is not listed, as it does not pay for a long-term stay in a nursing home).

As most of us don't want to spend down all our assets, and many of us don't have long-term care insurance, Medicaid is the preferred way to pay. However, you have to financially qualify to get Medicaid coverage.

If you haven't properly protected your assets proactively (at least five years prior to needing the care), you will need to spend down a significant amount of your assets before Medicaid will cover the nursing home costs. Still, even if you haven't done any planning, an experienced elder law attorney can help you save much of your money – usually at least half.

However, with proactive planning, you can protect a strong majority of your assets from being spent down.

4. CONTINUING CARE RETIREMENT COMMUNITIES (CCRCs)

Likelihood without planning: None

Cost: Moderate

Continuing Care Retirement Communities are all-inclusive living environments that offer all levels of care in one place. There are independent apartments that range in size and amenities, assisted living services if needed or desired, and on-site, nursing home level care. CCRCs also typically have a broad range of amenities, like varied dining options, entertainment and activities, and transportation to local shopping and dining areas.

One of the primary benefits of a CCRC is certainty. Your residence agreement with the CCRC provides that you will stay on site for as long as you want, regardless of the level of care you require. This is particularly valuable to married couples. None of the other options – home care, assisted living, or nursing homes – have a method to ensure that spouses stay together for, as they say in their wedding vows, “as long as they both shall live.” With non-CCRC options, if one spouse requires a higher level of care than the other, keeping them in the same living arrangement is very difficult. Worse, there is no limit on the cost. It is often an unrealistic burden on the other spouse, which in turn can often lead to the “well” spouse needing more care sooner.

CCRCs have differing cost structures, but typically there is a down payment, of which a large portion is often refundable. Then there is a set monthly rate that rarely, if ever, changes.

Without planning, you are very likely to require a higher level of care at a much higher cost. At the same time, the likelihood of you staying where you want with your spouse on your own terms will dramatically decline. **However, proper planning exponentially increases the likelihood of living and doing what you want with your spouse. There are professionals whose job it is to make sure that happens.**



PARTNER WILLIAM FRANK APPOINTED AS WASHINGTONVILLE VILLAGE ATTORNEY

BSR&B Partner William Frank was recently appointed as the Washingtonville Village Attorney by a unanimous vote of the Village Board of Trustees.

Recognized regionally for his extensive experience and knowledge of municipal law, Mr. Frank represents a number of municipal/public sector clients. Some of those include the towns of Wallkill (Town Attorney) and Minisink (Labor Counsel), the villages of New Paltz (Village Attorney) and Unionville (Village Attorney), and the Wawayanda Volunteer Fire Company (General Counsel).

Blustein, Shapiro, Rich & Barone, LLP attorneys also represent the Town of Wallkill Planning Board, the Town of Minisink, and the Town of Warwick.

Congratulations, Will!

BSR&B RECEIVES BOY SCOUTS' DISTINGUISHED CITIZENS AWARD

Blustein, Shapiro, Rich & Barone, LLP and Robert Ambrosetti of Local 373 Plumbers and Steamfitters were recently honored with the Hudson Valley Council, Boy Scouts of America 2017 Distinguished Citizen Award.

The Distinguished Citizen Award is presented annually by the Hudson Valley Council to individuals or organizations who have provided exceptional service to the local community and exemplify the ideals of the Boy Scouts of America, as expressed in the Scout Oath and Law.



BSR&B has awarded over \$250,000 to various regional causes since the firm was established in 1999. In addition to financial support, many attorneys with the firm hold leadership roles in several community-based organizations, including Boy Scouts of America, the Hudson Valley Council.

When Buying a Home, Is a Survey Required?



By Rita Rich, J.D.
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Some banks no longer require a survey of residential property being funded, making the need for a survey a decision for the homebuyer. Unless there is an existing survey provided by the seller that can be appropriately updated, the buyer's attorney will recommend that a licensed surveyor be engaged prior to closing to survey the property, place markers to identify the boundaries, and satisfy other due-diligence inquiries that go along with a purchase.

The surveyor will certify his map to the lender, the buyer, and the seller, as well as to the title company insuring title to the property. Along with the survey map, he or she will provide a metes and bounds description that matches the map and will be used in the deed. That description can be compared to the municipal tax map.

A survey map will show existing structures on the property, such as garages, sheds, pools, and fences, which may have required build-

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ing permits to be followed by certificates of compliance from the municipal building inspector. Identification of side yard, front yard, and back yard distances to those structures will also be shown, and will verify compliance (or not) with the zoning laws and the possibility of future additions to the home or an existing structure. Typically, there will be utility easements shown. Perhaps other easements, a common driveway, or a right of way requiring further attention will also be shown on the map.

Identification of encroachments on the property being purchased, or in reverse, on adjacent property, is an important part of the survey map. The seller may not have paid any attention to, say, a neighbor's shed placed on the seller's property, completely on the property or merely over the line. This could be a problem with respect to the buyer's title insurance, and a further problem for the buyer when the property is sold. The main question will be how long the encroachment has existed, because after a certain period of time, title to the encroached portion of the property is lost to the encroacher by adverse possession. Hedges and fences may also create encroachments. Boundary line disputes lead to lawsuits. A survey gives the buyer an opportunity to have the seller resolve such issues prior to closing.

With so many other expenses attributed to purchasing a home, it may be tempting to pass on a survey. The cost depends on the size of the property, the topography, and the going rate in the area. It is always wise for a buyer to shop around. The buyer's attorney may provide a list of local surveyors, and of course, the internet can also be a source. Sometimes there's a bargain in hiring a surveyor who has worked on nearby properties or the subdivision in which the property is located. Consideration should be given to asking for a firm timeframe for the survey, the number of copies that will be provided, and perhaps a sample of the surveyor's work.

As soon as the seller and buyer are in contract and the funding source or sources are in place, it is time to engage the surveyor. Completion of the survey in a timely manner prior to closing will be important, because mortgage commitments expire, and often require an additional fee to extend. The survey needs to be inspected by the buyer's attorney and forwarded to the title company for its review. There may be issues for the seller to address. Although a lender may not require a survey, the purchase of a home is an important investment, and whether or not any problems or concerns arise out of the survey, the cost of a survey is money well spent.

FREE EDUCATIONAL WORKSHOPS

Secure Your Legacy: Estate Planning Workshop for Today's American Family

THURS., JULY 13TH
WED., AUGUST 16TH
3:00 P.M. - 6:00 P.M.

We'll explain little-known pitfalls and the best methods to protect your loved ones' inheritance after you're gone.

Medicare & Medicaid: What You Need to Know

WED., JULY 19TH | TUES., JULY 25TH
4:00 P.M. - 6:00 P.M.

Learn more about:

- How & when to enroll in Medicare
- The difference between Medicare & Medicaid
- Medicare Advantage
- Medicare Parts A, B, C & D
- Medicare Prescription Drug Coverage program
- Medicaid eligibility for long-term care coverage (without having to "spend-down" assets)
- The difference between the Community Medicaid & Nursing Home Medicaid programs

Presented by

Richard J. Shapiro, Esq.
Partner at Blustein, Shapiro, Rich & Barone, LLP
and
Tom Ammons, CPA/PFS, CLTC
President of Affinity Advantage

BSR&B Education Center (1st floor), 10 Matthews St., Goshen, NY

Call 845.291.0011 or email receptionist@mid-hudsonlaw.com to reserve your place.

ENTREPRENEUR SEMINAR SERIES:

BUSINESS PLANNING FROM A TO Z

PRESENTED BY
BLUSTEIN, SHAPIRO, RICH & BARONE, LLP
ATTORNEYS AT LAW



Tues., June 27th | 8:00 a.m.
PART 1
STARTING A BUSINESS:
FORMATION & FUNDING

Tues., July 18th | 8:00 a.m.
PART 2
RUNNING A BUSINESS:
MANAGEMENT & MAINTENANCE

Tues., August 8th | 8:00 a.m.
PART 3
PROTECTING A BUSINESS:
DISPUTE RESOLUTION &
PREVENTION

Tues., August 22nd | 8:00 a.m.
PART 4
EXITING A BUSINESS:
SALE & SUCCESSION

Orange County Chamber of Commerce, Larkin Room, 2nd Floor (30 Scott's Corners Drive, Montgomery, NY)

Register online at www.OrangeNY.com or email ErinP@OrangeNY.com. Free for Chamber members; \$10 for Non-Chamber members.