



Funeral Consumers Alliance of the Finger Lakes

Fall 2008 Newsletter

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Special Meeting of the Membership Important

Purpose: to vote two resolutions that will allow completion of legal transition from Ithaca Memorial Society to FCA of the Finger Lakes.

See documents inserted in this Newsletter.

Place: Kendal of Ithaca Auditorium

Time: 2:00 PM, Sunday, October 26, 2008

Planning Ahead Protects You and Your Family

By Phillip S. Winn, Trust Officer, Tompkins Investment Services; and Advisor to the FCAFL

(This article was previously published in the Ithaca Journal and the Ithaca Business Journal; it is reprinted here by permission.)

What would happen if you were mentally or physically unable to take care of yourself or your day-to-day affairs?

It's hard to imagine, but it could happen. You might not be able to make sound decisions about your health or your finances. Even the simplest activities like writing checks, paying bills, or getting groceries could become insurmountable challenges.

Unless you are prepared, your incapacity could devastate your family and exhaust your savings. Planning ahead can ensure that your healthcare wishes will be carried out and that your finances will continue to be managed competently.

No one wants to believe that he or she is vulnerable. However, a serious illness or accident can happen any time, totally changing a person's life. It's a real possibility that you or your spouse could become incapable of handling your own medical or financial affairs.

Should you become incapacitated without the proper plans and documentation in place, a relative or friend will have to ask the court to appoint a guardian for you. This is a public procedure that can be emotionally draining, time consuming and expensive. And worse still, without instructions from you, a guardian might

not make the decisions you would have made.

Advanced medical directives

Without the proper legal documents in place that express your wishes, medical care providers have no recourse other than to prolong your life using artificial means, if necessary.

There are three types of advanced medical directives listed below. Each has its own purpose, benefits, and drawbacks, and may not be effective in some states. Be sure to have an attorney prepare your medical directives to ensure that you have the ones you need and that they are consistent.

Living Will

A living will allows you to decline certain types of medical care, even if there is the likelihood that you will die as a result of this choice. However, in most states, living wills take effect only under certain circumstances, such as terminal injury or illness. Generally, a living will can be used only to decline medical treatment that "serves only to postpone the moment of death." Even if your state does not allow living wills, you may still want to have one to serve as an expression of your wishes.

Durable power of attorney for health care

Also known as a health-care proxy in some states, this directive allows you to appoint a representative to make medical decisions for you. You decide how much power your representative will have.

Do Not Resuscitate order (DNR)

A DNR is a doctor's order that tells all other medical personnel not to perform CPR if you go into cardiac arrest. There are two types of DNRs. One is effective only while you are hospitalized. The other is used while you are outside the hospital.

Protect your property

Without someone to look after your financial affairs when you are unable, your property could be wasted, abused, or lost. Consider one of the options listed below or a combination of the three.

Revocable living trust

You can transfer ownership of your property to a revocable living trust and name a successor trustee. You retain complete control of the trust until that time when you become incapacitated and then your appointed successor trustee automatically takes over. A living trust can survive your death. There are costs associated with creating and maintaining a trust.

(continued on p. 2)

Durable power of attorney (DPOA)

A DPOA allows you to authorize someone else to act on your behalf. There are two types: a standby DPOA, which is effective immediately, and a springing DPOA, which is not effective until you have become incapacitated. Both types of DPOA end at your death.

A DPOA should be fairly simple and inexpensive to implement, but a springing DPOA is not permitted in some states. You will want to check with your attorney.

Joint ownership

This arrangement allows someone else to have immediate access to your property and to use it to meet your needs. Joint ownership is simple and inexpensive to implement. However, there are some disadvantages to the joint ownership arrangement: 1) your co-owner has immediate access to your property regardless of your incapacity; 2) you lack the ability to direct the co-owner to use the property for your benefit; 3) naming someone who is not your spouse as co-owner may trigger gift tax consequences; 4) if you die before the other joint owner, your property interests will pass to the other owner without regard to your own intentions, which may be different.

Remember. There are ways to protect your interests. Be sure to do so!

Phillip S. Winn is a Vice President and Trust Officer at Tompkins Investment Services in Ithaca. A private practice attorney for more than 30 years, he specialized in trusts, estates and elder law. He joined the Tompkins Investment Services in 2003. For more information, you may contact Phil at 273-0037.

Tompkins Investment Services is a division of Tompkins Trust Company. Investments are not insured by the FDIC and are not a deposit of or guaranteed by the bank, and are subject to investment risk, including loss of principal.

Proceed with caution when considering prepaid funeral plans

When you joined the Alliance or its predecessor, you made advance plans for funeral arrangements. But have you set up a financial plan to pay for them? Several options are available. The suitability of a particular option depends on one's circumstances.

One option is to set up a *Totten Trust*, or *payable-on-death account* at a bank and name as beneficiary one or more members of your family who will be responsible for executing your funeral plans. The funds earn interest and are insured in the same manner as savings deposits. You have full use of the funds at any time. If you need the money for a medical emergency, you can get it. After your death, but not before it, a beneficiary can draw out funds for the funeral expenses. The account does not pass through probate. One disadvantage of this arrangement is that the funds are not protected from creditors or Medicaid administrators.

Another option is to set up an *irrevocable burial trust* from which funeral expenses will be paid. Funds in such a trust are not available to creditors or Medicaid officials. Variations of this option include prepaying a funeral home or buying a whole-life insurance policy for the purpose of paying burial expenses. In New York State a funeral director selling a pre-need contract must put the funds into an interest-bearing account.

A person expecting to qualify for Medicaid might set up a *burial fund* at a bank. Medicaid regulations permit a recipient to retain a burial fund—up to \$1500—that can only be used for funeral expenses.

Prepayment is not without hazards, as the service may not be available or fully funded when needed. Money paid today may not cover inflated future funeral costs, or the seller of funeral services may not be in business at the time of your death.

The hazard of prepayment is illustrated by the recent failure of a company, National Prearranged Services (NPS), that sold prepaid funeral plans and bought life insurance policies to fund them. The company, headquartered in Missouri, had approximately 200,000 customers located in all 50 states. Regulators in Texas noticed that the company had racked up over \$900 million in negative equity—obligations exceeding the company's value—so they arranged to put NPS into receivership and are now working with the National Organization of Life and Health Insurance Guaranty Associations toward payment of the face value of customers' insurance policies. At best, the policies will have yielded no earnings.

The Alliance suggests that people be cautious when considering prepayment plans for funeral expenses.

The Funeral Consumers Alliance of the Finger Lakes is a non-profit, public-service organization, founded in 1958 as the Ithaca Memorial Society, that promotes advance planning of funeral arrangements and consumer education and protection with respect to funeral-related issues, and contracts with area funeral homes for simple, dignified, reasonably priced services for its members. Membership is free and open to all. The FCAFL is guided by a volunteer Board of Directors and is a member of the national Funeral Consumers Alliance, Inc., which has more than 100 affiliates. The Newsletter is published twice a year and is freely available.

The Board of Directors, 2008–2009: Wayne Sinclair, President; Milton Zaitlin, Vice President; Cathrine Darrow, Secretary; Dominick Paolillo, Jr., Treasurer; Barry Adams (to 2011), David Bandler (to 2010); Beverly Laforse (to 2011); Donna Scott (to 2011). Advisor: Philip S. Winn.

New resource document from FCAFL

Board member David Bandler conceived the Death Care Decisions Declaration, a form that anyone can use as a model or directly to specify his or her decisions and preferences about death care and related matters. This document is meant to supplement the Information Checklist for Survivors. Both documents can be downloaded from the Alliance website or can be obtained from the Alliance office. The declaration is reproduced below.

DEATH CARE DECISIONS DECLARATION

Most people with an Estate Plan have a valid Last Will, A Living Will, and Power(s) of Attorney for Health Care and Financials, but seldom a document for Final Arrangements. The following is a guide for those final wishes. It can be used as a guide for creating your own customized document. Or if you prefer, use it directly, filling in the parts that are appropriate for your situation and crossing out those that are not.

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Dear Family and Friends:

My final wishes upon my death are as follows.

1. As a member of the Funeral Consumers Alliance of the Finger Lakes (FCAFL), I want simple, dignified, reasonably priced arrangements. I have selected/contracted with:

_____ Funeral Home to provide the services necessary to prepare my body for the "Type" of service I have selected. I have chosen Type _____. See the current FCAFL brochure for details.

2. In the event I die away from the Finger Lakes area, please select a funeral home in the area where I die and to the extent possible have my wishes carried out there. Funeral consumer associations or memorial societies that have information about local funeral homes serve many areas in the U.S. and Canada. Organizations affiliated with the national Funeral Consumers Alliance are listed at its web site (www.funerals.org). My membership in the FCAFL entitles me to information from any affiliate.

3. Attached is a list of people to notify. (Name, address, phone number, e-mail)

4. My preferred clergy person is (name and contact data) (leave blank if no preference):

5. My Obituary shall be limited to _____ words. A rough draft is attached. (Cost is paid directly to the newspaper.) [Currently the Ithaca Journal charges \$1.91 per line or approximately 50 cents a word.]

5a. Additional information for my obituary is in my end-of-life arrangements file.

5b. I want no obituary to be published.

6. My memorial service is at the convenience of family and friends. There can be more than one service if necessary to satisfy differing perceptions.

6a. I desire no funeral or memorial service. My survivors may arrange an informal recognition of my life if they so desire.

7. If my body is cremated, my ashes are to be disposed of in the following manner: _____

or

8. I want to be buried in a simple casket or alternative container in accordance with the arrangements in my death-care file and/or FCAFL Membership contract. (See my death-care arrangements file for cemetery details and/or funeral wishes.)

9. Location of original copy of my Will and other Estate plan papers.

10. The costs of my death care arrangements are to be paid from: (account or fund)

11. Other Instructions _____

People receiving copies of this declaration are:

Thank you for following my wishes!

(Signed) _____

(Dated) _____

Some documents available from the FCA of the Finger Lakes

The following are available from the Alliance office. Those marked with * can also be downloaded from the Alliance's website.

- Guidelines for Writing an Obituary*
- Information Checklist for Survivors*
- Descriptions of Services Provided Under Contracts Between Funeral Directors and the Funeral Consumers Alliance of the Finger Lakes
- Cemetery Pricing Guide
- Consumer Information About New York Cemetery Regulations
- Information Required for a Certificate of Death in New York State*

**FUNERAL CONSUMERS ALLIANCE
OF THE FINGER LAKES**
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RETURN SERVICE REQUESTED

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The Alliance seeks an Executive Secretary

The Board of Directors would like to fill this part-time position, preferably with an Alliance member. The responsibilities are to perform the office functions of the Alliance; serve as its representative in dealings with the public and the funeral industry; and promote its purposes through publicity, member recruitment, and presentations to community groups. The executive secretary handles member assistance; communications and office records; and liaison with the national Funeral Consumers Alliance, other affiliates, and funeral homes. In collaboration with the president, the executive secretary leads and advises the Board of Directors. The work can be performed mostly at home. It requires moderate computer skills, good communication skills, and commitment to the education of funeral consumers. The executive secretary also provides space for the Alliance's files and office equipment. A modest stipend is paid for these services. The Board of Directors can provide training if it is needed for some of the office functions. For more information and a full description of work activities, call or send an email to the Alliance office (contact information on page 1).

Memorial donations to the Alliance

In January 2008 we began noting donations made in memory of loved ones and other special people. Donations received recently have included those honoring the memories of:

Nancy Bent, Maurice C. Bond
Helen Gartlein, Marjorie G. Loucks

Request for contributions

We ask for contributions from time to time. They are the Alliance's only income and are used exclusively for services to members and the public. The cost of running the organization during the past year has been near \$7500. The Alliance will soon incur one-time expenses to complete legal aspects of the transition from Ithaca Memorial Society to Funeral Consumers Alliance of the Finger Lakes. These expenses together with normal operating costs will tax our resources but can be sustained if your support continues. All donations are gratefully acknowledged.