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# Scales Elder Law Newsletter

*"Caring for a loved one shouldn't cost a lifetime of savings."*



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## A New Opportunity to for Asset Protection: Pennsylvania's Long-Term Care Partnership Program

Long-term care can easily be the single greatest expense of our lives. Costing over \$80,000 a year in Pennsylvania, an extended stay in a nursing home can quickly exceed the cost of buying a new car, paying for a child's college education, or even purchasing a new home. And unlike these other major lifetime expenses, paying for long-term care does not typically come with financing options, nor is it an "investment" that will some-day pay off. The clients who come to my office with a loved one in a nursing home are rapidly draining their accounts and liquidating their assets in order to write that check to the nursing home each month for \$5,000, \$6,000, \$7,000 - or even more. They will never get that money back. For a single person, his or her life savings must be spent down to \$2,400 (or \$8,000 depending on monthly income) before they will be eligible for Medicaid - the only government healthcare plan designed to cover the cost of long-term care. For a couple, a certain amount can be kept to help support the spouse remaining at home.

Although this is not a rosy picture, there are things that can be done to significantly reduce the financial burden on families struggling to pay for long-term care. In past articles I have written about different types of planning strategies that can be used to protect. These may include annuities, transfers of assets, promissory notes, deeds of real estate interests, etc. Many of these techniques can even be used in a crisis situation, even after someone is already in the

nursing home. The point is – it is never too late to do something.

However, when there is time to plan ahead even more can be done and there are now more options than ever for protecting yourself against the ruinous cost of long-term care. For example, under the Deficit Reduction Act of 2005 (DRA), the federal government created the Qualified State Long Term Care Partnership program as a way to encourage and reward people for purchasing long-term care insurance. Pennsylvania implemented this program in 2007. The way it works is by coordinating long-term care insurance coverage with Medicaid eligibility. Under the Pennsylvania version of the program, if someone buys a qualified long-term care insurance plan and nursing care is needed down the road, the amount paid by the qualified policy to cover the nursing home costs will be considered exempt from Medicaid spend-down. Let me give you an example:

A woman in Erie, PA (I'll call her Agnes) purchases a qualified long-term care insurance policy that will pay 100% of her nursing home costs for up to one year. Two years later Agnes goes into a nursing home that costs \$80,000 a year. Her long-term care insurance policy covers her bill for the first year, paying \$80,000 to the nursing home. Ordinarily, once the long-term care insurance stopped paying Agnes would have to spend her own

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money down to \$2,400 before she would be eligible for Medicaid.

However, under the new law, Agnes would be allowed to keep an additional \$80,000 in her name (the amount paid by the qualified long-term care insurance plan) and still receive Medicaid. If her total assets were \$100,000 she would only have to spend \$17,600 before she would be Medicaid eligible. And that amount could easily be spent on non-countable items such as a pre-paid funeral or household goods or personal effects, allowing Agnes to qualify for Medicaid as soon as the long-term care insurance stopped paying.

Of course, in real life it may not be quite so simple, but that is the basic idea. To count as a "Qualified Partnership Policy" a long-term care insurance policy must meet certain criteria such as offering inflation protection and those who sell such policies must receive special training. A qualified elder law attorney will be able to give you more information about this new program as well as other legal strategies to protect your life savings from the costs of long-term care.

**Note:** *With the new restrictions in the Deficit Reduction Act, it is more true than ever that "time works against you" when planning for long-term care. It is important that families who have a spouse, parent or other loved one needing long-term nursing care contact a knowledgeable and experienced elder law attorney for advice as soon as possible. While ideally this should be done when there is at least five years before such care will be needed, families need to realize that even with the new restrictions in the DRA, there remain planning opportunities for seniors facing an immediate crisis. Still, every day of delay represents a potential \$220 of irretrievable loss.*

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On **Wednesday, August 13, at 12:00 PM**, Attorney will be hosting a free public-service tele-seminar, entitled "**Paying for Long-Term Care: How to Protect Your Life Savings.**" If you or someone you know would like to participate, please call toll-free **866-590-7845** by August 6 for more information.

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*The content herein is for general informational purposes only and does not constitute legal advice. For specific questions you should consult a qualified elder law attorney.*

Kemp Scales, CELA,\* is an Elder Law Attorney who serves clients throughout western Pennsylvania from his offices in Erie, Titusville, and Pittsburgh. Attorney Scales frequently makes presentations to professional and civic groups, to senior centers, hospitals and long-term care facilities throughout western Pennsylvania. If you would be interested in having attorney Scales speak to your group, please contact us at toll free at (888) 827-2788 or by e-mail at [Info@ScalesElderLaw.com](mailto:Info@ScalesElderLaw.com).

*\* Certified as an Elder Law Attorney by the National Elder Law Foundation as authorized by the Pennsylvania Supreme Court.*



### **The Last Laugh . . .**

*From Attorney Scales' 91-year old father, Col. J. Shelton Scales, USMCR-Retired, who lives in a senior retirement community in southern Virginia.*

A row of bottles on my shelf  
Caused me to analyze myself.  
One yellow pill I have to pop  
Goes to my heart so it won't stop.  
A little white one that I take  
Goes to my hands so they won't shake.  
The blue ones that I use a lot  
Tell me I'm happy when I'm not.  
The purple pill goes to my brain  
And tells me that I have no pain.  
The capsules tell me not to wheeze  
Or cough or choke or even sneeze.  
The red ones, smallest of them all,  
Go to my blood so I won't fall.  
The orange ones, very big and bright,  
Prevent my leg cramps in the night.  
Such an array of brilliant pills  
Helping to cure all kinds of ills.  
But what I'd really like to know  
Is what tells each one where to go!