



Plan Today to Secure your Tomorrow

Q&A

Question:

What is “diminished financial capacity,” and why is it so dangerous for seniors?

– Concerned Caretaker

Answer:

Dear Concerned,

The National Institute on Aging estimates that nearly half of all Americans will develop some form of dementia, such as Alzheimer’s Disease, during their lifetime. And while the cognitive decline brought on by dementia affects a variety of different mental functions, one of the first mental abilities to go is one’s “financial capacity.”

Financial capacity refers to the ability to manage money and make wise financial decisions. Cognitive decline brought on by dementia often develops slowly over many years, so a diminished financial capacity frequently goes unnoticed—often until it’s too late.

Moreover, studies have shown that seniors’ confidence in their money-management skills can actually increase as they age, which puts them in a perilous position. As

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Why Transferring Ownership Of Your Home To Your Child Is A Bad Idea

Whether it’s to qualify for Medicaid, avoid probate, or reduce your tax burden, transferring ownership of your home to your adult child during your lifetime may seem like a smart move. But in nearly all cases, it’s actually a huge mistake, which can lead to dire consequences for everyone involved.

With this in mind, before you sign over the title to your family’s beloved homestead, consider the following potential risks.

Your Eligibility For Medicaid Could Be Jeopardized

With the cost of long-term care skyrocketing, you may be worried about your (or your senior parents’) ability to pay for lengthy stays in an assisted-living facility or a nursing home. Such care can be extremely expensive,

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seniors begin to experience difficulty managing their money, they don't realize they're making poor choices, which makes them easy targets for financial exploitation, fraud, and abuse.

As your Personal Family Lawyer®, we can help you put estate planning tools in place to protect your elderly family members and their assets from the cognitive decline brought on by dementia and other forms of incapacity.



3-Ingredient Buttermilk Biscuits

- 2 cups self-rising flour, plus more
 - 1/4 cup chilled vegetable shortening
 - 2/3 cup buttermilk
1. Position rack in middle of oven; preheat to 500°F. Grease a rimmed baking sheet with nonstick vegetable oil spray or butter.
 2. Place 2 cups flour in a large bowl. Cut in shortening with a pastry cutter or 2 butter knives until pea-sized lumps form. Stir in buttermilk until a shaggy dough forms.
 3. On a lightly floured work surface, turn out dough and gently knead 2-3 times until dough just comes together, being careful to not overwork. Roll out dough to a 1/2" thickness; cut with a 2" biscuit cutter or small glass that has been dipped in flour.
 4. Transfer biscuits to prepared baking sheet and bake until golden brown, 6-8 minutes. Transfer to a wire rack and let cool.

with the potential to overwhelm even those families with substantial wealth.

Since neither traditional health insurance nor Medicare will pay for long-term care, you may look to Medicaid to help cover the costs of long-term care. To become eligible for Medicaid, however, you must first exhaust nearly every penny of your savings.

Given this, you may have heard that if you transfer your house to your adult children, you can avoid selling the home if you need to qualify for Medicaid. You may think transferring ownership of the house will help your eligibility for benefits, and this strategy may seem easier and less expensive than passing on your home through estate planning.

However, this tactic is a big mistake on several levels. It can not only delay— or even disqualify—your Medicaid eligibility, it can also lead to other serious problems. Here's why: In February 2006, Congress passed the Deficit Reduction Act, which included a number of provisions aimed at reducing Medicaid abuse.

One of these provisions was a fiveyear "look-back" period for eligibility. This means that before you can qualify for Medicaid, your finances will be reviewed for any "uncompensated transfers" of your assets within the five years preceding your application. If such transfers are discovered, it can result in a penalty period that will delay your eligibility.

Since transferring ownership of your home would be classified as an uncompensated transfer, if you transfer your house to your children and then need long-term care within five years, it could significantly delay your qualification for Medicaid benefits—and possibly even prevent you from ever qualifying. Rather than taking such a risk, consult with your Personal Family Lawyer® to discuss safer and more efficient options to help cover the rising cost of long-term care, like purchasing long-term care insurance.

Your Child Could Be Stuck With A Massive Tax Bill

Another drawback to transferring ownership of your home is the potential tax liability for your child. If you're elderly, you've probably owned your house for a long time, and its value has dramatically increased, leading you to believe that by transferring your home to your child, he or she can make a windfall by selling it. And by transferring the property before you die, you may think that you can save your child time and money by avoiding probate.

Probate is the court process used to distribute your assets according to the wishes outlined in your will or according to our state's intestate succession laws if you don't have a will. Depending on the complexity of your estate, probate can be a long and expensive process for your loved ones; however, that expense is likely to be relatively minor compared to the tax bill your heirs could face.

That's because if you transfer your home to your child during your lifetime, he or she will have to pay capital gains tax on the difference between your home's value when you purchased it and the home's selling price at the time it's sold by your child. Depending on your home's value, that tax bill can be astronomical.

In contrast, by transferring your home at the time of your death via your estate plan, your child will receive what's known as a "step-up in basis." This tax savings is one of the only benefits of death, and it allows your child to pay capital gains taxes when he or she sells your home, based only on the difference between the value of the home at the time of inheritance and its sales price, rather than paying taxes based on the home's value at the time you bought it.

Outside of the potential tax bill, there are much better ways to avoid probate using estate planning, such as by putting your home into a revocable living trust. As your Personal Family Lawyer®, we can help you choose the best estate planning strategies to minimize your beneficiaries' tax liability and ensure they get the most out of their inheritance, while allowing them to avoid both court and conflict.

Your Home Could Be Vulnerable To Debt, Divorce, Disability, & Death

There are a number of other reasons why transferring ownership of your house to your child is a bad idea. If your child takes ownership of your home and has significant debt, for example, his or her creditors can make claims against the property to recoup what they're owed, potentially forcing your child to sell the home to pay those debts.

Divorce is another potentially thorny issue. If your child goes through a divorce while the house is in his or her name, the home may be considered marital property. Depending on the outcome of the divorce, the settlement decree may force your child to sell the home or pay his or her ex spouse a share of the home's value.

The disability or death of your child can also lead to trouble. If your child becomes disabled and seeks Medicaid or other government benefits, having the home in his or her name could compromise their eligibility, just like it would your own. And if your child dies before you and owns the house, the property could be considered part of your child's estate and end up being passed on to your child's heirs, leaving you homeless.

There's No Substitute For Proper Estate Planning

Given these potential risks, transferring ownership of your home to your adult child as a means of "poor-man's estate planning" is almost never a good idea. Instead, you should consult with your Personal Family Lawyer® to find alternative solutions. We will not only help you protect and pass on your home, but all of your family's wealth and assets, while also enabling you to better afford whatever long-term healthcare services you might require.





May is Mom's MONTH

We're officially designating every day in May, Mother's Day! Don't you think moms deserve it? If you are a mom, you know you deserve it. Moms are super busy, preoccupied with work or kids or both! You almost never have time for yourself, so...We're Here To Do Something About It!

One of the best ways for a mom to show you LOVE your family is to have all of your financial ducks in a row and make sure your kids are taken care of by people you LOVE ... no matter what! If you are one of the first 10 moms to schedule your Family Wealth Planning Session now, I will waive the regular \$750 Planning Session fee for any mom who makes an appointment this month for a "Family Wealth Planning Session™."

My Mother's Day Gift Has a Value of \$750 but Is Worth MUCH More to Your Family.