



Spring  
2020



HELPING FAMILIES  
PROTECTING GENERATIONS

TLC MAINTENANCE

POST

Keeping you up-to-date on Maintenance Member News.

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A WORD FROM DOUG...

A quick update from Attorney Douglas Ley on the Secure Act - The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) includes a number of important law changes related to retirement accounts, such as 401(k)s, 403(b)s (TSA's), Individual Retirement Accounts (IRAs) and other "Pre-Tax" retirement accounts.

Some of the changes found in the SECURE Act are beneficial. For example, the age cap for contributing to a Traditional IRA was removed, thereby allowing those working well past traditional retirement age to continue to take advantage of deferring current income taxes while earning money. Another good result is that the ability to preserve assets for any of your children that are disabled remains intact. This allows us to exempt those assets from Medicaid spend down rules and preserve them for the special needs of our children.

Other changes may seem to be beneficial but can trap the unwary in higher tax rates later. For example, the age at which an individual must begin taking Required Minimum Distributions (RMD) was increased from age 70 ½ to age 72 (the "required beginning date"). This makes calculations easier. Why 70 ½ was in the original rules is anybody's guess, but the RMD's at age 72 and over will be higher (taxable) and the account values will most likely also be higher. This can create several problems. The first one happens if the IRA owner develops a chronic condition that results in long-term care.

That account value is then subject to Medicaid Spend Down rules that can deplete the account at a rapid pace, \$6,000-10,000 per month. The next problem will be upon the death of the IRA owner. If a non-spouse beneficiary (children or grandchildren) inherit the account, the value must be distributed in 10 years (11 tax years for you CPA's out there). The old rule allowed distributions over their lifetime which significantly reduced taxes to Uncle Sam. Of course, this will not be a problem if the pre-tax money is forced out due to a health event that results in chronic long-term care (nursing home).

You have all heard me talk about the Red/Green Money Planning. (Red Money cannot go into a trust; Green Money can and is then protected.) This law change effective January 1, 2020, makes the Red Money/Green Money Planning even more important. The plan is to distribute pre-tax funds before RMD age, utilizing the current lower tax rates to pay Uncle Sam less in taxes (we call that Bracket Bumping), and then depositing the "Green Money" into the Income Trust for asset protection. The result is less tax dollars ultimately flow to Uncle Sam and more tax-free dollars flow to your beneficiaries or you also have the option to use those funds for your care. It's all about options!

There's one option I'm sure of – if the Green Money is in your Income Trust, it will go to your heirs (unless you decide to spend it) and will not go to unintended creditors/predators like a nursing home. Red Money/Green Money planning is important for all our clients, but those who have \$300,000 or more in Red Money need to take advantage of our TLC Maintenance Plan and request an appointment to discuss planning in more detail.

There are more rules that changed with the SECURE Act, too many to delve into with our newsletter. We are currently updating our website to include recorded workshops on subjects that are important to our clients and their families. The Secure Act will be included in that update. Stay Tuned!





## HEALTH CORNER

**1. Stop Smoking** This is the most important step a person at any age can take to boost the body’s natural defense against disease and infection. Smoking inhibits the body’s immunity by increasing inflammation and limiting the effectiveness of antioxidants and antibodies to fight disease and infection.

**2. Limit Alcohol Intake** While some studies indicate that occasionally drinking red wine in small amounts provides anti-inflammatory benefits, there is also strong evidence that drinking too much alcohol increases the risk of infections especially pneumonia and tuberculosis.

**3. Limit Sun Exposure** We all have heard of the “sunshine vitamin” and the benefits of vitamin D for good health. On the other hand, too much time in the sun will cause damage from UV radiation which causes cancer. Surprisingly, too much sunlight may also increase the occurrence of cold sores.

**4. Lose Weight** Carrying around extra fat has a direct link to increased inflammation, heart disease, and diabetes. Add more movement to your day to burn calories such as swimming or walking.

**5. Eat Healthy Food** Increase the intake of fresh fruit and vegetables for each meal. Fresh fruits and veggies contain higher amounts of vitamins and other nutrients than processed or fried foods.

With Covid-19 on everyone’s mind lately, here are some excellent tips for boosting the immune system summarized from the Cleveland Clinic.

Calabrese, Leonard, DO.  
How to Keep Your Body’s Defenses Strong After Age 65. Clevelandclinic, 27 December 2020, www.clevelandclinic.org/5-tips-make-immune-system-stronger-age/.



## Getting to know us... Andrea Koenig

Andrea has recently accepted the position of TLC Maintenance Coordinator at Elder Advisors Law (EAL).

Andrea joined the EAL family almost a year ago in June of 2019. Besides coordinating our TLC clients’ needs, Andrea also functions as a general office assistant.



Before joining the EAL family, Andrea was a schoolteacher for ten years and managed a small non-profit organization for seven years. Her ability to interact with a variety of people from differing backgrounds, to evaluate their needs and execute a plan to meet those needs, provides a great fit for our maintenance program.

Andrea feels excited about getting to know the TLC clients and finds great satisfaction in providing consistent, quality care. She is eager to see the program grow to provide even more opportunities that will benefit our clients and their families.

Outside of work at EAL, Andrea enjoys hiking through our great state and national parks, flower gardening, supporting her church family, and sipping creamy, sweet coffee while reading a great suspense novel. Above all, Andrea loves spending time with her husband, children, and playing with (spoiling!) their grandchildren.





## Recipe of the Season

# Springtime Asparagus Salad

For many of us in Wisconsin, nothing says, “Spring is here!” quite like serving locally grown asparagus to our families. This tasty side dish from *Taste of Home* will brighten any meal and offers many health benefits as well.

According to *Eating Well*, “Asparagus is a nutrient-packed vegetable. It is a very good source of fiber, folate, vitamins A, C, E and K, as well as chromium, a trace mineral that enhances the ability of insulin to transport glucose from the bloodstream into cells. That’s good news if you’re watching your blood sugar.”

(Forberg, Cheryl, R.D. (2020, April 28) 5 Powerful Health Benefits of Asparagus You Probably Didn’t Know. *Eating Well*.

[http://www.eatingwell.com/article/17129/5-powerful-health-benefits-of-asparagus-you-probably-didnt-know/.](http://www.eatingwell.com/article/17129/5-powerful-health-benefits-of-asparagus-you-probably-didnt-know/))

*This fresh and colorful side dish is delicious served warm or cold. I get lots of compliments on the homemade dressing. —Millie Vickery, Lena, Illinois*

If you have a family recipe that you want featured in one of our TLC Maintenance Posts, please send it to Andrea! [akoenig@elderadvisorslaw.com](mailto:akoenig@elderadvisorslaw.com)



(Cobbins, 2020)

## Spring Asparagus

**TOTAL TIME: 25 min. YIELD: 8 servings**

### Ingredients

- 1-1/2 pounds fresh asparagus, trimmed and cut into 2-inch pieces
- 2 small tomatoes, cut into wedges
- 3 tablespoons cider vinegar
- 3/4 teaspoon Worcestershire sauce
- 1/3 cup sugar
- 1 tablespoon grated onion
- 1/2 teaspoon salt
- 1/2 teaspoon paprika
- 1/3 cup canola oil
- 1/3 cup sliced almonds, toasted
- 1/3 cup crumbled blue cheese, optional

### Directions

1. In a large saucepan, bring 1 cup water to a boil. Add asparagus; cook, covered, until crisp-tender, 3-5 minutes. Drain; place in a large bowl. Add tomatoes; cover and keep warm.
2. Place vinegar, Worcestershire sauce, sugar, onion, salt and paprika in a blender; cover and process until smooth. While processing, gradually add oil in a steady stream. Toss with asparagus mixture. Top with almonds and, if desired, cheese.

### Editor's Note

To toast nuts, bake in a shallow pan in a 350° oven for 5-10 minutes or cook in a skillet over low heat until lightly browned, stirring occasionally.

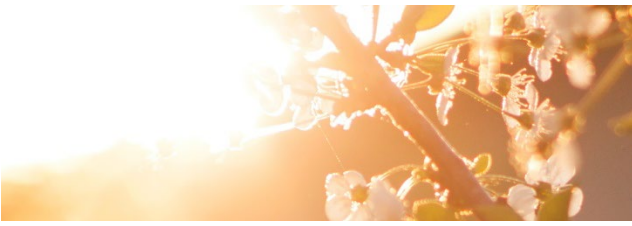
### Nutrition Facts

3/4 cup: 154 calories, 11g fat (1g saturated fat), 0 cholesterol, 159mg sodium, 12g carbohydrate (10g sugars, 1g fiber), 2g protein.

**Diabetic Exchanges:** 2 fat, 1 vegetable, 1/2 starch.

*Cobbins, Rashanda. (2020, April 28). 5 Star Spring Recipes, #49/100. Taste of Home.*

<https://www.tasteofhome.com/recipes/spring-asparagus/>



## The Most Important Estate Planning Document *Part 2*

Written by Attorney John Koenig

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In Part 1 of this series, we learned that “People just don’t die anymore.” We learned that one in four Americans live with some form of incapacitation or disability ([cdc.gov/media/release/2018/p0816-disability.html](http://cdc.gov/media/release/2018/p0816-disability.html)). With that in mind, we began discussing the importance of having a financial power of attorney in place before you become disabled or incapacitated. A financial power of attorney is a legal document in which you, the principal, appoints someone else, the agent, to manage your financial affairs if you become disabled or incapacitated and are unable to do so yourself. Let’s look at a few other things to consider when appointing an agent as your power of attorney.

In my legal practice, I have reviewed thousands of financial powers of attorney and have discovered that they come in all shapes and sizes. Some are short, some are long. Some are general and some are specific. Some have places to initial next to each power being granted while others just ask for a notarized signature at the end of the document. Some have limited powers and others have totally unlimited powers. The question is: Which is the “right” financial power of attorney for you, and how do you get the right one?

In our office we jokingly call a financial power of attorney the “blank check.” Think about it this way . . . If I wrote you a blank check today what could you take from me? While you may think that you could take everything, you actually could only take the money that is in the account which the check was drawn against. However, with the financial power of attorney, your agent may very well have the authority to take everything from you.

The “blank check” financial power of attorney is a document that gives full authority but lacks instructions on how you want your financial decisions made. How much better would it be to have a plan (as opposed to a mere document) that tells your agent exactly how you want your finances managed along with giving them full authority to manage your assets?

Another issue is that often the financial power of attorney is not powerful enough. In my practice we find that many financial powers of attorney do not give enough authority for the agent. This typically happens when mom or dad are in the hospital and heading to the nursing home and the children are in our office wondering what can be done to protect mom and dad’s assets. Many powers of attorney do not give authority to do advanced asset protection planning to protect assets should the principal end up in a nursing home. In these situations, we cannot do planning because of the lack of authority provided in the financial power of attorney.

There is a fine line between a financial power of attorney being too powerful and not being powerful enough. That line of demarcation, when a mere document becomes a viable plan, becomes clear when your directions and instructions are integrated as part of a complete estate plan (more thoughts on that to come).

We all know that “Uncle Sam” has our back, right? Each state has a statutory financial power of attorney form. This financial power of attorney is free and can be typically downloaded from one of many websites. The Wisconsin statutory financial power of attorney form can be found in the Wisconsin Statutes § 244.06. There is an important fact to understand. Even though the state has created a document that can be used to make financial decisions, for public policy reasons, the document is a limited document because there is an inherent concern for abuse and financial exploitation. Don’t get me wrong, the statutory power of attorney is better than having no power of attorney at all.

As you can see, the financial power of attorney is a powerful document that gives someone else the authority to manage all your assets and make all your financial decisions even to the point of changing your estate plan. Therefore, it is very important that the person you appoint as your agent on your financial power of attorney is someone that you trust. For most of us, this person is either a spouse or a close family member like a child or a sibling. Generally speaking, an agent must be over the age of 18, should be able to make his or her own decisions, ought to be younger and healthier than you, and has to be someone other than your primary health care provider or your doctor.



Attorney John Koenig

Things to consider when deciding who to name as your agent should include:

1

How does this individual handle their own financial and legal affairs?

2

Do I trust this person with my most important financial and other legal affairs?

3

Will this person charge a fee for their services?

4

Will this person agree to serve as my power of attorney agent?

## The Most Important Estate Planning Document Continued...

Not only should you name an initial agent, it is recommended that you have at least one successor backup agent in case your initial agent is unable to act. In many cases, you should consider naming two or three successor backup agents in order to be certain that an agent will always be available to make financial decisions for you.

If you don't already have a financial power of attorney, you should meet with an experienced attorney to discuss preparing one for you. And even if you already have a power of attorney, you should consider having it reviewed by an attorney to make sure that it has everything that is needed to be effective. This is especially true if you have a financial power of attorney that is several years old or one that was drafted in a state other than the state in which you currently reside.

**“If I wrote you a blank check today what could you take from me?... with the financial power of attorney, your agent may very well have the authority to take everything from you.”**



*\*\*\*This article contains general legal information and does not contain legal advice. This information should not be taken as a substitute for a discussion with an experienced state planning in elder law attorney. The law is a complex and often changing area and legal advice should be sought prior to executing any estate planning documents.\*\*\**



## Exciting Things To Come!

We have had a lot of exciting things happening these past few months! Here are a few things for you to keep an eye out for!

- New Website launching at the end of May!
- TLC Webinar scheduled for June to discuss the SECURE Act in depth!
- TLC Appreciation Event for early Fall!

Here at Elder Advisors Law, we are all about family. If you want to refer those closest to you, we are here for them too! Our passion is to educate, which is why we host free workshops to help you understand all your options before you pick a plan. We take the hands-on approach to helping you integrate your assets to work with your plan. We believe in flat fees, no more bills for your phone calls to us! We have the TLC Plan designed to help you keep your plan current with your ever-changing life and our ever-changing laws! Our business is built to engage you in the process and guide you every step of the way! Thanks for choosing Elder Advisors Law and being a part of our family!

**Ask us about our Friends and Family Discount!**





## RISK FACTORS

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**High blood pressure**

**High cholesterol**

**Diabetes**

**Irregular heart rhythm (atrial fibrillation)**

**Obesity**

**Smoking**

**Excess alcohol consumption**

**Not getting enough exercise**

(Mercyhealth News Online Newsletter. May 2020. Stroke Awareness Month.)



## STROKE AWARENESS MONTH

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Spring has finally arrived here in Wisconsin! May brings us Mother's Day and Memorial Day, but did you know that May is also National Stroke Awareness Month? Let's look at some important tips that can help save lives and minimize the damage done by a stroke.

When the supply of blood to the brain becomes blocked, a stroke occurs. There are some tell-tale signs to look for when you think a person may be experiencing a stroke. If you suspect someone is having a stroke, call 9-1-1. According to Mercyhealth News, remembering the acronym BE FAST can help us spot a stroke.

There are also several risk factors for experiencing a stroke. Many of these can be eliminated or greatly reduced by making lifestyle changes. If you are concerned about any of these factors, you should contact your doctor for guidance on making the changes you need.

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## BE FAST

(Mercyhealth News Online Newsletter. May 2020. Stroke Awareness Month.)

**B:** Balance (sudden loss of balance)

**E:** Eyes (loss of vision in one or both eyes)

**F:** Facial numbness/weakness

**A:** Arm numbness/weakness

**S:** slurred speech/scrambled thoughts

**T:** Time of the essence

# The Difference Between Pre-Planning and Crisis Planning

In life, we never know what the future will hold. Tomorrow is not guaranteed and the unexpected could be waiting around any corner. This rings especially true when you're a senior. That's why it is important to have a plan in place that can help you in various scenarios — such as if you develop dementia, if you need to move into an assisted living facility, if you have a health emergency, or if you stay well and function at a high level for many years to come. At Elder Advisors Law, we help our clients create plans that account for all of these possible scenarios. We also can help people who *didn't* make themselves a roadmap in advance make a plan for how they will move forward when crisis strikes. Read on to learn about the difference between pre-planning and crisis planning.

You can find this article and others like it on our Elder Advisors Law Blog.

Visit [elderadvisorslaw.com](http://elderadvisorslaw.com)

As part of the TLC Maintenance Family, we'll provide you with different articles that you can share with your loved ones that help illustrate the importance of having a plan in place.

## Pre-Planning

A major part of any seniors plan involves deciding if they may need Medicaid and getting things in order to qualify with minimal financial penalization. Medicaid applicants are subject to a 60 month lookback rule, which means that any transfers or gifts of assets made in the 5 years (i.e. 60 months) prior to application can be subject to penalties. Since your assets need to be below a certain threshold to qualify for Medicaid (thus the need for "spenddown"), it is useful to plan in advance for your long term care.

## Crisis Planning

When you're planning during a crisis, you have less time to prepare and make arrangements, which of course limits your options. You will certainly have less choices when it comes to how you can protect your assets, but with the guidance of an elder law attorney from Elder Advisors Law, it is still possible to make a plan of action that will ease many of your worries. You will use many of the same tools as you would if you were pre-planning but you'll implement them in different ways that suit your situation.



## Your pre-planning can involve a number of things:

**A Last Will and Testament:** This document will dictate what should happen to your assets if you pass away.

**Trusts:** These can hold assets on behalf of you or someone else. There are many types of trusts including special needs trusts, funeral trusts, asset protection trusts, income trusts, and more.

**Long term care insurance:** This can pay for costs associated with long term care that are generally not covered by health insurance.

We're here for you and your loved ones.

Ask us about our Friends and Family Discount!

Elder Advisors Law is now practicing in WI, IL, MI, IA

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**Estate Planning**  
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At Elder Advisors Law, we focus on educating and empowering our clients to make the most informed planning decisions based on their family needs.

We love what we do and pride ourselves on helping our clients protect what they've worked a lifetime to build.

We work as a team by partnering with financial and insurance professionals to best serve and handle the needs of our clients.

We focus on tackling our clients complex matters and communicate in simple ways that are easy to understand.



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