

ELDER LAW *Update*

NEWS AND IMPORTANT INFORMATION FOR SENIORS AND THEIR FAMILIES



Myths and Misconceptions About Coronavirus Vaccines

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The development of several vaccines to help combat the spread of COVID-19 is welcome news. However, the remarkable speed with which these vaccines were developed has led to skepticism and misconceptions among some Americans. A recent article on AARP's website discusses the myths, and the truth, behind coronavirus vaccines. Here are some of the highlights

YOU DON'T NEED TO GET VACCINATED IF YOU'VE ALREADY HAD COVID-19

There is still considerable debate about how long a person is protected from COVID-19 if he or she has already been infected. According to the Centers for Disease Control and Prevention, early evidence suggests natural immunity from COVID-19 may not last very long. The CDC adds that people may be advised to get a COVID-19 vaccine even if they have been sick with COVID-19 before.

CORONAVIRUS VACCINES WILL MAKE YOU IMMUNE TO COVID-19 FOR LIFE

How long a coronavirus vaccine will provide immunity to COVID-19, and whether a vaccine will need to be administered more than once, are also unknown at this point. "We should think about this as maybe in the same zone as a tetanus shot, where you might need a booster every few years," said National Institutes of Health Director Francis Collins, M.D. "If we're lucky, it would be like measles, where once you're immune, you're immune for life, but that would be really lucky," he added.

Cont.





Myths and Misconceptions About Coronavirus Vaccines (Cont.)

YOU WON'T NEED TO WEAR A MASK AFTER YOU GET VACCINATED

While a vaccine can help slow the spread of the coronavirus, other steps will be necessary to bring the pandemic to a close. These steps include wearing a mask, frequent handwashing, social distancing, and testing. Why? One reason is that it will probably take several months for the majority of Americans to get vaccinated. In addition, when a person gets vaccinated, protection against the coronavirus will not be instantaneous. According to experts, it generally takes a few weeks for the body to develop memory cells for the virus after vaccination.

CURRENT VACCINES USE A LIVE VERSION OF THE CORONAVIRUS

According to the CDC, none of the vaccines developed in the United States use the live virus that causes COVID-19. Rather, the leading vaccine candidates train the human body to recognize and fight the coronavirus by introducing a harmless piece of the virus to the body or by giving the body instructions to create its own coronavirus-like protein. The body is then able to recognize that these proteins should not be there and produces antibodies to fight them off. After that, the immune system establishes memory to protect against future infections.

Although coronavirus vaccines will not make you sick with COVID-19, they can cause side effects in some people. A small number of participants in the Pfizer/BioNTech and Moderna/NIH clinical trials reported temporary side effects, including injection site pain, fatigue, headaches, chills, and muscle aches. Also, some people who received the BioNTech vaccine have experienced allergic reactions. Of course, initial vaccine recipients will be closely monitored for long-term side effects.

CERTAIN VACCINES CAN ALTER YOUR DNA

The Pfizer/BioNTech vaccine and the Moderna/NIH vaccine use a new type of medical technology involving messenger RNA. (The Pfizer/BioNTech vaccine was the first to receive emergency use authorization and be distributed in the United States.) A widely circulated story on social media makes the claim that messenger RNA (mRNA) vaccines can alter human DNA. According to the CDC, however, this is not true.

YOU DON'T ACTUALLY NEED BOTH DOSES OF THE TWO-DOSE VACCINES

Several vaccines require two doses, which are given a few weeks apart. Medical experts are not yet certain that one dose of these vaccines will be effective enough to prevent COVID-19 (or a severe case of the illness), so skipping the second shot is not a good idea.

YOU DON'T NEED A CORONAVIRUS VACCINE IF YOU RECEIVED A FLU SHOT THIS YEAR

Although COVID-19 and the flu share similar symptoms, they are different illnesses, caused by different viruses. According to Anthony Fauci, M.D., director of the National Institutes of Allergy and Infectious Diseases, this is not an either/or situation. "You want to be doubly protected from the flu and from coronavirus," said Fauci. He added that it is possible to become infected by both viruses at the same time, or one right after another, which can be taxing on the lungs and other organs.

If you would like to read the entire AARP article, go to <https://www.aarp.org/health/drugs-supplements/info-2020/covid-vaccine-myths.html?intcmp=AE-HP-BB-LL1>

How to Discourage Challenges to Wills and Trusts



Challenges to wills and trusts are more common than you might think. Here are several ways to discourage disputes and help ensure your wishes are carried out.

TRY TO TREAT SIBLINGS EQUALLY

If you have two or more children, leaving each of them the same amount can eliminate one of the main reasons wills and trusts are contested in the first place. Another potential problem is when inheritances are left to grandchildren, and one sibling has more children than the other. If you follow the equality principle, this and many other potential conflicts can be avoided.

IF YOU GAVE A SIGNIFICANT AMOUNT OF MONEY TO ONE OF YOUR CHILDREN IN THE PAST, YOUR ESTATE PLAN SHOULD REFLECT THAT

Since your goal is to treat all of your children equally, you might want to “balance” a significant gift to one child in the past by deducting it from the inheritance you ultimately leave to that child.

CONSIDER A “NO CONTEST” CLAUSE

If you think one of your children (or that child’s spouse) might dispute your will, a no contest clause can make the risk of challenging your will outweigh the potential benefit of doing so. Generally, a no contest clause stipulates that if a beneficiary contests the will’s validity or its provisions, his or interest in the will is forfeited.

PROVE THAT YOU ARE OF SOUND MIND

Challenges to wills often involve allegations that the maker of the will was not of sound mind when the will was signed. You can help prevent this by obtaining an evaluation from a treating physician and a psychiatrist stating that you are indeed of sound mind when you sign the will.

IF YOU MUST DISINHERIT SOMEONE, NOTE IT CLEARLY IN YOUR WILL

Our children sometimes disappoint us. When the level of disappointment is so severe that the only solution seems to be disinheriting a child, make sure your decision is noted in your will. You don’t have to give a reason for your decision, but you should make it clear that your decision was intentional.



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NYS Community Medicaid Will Have A Financial “Look Back” Starting April 1, 2021

New York State Budget – Medicaid Update: Good News/Bad News

On April 3, 2020, Governor Andrew Cuomo signed the approved 2020/2021 budget for New York State. As it often happens in matters of budgets and law-making, what comes out is often a mixture of good news and bad news. This year, the budget does not disappoint in that regard.

The Good News

- **Spousal refusal survives** – Spousal refusal, which seems to be on the chopping block every year, has again staved off elimination. Spousal refusal is critical for married couples to allow the spouse who is *not* applying for Medicaid, to retain his or her own income and assets to live on – even if those amounts exceed what Medicaid permits.
- **Spousal Resource Allowance unchanged** – There was a push to reduce the spousal resource allowance (what a non-Medicaid spouse is permitted to retain in assets) from the current minimum of \$74,820 to \$25,728. Thankfully that push failed so the minimum remains at \$74,820.

The Bad News

- **Financial “look back” for community Medicaid** – Up until now, there has been no official “look back” when someone applies for Community Medicaid. In other words, if assets were transferred prior to applying for Community Medicaid, there were no ramifications to that person’s eligibility for Community Medicaid. Effective with applications filed as of April 1, 2021, there will now be a 30-month look back, similar to that of a Medicaid nursing home application. If the applicant made any non-exempt transfers, the applicant will be subject to a period of ineligibility (“penalty period”)

based on the amount of the transfers. The lookback period would evaluate transfers made on or after October 1, 2020. This will result in the look back period being phased in. For example, applications filed in April of 2021 must include six months of financial records beginning October 1, 2020.

This process will apply to home health care services, private duty nursing, personal care and the assisted living program (“ALP”).

Unfortunately for those requiring services in the community, this will be potentially disastrous. There will now be the added time and stress for the family in retrieving 30 months of financial documentation, also coupled with long delays in processing these more voluminous and complicated applications by the Department of Social Services (already overloaded with cases). All of this will lead to longer waiting times for a client to get the services they need and needing to privately pay for those services during this lengthier application process.

At Russo Law Group, we remain ready and able to serve our community and assist in getting through this process. Now more than ever, it is important to seek the advice of an experienced elder law attorney to preserve your dignity and protect your assets.