

Blood and money: How familial strife can unravel estate plans

Advisers can prevent undue influence by watching for radical behavior of family members and signs of dementia in clients

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Few things can unravel a client's estate plan more than familial strife.

That was the focus of a presentation at the American Institute of Certified Public Accountants' Personal Financial Planning conference on Monday. The session, "Blood and money: Why families fight over inheritance and what to do about it," covered the risk factors that lead to elder abuse and undue influence within families.

"If you can understand the pressures [families] are under, you'll better advise your clients," said P. Mark Accettura, an author and elder law attorney with Accettura & Hurwitz.

Mr. Accettura pointed to evolutionary psychology — sibling rivalry, birth order, favoritism and friction between stepparents and stepchildren — as some of the basic drivers behind family conflict.

"The majority of disputes involve stepparents and stepchildren," he said. "There is no biological connection and as a result, the stepparent doesn't have the same wish to see [stepchildren] succeed as they do their own children."

Family members' need to feel like part of the pack also goes back to evolutionary psychology: Those who are excluded will modify their behavior to regain access to the pack. Mr. Accettura added that when a family member is unable to be fully brought back into the fold, his or her behavior may become abusive and that violence will be aimed at an ailing parent.

"If they expect to be cut out, you can expect to see radical behavior on their part," said Mr. Accettura. "They will offer to move into the house and take care of mom. They take that opportunity to change history in their favor and take a preemptive strike to make sure they get theirs."

SHADES OF DEMENTIA

When it comes to undue influence by a child, advisers need to be aware of the many shades of dementia that a client can experience. Clients only need to meet the requirements of testamentary capacity in order to draw up a will, which means someone with mild Alzheimer's can still have that capacity. In contrast, trusts are treated like a contract and require a higher level of capacity.

There are four elements of testamentary capacity, according to Mr. Accettura. Clients must be able to understand the nature of the testamentary act, know the natural objects of bounty, and know the nature and extent of property. They must also be able to make a rational plan.

Be on the lookout for undue influence as a client begins failing. Mr. Accettura highlighted a handful of identifying factors that are the hallmarks of abusers: The timing of the relationship where the abuser swoops in after years of not talking to the parent. Isolation and relationship poisoning are two other warning signs to look for. These perpetrators also tend to have substance abuse issues and be unemployed, Mr. Accettura noted.

Advisers can help head off abusive relationships and undue influence by creating an estate plan for that client. Drafting the estate plan sets the bar for the client's intentions and shows the progression of changes to their long-term and short-term plans, according to Mr. Accettura. Name fiduciaries as part of that plan, too. The elder law attorney noted he is an advocate of corporate fiduciaries for trusts in particular.

ISOLATION

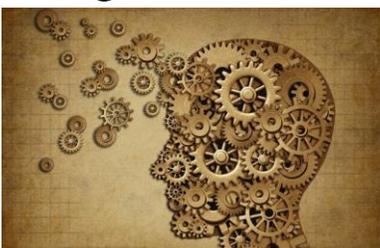
Keep elderly clients in contact with other people by talking about residential opportunities as part of the plan. Isolation not only primes a client for abuse, but it also accelerates the aging process.

“Isolation is cruel and unusual in the penal system; it creates insanity,” said Mr. Accettura.

Finally, resolve conflict where it's possible, ensuring that siblings avoid fighting among themselves. Be aware of giving the decedent a pass, as a dysfunctional family will breed strife, and things will go more smoothly if the kids are on the same side of the table.

“If I can get the beneficiaries to rally among themselves — we didn't buy into this family, we were born into it and subjected to a lot of things that are unhealthy — we can get beneficiaries to see that they may be victims,” said Mr. Accettura.

10 signs of Alzheimer's



About 5.2 million Americans **currently have Alzheimer's disease**, and that number is expected to climb, according to the latest numbers from the Alzheimer's Association. By 2050, there could be as many as 16 million people 65 and older who suffer from Alzheimer's.

The cost of the disease is staggering, according to the association. Out-of-pocket expenses for Alzheimer's and other dementia patients now totals \$36 billion —

compared to total Medicaid spending of \$37 billion for Alzheimer's patients.

(Source: Alzheimer's Association)

1. Memory loss that interferes with routine tasks



Symptoms: **Forgetting important dates or events**, repeatedly asking for the same information, relying on reminder notes or family members for tasks he or she used to handle independently.

Typical age-related changes: Forgetting information such as names or appointments, but remembering later.

2. Difficulty with planning or solving problems



Symptoms: Not being able to follow a cooking recipe or keep track of monthly bills. **Difficulty concentrating.** Needing a much longer amount of time to accomplish routine tasks.

Typical age-related change: Occasional errors when balancing a checkbook.

3. Trouble completing routine tasks



Symptoms: Difficulty driving to a familiar location, **managing a budget at work** or remembering the rules of a game.

Typical age-related change: Occasionally needing help for tasks such as recording a television show or changing the settings on an appliance.

4. Losing track of dates or times



Symptoms: Trouble understanding something if it's not happening at that

moment. Forgetting where he or she is or how they got there.

Typical age-related change: Occasionally forgetting the day of the week, but remembering it later.

5. Trouble with vision or spatial relationships



Symptoms: **Difficulty reading, judging distance or determining color or contrast.** Confusing his or her own image in the mirror for another person.

Typical age-related change: Vision changes related to cataracts.

6. Problems with language



Symptoms: Trouble finding the right words for things. Difficulty following or joining conversations. Forgetting what he or she is saying in the middle of a conversation.

Typical age-related change: Sometimes having difficulty finding the right words.

7. Losing track of things



Symptoms: Putting things in unusual places. Not being able to retrace one's steps to find them. Accusing others of stealing.

Typical age-related change: Misplacing things occasionally.

8. Poor judgment



Symptoms: Bad decisions around money, such as giving large amounts to telemarketers. Poor grooming habits.

Typical age-related change: Occasionally making poor decisions

9. Social withdrawal



Symptoms: Participating less in social activities, hobbies, work projects or sports. Avoiding social activities because of the health changes he or she has experienced.

Typical age-related change: Occasionally sitting out of work, family or social obligations.

10. Changes in personality or mood



Symptoms: Becoming confused, suspicious, fearful, anxious or depressed. Becoming easily upset at home, work or other places that are outside of his or her comfort zone.

Typical age-related change: Having specific routines and becoming irritated when those routines are disrupted.