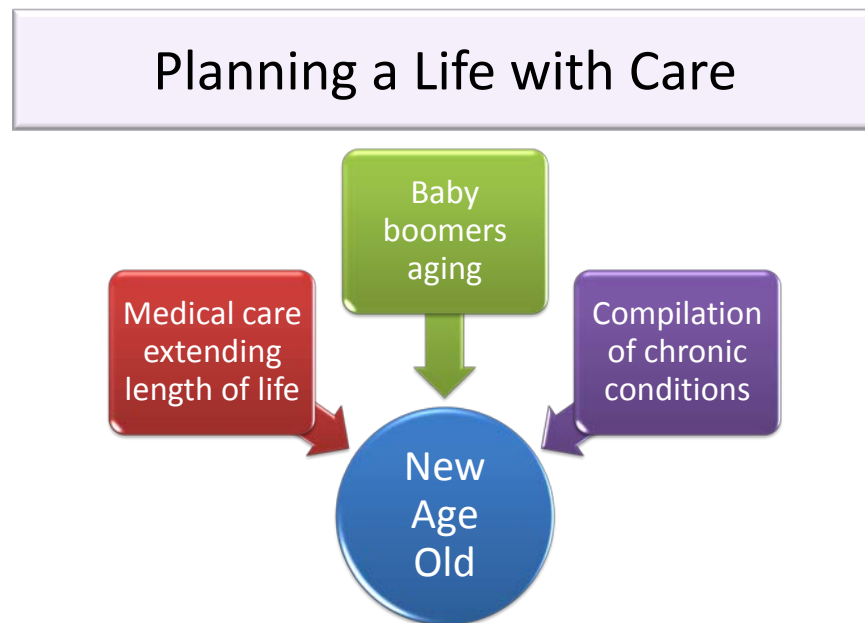


Life Care Planning - The Facts of Life

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Trends in the Practice of Elder Law

We are finding two fact patterns converging: baby boomers are aging and medical care is continuing to evolve – expanding the length of life. At the intersection, we find the “New Age Old,” a population that is living longer with more conditions. As the baby boomers age, there will be a large segment of our population for whom chronic conditions become a fact of life. We used to call these people elderly, but we know that Baby Boomers will never consider themselves old no matter what is going on. Self-denial aside, as people age the estate plan becomes multidimensional as mapping out future needs must include the conglomeration of chronic conditions that challenge the individuals and their families. Long term planning takes on new meanings in this environment and the Elder Law Practitioner must adapt their practices to meet these needs.



People with chronic care conditions manage their illnesses today by receiving care through both the informal and formal care networks. The majority of care is provided by friends and families that comprise the informal network of each person. This care does not come with a large price ticket to the individual but the cost to caregivers themselves and their employment is only speculated. The present economy has resulted in this network being limited as they may need to maximize their employment to meet the economic needs of their immediate families and

the New Age Older person is forced to look at alternative resources for which they do incur out of pocket costs. The formal network is through paid professionals and caregivers that provide care in the home or in living facilities. All of these caregivers perform medical tasks including medication administration and making decisions regarding complex health situations. In addition, to compound the issues, our current system responds primarily to acute and urgent healthcare problems. Of course, those with chronic conditions need a more coordinated system that emphasizes independence, care planning, self assessment, and work with a multidisciplinary team on an ongoing basis to make sure these persons can be self-sufficient for as long as possible. The sooner a family has the impetus, knowledge, skills and ability to make decisions about healthcare and managing these conditions, the better off they will be.

The only way to truly do this is through the application of a multidisciplinary program that incorporates many of the professionals and expert pieces necessary to manage all aspects of their lives, finances, and environment and surround them with the things they need throughout the stages. In addition to coordinating life under a multidisciplinary practice model, the nature of the elder law attorney is changing. It used to be that the elder law practice was primarily asset protection through Medicaid and estate planning. However, given the current legislative trends to reduce the availability of Medicaid and to close planning options, an elder law attorney's legal skills now focus on how to give satisfactory answers and results to families who have questions about the long-term care system. One must be open to the possibility that the skills required for long term planning must expand to include the entire universe of those accessing long term care, not just the "elderly." The failure of the health care system to address chronic needs is universal and access to long term care and planning is not solely an issue for our aging population.

Questions coming from clients frequently go beyond "protecting the house from the nursing home" and instead ask:

- My loved one is being discharged from the hospital tomorrow at 4 PM, what nursing home can she go to? Are there alternatives?
- How do we talk to the nursing home regarding care we think our sister should get that she is not getting? What is a care planning conference and how often are they?
- How can we tell if it is safe for dad to go home? When is he well enough?
- My sister thinks she knows better and she is not the power of attorney as mom named me. What can I do to stop the interference that confuses the nursing home?
- How can we take care of our parents during the day when we both work?
- How do we find the services that are offered in the home like caregivers, foot doctors, beauticians?
- Coordinating the calls from the facility is a full time job and it is affecting my work. What can I do?

Of course, with questions like these, lawyers do not have the training to answer them all. However, our clients demand these answers and we must discover a way to find the answers and

help them, holistically, with the long-term care journey. Thus, our practices are set to irrevocably change and change in a way that we, as lawyers, cannot do by ourselves. The complexity and chronicity of these problems leads the client to establish long term relationships with multidisciplinary teams. The lawyer's role has evolved to be a "long term" advisor throughout the stages of the chronic illnesses that our clients face. The illnesses produce many twists and turns in the road of life and our clients frequently turn to those they trust - their attorneys.

This gives us, as elder law attorneys, the opportunity to expand our practice base that is not entirely focused on assets preservation but encompasses a whole life advisory role as the client and family move through the stages of their particular situation. Remember, despite our clients' initial concerns with reducing the cost of care for a loved one, their real goal is to promote the good health, safety, and well-being of their loved one no matter where they may be living or what care they need. Additionally, it is important to find ways to stretch the dollars over time to meet the needs of the individual and pay for not only the care, but the other things the client will need in their journey through chronic conditions. These chronic conditions have become the norm, not the exception.

The path to do this will become known as **life care planning**. The seminal question, which we will discuss later in this paper, is do we hire the expertise as a part of our staff or do we refer the clients to a subject matter professional? Which is the best way to expand our client base and meet the needs of those we serve?

Life Care Planning: What is it?

As described in the last section, life care planning is a multidisciplinary endeavor that combines legal, financial, and health related concerns and care planning options for an individual. Part of this will be the Medicaid planning and estate planning that is done along with the financial/income planning to pay for long-term care. The other piece is the "life care plan" itself which is:

"A dynamic document based upon published standards of practice, comprehensive assessment, data analysis and research, which provides an organized concise plan for current and future needs with associated cost, for individuals who have experienced catastrophic injury or have chronic health care needs."

To implement a life care plan, the expertise is multidisciplinary in nature and lawyers do not have the expertise to do it on their own. These pieces may involve a care management practice for care planning and coordination issues, an accountant for tax issues, a financial planner for income planning, medical device and physical access planning, and other professionals.

Considerations in Life Care Planning Offerings

The primary issue in delivering life care planning from the elder law attorney's perspective is what the scope of the practice should be in this new environment. Does the attorney want to continue to restrict the practice to the elderly and potentially bundle them all together as a product under one roof? How far does the elder law practitioner want to go in providing services from these other professions and how much does the attorney want to refer out? In deciding this, the practitioner must consider: whether or not to develop the expertise, the liability associated with the ownership of certain functions and advice, the cost to provide this advice, the impact of in-house services on marketing and practice growth, managing individuals in professions other than law in providing these services, and the effect of having a multidisciplinary practice. After we describe the planning process, we will explore this in more detail.

Life Care Planning Process

Life care planning begins with public benefits and financial planning for the individual who needs chronic care. Since most of the Elder Law Short Course focuses on the public benefits (Medicaid and Veteran's benefits included), financial, and estate planning aspects of the process, we will not discuss them further here. From the elder law perspective, life care planning services begin when the other planning is in place and we move beyond a lawyer's core competence.

Many situations which include a life care plan come out of a highly specialized healthcare practice for a person with catastrophic disabilities and/or complex care needs. These life care plans typically cover people who have traumatic brain injuries, developmental (intellectual) disabilities, mental illness, HIV/AIDS patients, and the aged. The goals of a life care plan are to maximize the quality of care and to maximize the purchasing power of available resources. Because the goals are so broad, the solutions require input from many different disciplines including care managers, doctors, medical device providers, accountants, financial planners, and elder law attorneys. Thus, a life care plan is not simply a plan of care but planning a life with care.

Life care planning can also be broader than just providing care to people with catastrophic injuries. They can be applied to individuals with special needs or chronic mental illnesses, elders who are still capable of living on their own but want (or their adult children want) to have a plan in place, divorce situations or children with disabilities, injured military personnel, and as a part of overall estate and disability planning.

Life care planning can be helpful to attorneys, trust professionals, and families in dealing with structuring estate plans, handling litigation settlement, proper allocation of dollars to the able person, estate protection and risk management, and managing expectations and care needs for families involved.

Life Care Planning for the Elderly

As part of estate planning for the elderly, the planner must ask several questions. These include:

- Are you approaching retirement age?
- Are you concerned about outliving your life savings?
- Are you facing challenges of caring for a frail loved one?
- Are you aware of the best options for long-term care and/or housing?
- Do you have concerns about the support systems meeting all of you and your wife's needs?
- Are you concerned about losing control of your destiny?

Many clients will not set up a life care plan because they believe many of the misnomers about future care: Medicare will pay for it all, the government will help, and neighbors will help, my children are wonderful and they will help, I will know when I need help, I will tell you when I need help, my doctor will tell me if I need help, and I will listen to my doctor. The planner must address these and educate the client otherwise.

The elder care plan will address items that our aging population fears most which include: rising healthcare costs, ensuring that money lasts throughout a lifetime, inflation, and affording a desirable lifestyle for retirement. In addressing these fears, retirees who have been retired advise those that have not yet retired to: decide what is most important to you in retirement; have a plan to manage income through retirement; pay down debt, account for unexpected costs and risk, pursue home ownership, and be cautious of taking investment risks. In considering these, an accurate assessment of the short-term and long-term needs of the individual is pivotal, as is assessing the likelihood of various possible occurrences.

Managing Fears

The Elder Care Plan addresses the items that our aging population fears



Of course, the attorney cannot do this without additional help. Generally, for a portion of this, the attorney can use a life care manager or licensed clinical social worker to create the plan in which that professional assesses and identifies the client's physical, psychosocial, and mental status; personal-care competencies (primary and secondary activities of daily living); environmental issues; access to support services; how to address existing problems; and anticipated problems.

A properly constructed plan should provide the following benefits to the client:

- Decreased recidivism in going back in the hospital (which is increasingly more important given the changes to Medicare in which Medicare will not pay for certain hospital readmissions)
- Increased effectiveness of rehabilitation when discharged from the hospital
- Increased independence because of the care coordination, defragmentation of care (having care managed by a single "quarterback"), and getting the "right size" care
- In addition to the outcome for the elder, the outcomes for the family include:
 - Decrease in family stress
 - Decrease in absenteeism for the family caregiver from work
 - Decreasing surprises arising from changes in the disease process
 - Proactive planning for life and wealth to the next generation

Professional Responsibility, Life Care Planning, and the Multidisciplinary Practice

When many elder law attorneys think of life care planning, they think of bringing a social worker or geriatric care manager inside the practice -- adding another staff member to assist in providing à la carte services and becoming a one-stop shop for end-of-life care. To provide an analogy in different situations, an attorney may also employ accountants, sell insurance products, or have financial planners on staff. On the other hand, an attorney may refer out to these professionals, keeping the law practice and the other professional's practice separate. In each of these situations lawyers and non-lawyers join together to provide both legal and non legal services and, in some instances, share fees. Adding these professionals to the practice or forming an alliance with them is called a multidisciplinary practice.

While working with other professionals can be very fun and rewarding, professional responsibility issues can always create the rain at the wedding that forebodes a rocky marriage. A practitioner establishing a multidisciplinary practice by hiring staff rather than referring out should keep in mind the Rules of Professional Conduct, specifically, Rules 5.3 and 5.4.

RULE 5.3: RESPONSIBILITIES REGARDING NONLAWYER ASSISTANTS

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(b) a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:

(1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

RULE 5.4: PROFESSIONAL INDEPENDENCE OF A LAWYER

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(1) an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

(2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price;

(3) a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and

(4) a lawyer may share court-awarded legal fees with a nonprofit organization that employed, retained or recommended employment of the lawyer in the matter.

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

(1) a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation; or

(3) a nonlawyer has the right to direct or control the professional judgment of a lawyer.

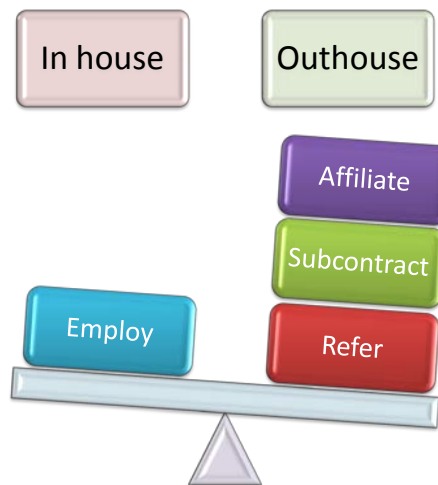
Under these rules, each new employee from another discipline hired to implement a life care plan will be subject to the lawyer's responsibilities regarding nonlawyer assistants. Like with all the other nonlawyer staff within a law firm, there are confidentiality and other core professional responsibility issues with which to comply. Also, a lawyer cannot share fees with the nonlawyer or go in partnership with a nonlawyer under Rule 5.4.

Allerton House Conference on Multidisciplinary Practice

Eleven years ago, the Illinois State Bar Association held the "Allerton House Conference 2000: MDPs and the Legal Profession." The Illinois Bar Journal reported the results from this conference in its November 2000 Journal, which is available to Illinois State Bar Association members online. The concepts below are taken from that article.

The decision to create a multidisciplinary practice in house should not be taken lightly. The practitioner must carefully consider the lawyer's responsibility towards managing non-lawyer staff, the lawyer's requirement to remain independent, and avoid conflicts. Back in 2000, there was an argument, that for corporate clients to be served adequately, practices must include both law and accounting (like they are in other parts of the world). The theory was that clients need integrated financial and legal services in today's society and that can only be filled by a multidisciplinary practice. This is analogous to life care planning where there is integration between geriatric care management practices and legal practices. Fortunately, for lawyers, the Rules of Professional Conduct will permit a lawyer to hire a geriatric care manager, but will not permit a lawyer to work for a geriatric care manager (or enter into partnership with one) and provide legal advice at the same time. Nevertheless, there are many things to think of in offering bundled services to clients.

In House or Out House



Because of the fragmentation in today's health care system, which includes healthcare direction, estate/advanced directives planning along with disability advocacy issues, there is certainly an argument that offering geriatric care management services in-house will benefit the client. In fact, many clients would be interested in having one accountable party for their life care planning process. However, the purpose of the legal profession's responsibility rules is not

whether the rules serve the consumer market or our clients, but whether the rules serve the public interest.

Many clients may not appreciate the scope of this issue especially because it addresses the core values of the legal profession and not what is the best way to serve the interest of our clients. To avoid these issues and still offer multidisciplinary planning, instead of having additional staff members from separate professions in the office, the elder law attorney can form an "affiliation" with outside service providers that will provide the same result and also increase your practice from the boon that cross referrals create. Indeed, there are many instances in which cooperation among the various professions and providing legal and non-legal services adequately meet the needs of the client.

However, there is an argument that a multidisciplinary practice can provide clients with high quality professional services at less cost than it would if the services were provided separately. While this can be true in concept, in application it could be much more difficult, especially in an urban setting (see the last paragraph of this section for how this applies in the rural setting).

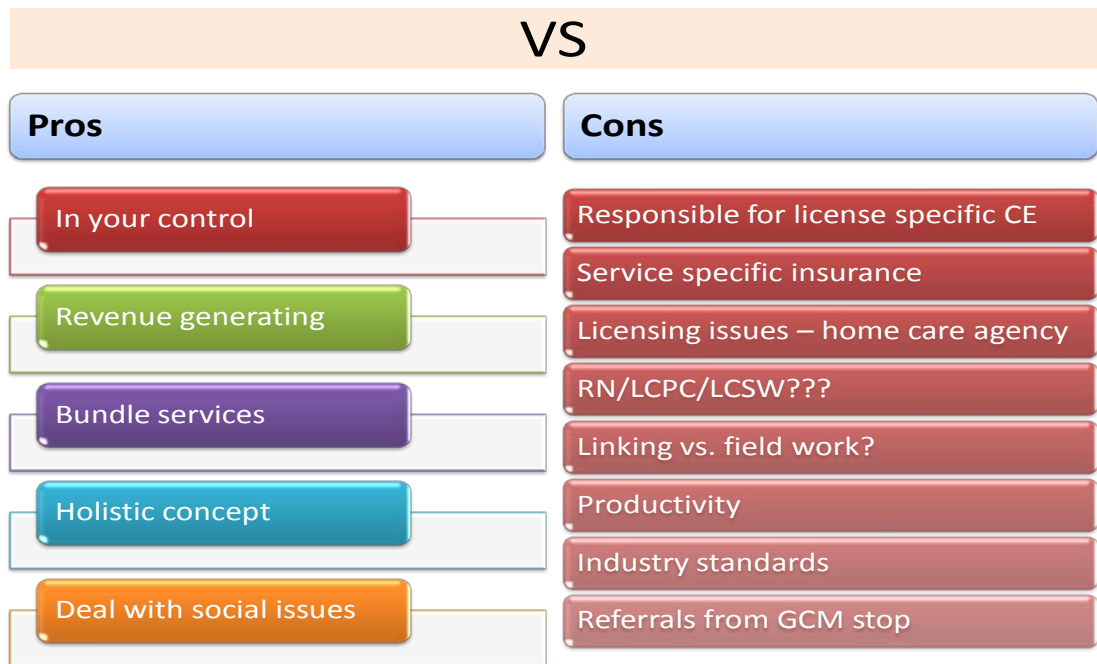
Extent of Life Care Planning Within the Four Walls of the Practice

In most elder law practices that offer life care planning, the in-house social worker or geriatric care manager provides a limited amount of care coordination. Many of their duties include what is known as "linking" in which the care manager links the client with the provider of services such as nonmedical home care, nursing home placement, or other things. However, this model becomes difficult when the services pouted to the client include more than what the social worker can do within the office. Once the social worker leaves the physical office of the attorney and starts providing additional care and advocacy, then you go down the path of 24-hour accountability. If you chose to have care managers on staff there may be licensure issues and insurance issues. More importantly, if you only have one care manager, your resources are limited because there is only one professional on which to rely. When your practice becomes accountable for the client's care, you actually have created a medical based practice with one employee who unrealistically is required to be available on a 24-hour basis.

Moreover, once you have additional professionals in your office, you become responsible for the cost of hiring them, managing them (and rumor has it, that social workers can be a challenge to manage – of course, lawyers are always easy to manage) and paying their salaries, paying for continuing education, developing the expertise to hire the best workers in the business and the increasing costs, insurance, and policies necessary to implement 24-hour coverage for your clients. In fact, once the social worker walks outside of your office, the practice's liability exposure can go up drastically (and not be covered by your malpractice insurance). Remember, the attorney must decide what level of care and quality of service he or she wants to give to the

client. The higher the quality of care, the more sense it may make for professionals outside of your practice to do it and leave your firm to practice law.

Most of the conferees at the Allerton Conference held the opinion that multidisciplinary practices provide few, if any real benefits to an unsophisticated consumer client. Of course, this may be different with sophisticated corporate clients in another type of law practice. In addition, the greatest concerns for the opponents of the multidisciplinary practice are the perceived assault on the core values of our profession including: professional independence of judgment, the protection of confidential client information, the attorney client privilege, and loyalty to clients through the avoidance of conflicts of interest. For example, under some legislation, social workers are mandatory reporters of elder abuse or other things. If a social worker is an employee of the firm and witnesses something that they are required to mandatorily report, but which is covered by the attorney-client privilege, what happens? In addition, what if there are ethical requirements of the other professions that an attorney hires, which conflict directly with the core values of our profession?



Since geriatric care managers cannot hire attorneys, the incorporation of a care manager into your practice may not interfere with your professional independence of judgment. However, the attorney must carefully consider when hiring this type of professional could do so.

Attorney-Client Privilege and Conflicts Issues

With respect to the attorney-client privilege, the Allerton Conference report stated that there is no uniformity among the professions with respect to client information disclosures. In some circumstances (such as when the lawyers and auditors are in partnership together) an inevitable destruction of the attorney-client privilege exists. Like with auditors who must report certain confidential information regardless of management's wishes to the contrary, a social worker might be a mandatory reporter as described above, and then you will have a conflict between the mandatory reporting laws and the attorney-client privilege and potential destruction of that privilege.

Another problematic rule in a multidisciplinary practice is the conflict of interest rule, specifically Rule 1.7:

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

- (a) Except as provided in paragraph*
- (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:*
 - (1) the representation of one client will be directly adverse to another client; or*
 - (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.*
- (c) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:*
 - (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;*
 - (2) the representation is not prohibited by law;*
 - (3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and*
 - (4) each affected client gives informed consent.*

The conflicts of interest that this rule addresses includes: the prohibition from a lawyer entering into a business transaction with a client where the lawyer's and client's interest might

conflict, a prohibition on a lawyer representing two clients at the same time when the client's interests are directly adverse unless they both consent, the imputation rule that says any conflict of one lawyer in the firm attaches to the entire firm. There is a concern that a multidisciplinary practice structure will exacerbate these conflicts causing the loss of clients during family strife, the potential loss fees collected during the representation, and potential ARDC exposure from client complaints. While this is also present during regular Elder Law engagements, once the attorney's office is involved in actually providing care (more than just linking) conflicts of interests can cause additional problems. For example in circumstances where informed consent is necessary, there is a concern about individual consumer client's (as opposed to sophisticated corporate clients) ability to give informed consent because they might not understand or completely appreciate where the conflict of interest lies.

There are other considerations that an attorney should look at before entering into a multidisciplinary practice by hiring a care manager. Beyond the problem of providing expertise in a profession in which one is not trained, there are some serious marketing concerns when pulling in other professionals into your law practice. Most elder law attorneys get their clients through referrals from past clients and other professionals. For attorneys who hire trust officers and provide fiduciary services, for attorneys who get their insurance license and sell insurance products, for attorneys who prepare income tax returns and for attorneys who hire care managers, these actions can shut you off from the referral sources who view your multidisciplinary practice as competition. You could be cutting yourself off from referrals from geriatric care managers, especially the larger ones with a variety of services, if you provide care management services (even simply linking). This holds true for providing financial services, accounting services, or any other services that can be viewed as competition to your referral sources. The care management concept started as a cottage industry, but as the health care system continues to fail and the "new old" client population continues to build the profession has expanded exponentially in the past five years. In the past, care management did not hold a lot of the referral potential, but as the profession builds up steam this does not remain the case. Therefore, when deciding to provide à la carte services the lawyer must look at not only the professional responsibility aspects but whether he could survive marketing faux pas of cutting off referral sources.

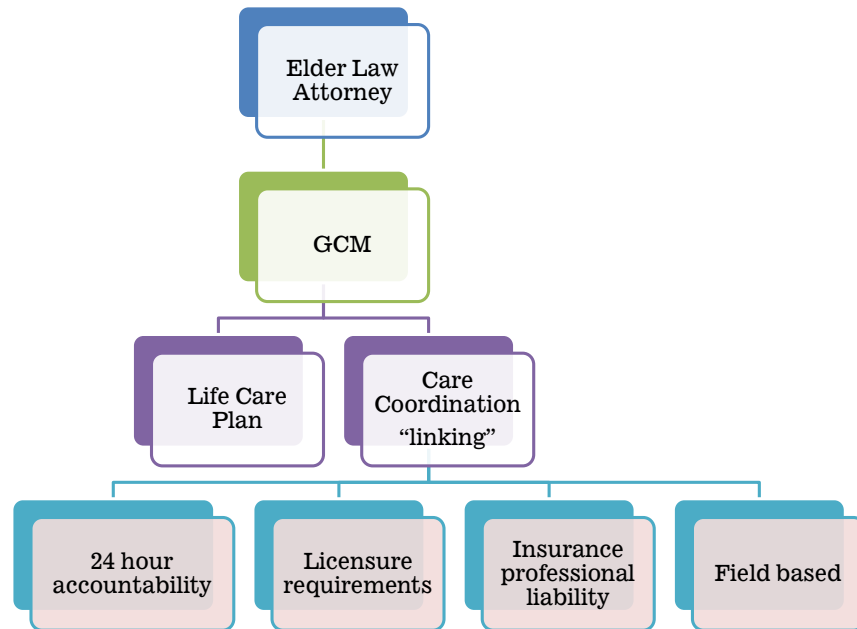
That being said, there are some situations in which having a multidisciplinary practice works in providing life care planning. In an urban environment there are many professionals available to service clients. However, in rural environments, where the population and service providers are not as dense, and the only way to provide these multidisciplinary services to clients would be to hire and manage these professionals because they would not exist otherwise in the geographical market.

Life Care Planning: Implementation

When adopting this model, the attorney must decide how much of the care coordination process is done in-house with the lawyer and how much is outsourced. There are many attorneys who work with geriatric care managers and are able to provide a seamless integration in the eyes of the client in coordinating care. For the attorney who hires in-house, they will need to set up a

management structure to monitor the care manager, the quality of service, and client satisfaction, as well as providing an avenue for professional growth, education, certification and licensure standards of the profession.

Holistic Practice Models



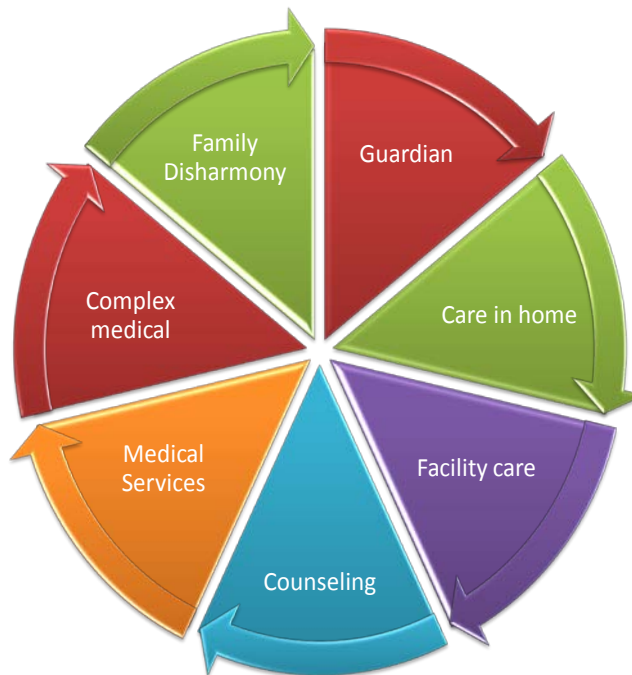
The decision in bringing someone in-house should consider how much revenue will be lost for not getting referrals from other care managers. It is essential to clarify for clients the exact level of services that your firm is willing to provide in a life care setting. For example will your firm's care manager link to services similar to a discharge planner from a hospital? Such case workers rarely leave the hospital setting when arranging for care. This is the basic level of case management and planning which may meet your client's basic planning needs as later the family and facility frequently assumes the role of coordinator once the client leaves the acute care setting. This only provides a basic level of service for straightforward cases. It does not suffice in cases that are unmanageable due to family situations, severe mental illness, dual diagnoses, or other factors that prevent the client from fitting into the "normal elderly" box.

Some practices may choose to expand the service to onsite visits, ongoing care recommendations and advocating in the facility settings. The practice will have to determine how to charge for these services as the bundled planning price will not usually compensate the firm adequately for such services. Additionally, it can be stressful to the organization if the one care manager is out in the field and not available for the in office consultations that your clients

desire. The decision to have your care managers provide service in the field opens the door to liability issues in regards to professional insurance, worker's compensation insurance, and home health licensing laws. In fact, there is a tremendous push to have all in home care provided by licensed agencies in Illinois by January 2012, as agencies are now required to post that employees can unionize. The push back from the agencies is forcing the state to crack down on the unlicensed caregiver agencies that abound in Illinois.

Services can be further expanded to encompass the full range of traditional care management practices including 24 hour accountability and field based services. The traditional care management model follow clients in all settings from home to hospital. These expanded services may include serving as the client's POA, guardian, traveling companion, or expert witness in a personal injury case. It is difficult to provide this level of service without creating a comprehensive case management practice that addresses all the professional practice and liability issues that are standard in the industry. Most attorney firms have found this level of care management too complex and costly to provide the quality and ongoing education that the customer demands.

Comprehensive Care/Case Management



Many attorneys have formed alliances with geriatric care management practices and find most of these issues are addressed by the company. The attorney's dilemma is how to present the care management concept to the clients as a part of bundled services:

- There could be a service bundle that the client purchases from the elder law attorney and a separate bundle from the care manager
- The elder law attorney can use a portion of his or her fee (without sharing it) and purchase a bundle from the care management firm.
- The attorney could make an arrangement with the firm to offer free or lower-cost consultation for care management.
- The possibilities are endless.

A creative alternative would be to learn from the successful referral models from health care that expands the business base for all parties. This model is where the expertise is provided by a company at no cost to the attorney firm – all of the benefits and none of the risks. The attorney firm provides office space and the care management company provides and an onsite care manager for consultations. If one follows the existing models, consultations would be provided at no cost as long as the complex cases are referred to the care management company when ongoing or hands on service is necessary. Clients who are exposed to the multidisciplinary approach respond positively to the holistic management of their situation. A complimentary meeting is given to clients and those who want more services can engage the care manager company directly. Clients who are brought into the practice by the care manager will expand the attorney’s potential client base as well. The goal is to have clients view the affiliation as a seamless, a one stop shop for their life care needs. The busier the practice becomes the more care management presence will be provided. An example of this would be a nurse infusion liaison provided to a hospital for infusion therapy home care referrals. The program started with one nurse two days a week to handle any home care referrals for infusion. By the end of the first year, there were three full time nurses assigned to the program at NO COST to the hospital except the office space. The hospital saved money on their discharge planners, and the infusion company captured most of the infusion discharges - a win win for both companies.

The concept of life care planning is more complex than it appears on the surface. At first blush it appears to be a simple matter of hiring a social worker to be part of the elder law attorney’s practice. This decision is really no different than the choice of hiring your own financial planner, tax advisor, accountant, or trust officer. They all may initially expand your practice base but one must also look at the “long term” plan for the practice. The attorney that adopts the model of having their own staff must devise a plan that addresses the natural resistance of care management companies to provide future referrals to the law firm. There have been successful models of having care managers on staff in the health care community. Nursing homes, hospitals, assisted living facilities have all employed social service departments for discharge planning. They can be a primary referral source for geriatric care managers which decrease the concern of the care managers.

It appears that functionality of hiring a care manager to assist in elder law planning is feasible product line. The care manager emulates the role of discharge planner in a hospital and serves the client by linking them to community resources. The difficulty comes when the practice expands to a field based product where the case managers do on site visits and interventions. This takes the office based person away from those critical life care planning

meetings. If health care needs were predictable, this might work but the nature of health is predictably unpredictable, and the office will be periodically unsupported thus defeating the original purpose.

The elder law practice must examine the alternatives of forming alliances or symbiotic relationships with care management companies. This may not be as feasible in rural areas as the geographic restraints do not allow the concentration for practices to be busy enough to support a complex business plan. Law practices in rural areas find themselves being jacks of all trades for many of their client issues. Where services are available, one must consider the long term plan of all services being under one roof or forming alliances to best position the practice to grow and flourish in their role of providing advice and guidance to their families as they navigate the many stages of their lives.