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MEMBER



### INSIDE THIS ISSUE

- Love May Not Be Enough by Lisa V. Johnson
- Ask Allie
- Announcement
- Distribution of This Newsletter

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## LOVE MAY NOT BE ENOUGH: FORCED TO DIVORCE TO PAY FOR LONG-TERM CARE

Divorce rates in the U.S. have skyrocketed over the past few decades, even among those over age 65 years of age. Elder law attorneys suspect that issues regarding money may be to blame for the rising divorce rates among the elderly. Instead of *fighting* over money, however, older people who divorce may actually be trying to *preserve* money, according to some attorneys. Marriage can be expensive, even draining, especially if one spouse has to enter a nursing home. More and more seniors are finding themselves in the difficult position of figuring out how to pay for long-term care expenses while at the same time trying to preserve their life savings.

A recent article in AARP Magazine details the plight of a couple, both in their 60s, married for 39 years, with two grown children. They had saved money for years and were looking forward to retirement in the next few years so they could travel. Then tragedy struck. The husband was diagnosed with early-stage dementia and was forced to retire early. At first, the wife tried to keep him at home, paying a variety of individuals—at a cost of around \$1,000 per month—to take him for walks, prepare his meals, etc., while she was at work. As the husband's dementia worsened, full time care became necessary, so the wife placed him in adult daycare. He later required hospitalization and then nursing home care. After Medicare coverage ended, the wife began depleting the couples' savings to pay for the nursing home, around \$7,500 per month plus miscellaneous expenses. Eight months and \$75,000 later, the stock market crashed, cutting the value of the couple's savings in half. The wife consulted an elder law attorney to explore her options. Of all of the options addressed by the attorney, only one—divorce—allowed her to get care for her husband and retain their remaining savings. By divorcing the love of her life, he would become indigent, allowing him to qualify for Medicaid. Feeling as though she had no other choice, their divorce became final just days before their 44th wedding anniversary.

This couple is not alone. Like many older Americans, they find themselves in the gut wrenching position of having to choose between divorcing a spouse or filing papers refusing to pay for an institutionalized spouse, simply to become eligible for government subsidized care. Essentially, couples who have worked hard and saved all of their lives are forced to become impoverished before they can qualify for long-term care through Medicaid. Viable options to pay for the extraordinary costs of care can be bleak at best. Spending down assets to qualify for Medicaid often means that the healthy spouse is left with insufficient assets for this healthy spouse's own retirement.

Elder law advocates argue that the current system of Medicare and Medicaid doesn't do enough to support home-based and community-based services. They contend that Medicaid, in particular, is overly focused on long-term funding for costly nursing home care, rather than finding ways to keep people in their own homes and communities. Likewise, AARP research shows that nine out of ten Americans prefer to remain in their homes as they age.

A solution has been proposed to address this problem. The Community Living Assistance Services and Supports Act (the "CLASS Act") has received widespread support in both houses of Congress as part of the health reform bill. The CLASS Act would essentially set up a government-run insurance program to help pay for long-term care in the home or elsewhere. As proposed, participants would pay a monthly premium of around \$120 to \$150, and in five years be eligible to receive a modest daily cash benefit of at least \$50 that could be used to pay for in-home care, including assistance with bathing, eating, or medication monitoring. Advocates agree that this is by no means a total solution to the problem, but it's a good first step. Unfortunately, these proposed changes may be of little solace to elderly couples who have already felt forced to end their marriages to protect their life savings.

While divorce is certainly a last resort for most elderly couples, some may feel it is their only option. The absolute best option is to plan ahead to better prepare for the costs and decisions involved in long-term care. If you or someone you love may face the Medicaid divorce dilemma, then consider the following:

1. Discuss with your spouse how you will pay for long-term care if and when it becomes necessary.
2. Research long-term care insurance.
3. Consult an elder law attorney.

The attorneys at Oast & Hook, P.C., can assist clients with their long-term care, estate, insurance, investment, veterans' benefits, and special needs planning issues.

### **Ask Allie**

O&H: Allie, we've heard that there will be a new monument in the Washington, D.C. area of interest to animal lovers. Please tell us about it.

Allie: Sure! President Obama recently signed legislation authorizing the construction and maintenance of a national monument to honor the United States Armed Forces Working Dog Teams. The monument features a soldier and four dogs and is tentatively planned for Fort Belvoir, Virginia. Military dogs saved more than 10,000 lives in Vietnam, according to the U.S. War Dog Association. More than 200 of about 4,000 dogs that served in Vietnam died while on duty, according to Larry Chincot, a former Air Force sentry who has led the campaign for the monument. Mr. Chincot patrolled the combat perimeter of Camp Cameron, Vietnam, with a German shepherd named Geisha. The John Burnam Monument Foundation Inc. is the 501(c)(3) organization authorized to raise approximately \$850,000 to build and maintain the monument. For more information or to make a donation, please visit the Military Working Dog Teams National Monument Website at [www.jbmf.us/load.asp](http://www.jbmf.us/load.asp). That sounds like a great idea. Our canine friends have performed such a valuable service for our country. Maybe my mom and I can visit this monument when it's finished. See you next week!

### Announcement

Oast & Hook is proud to announce that it has partnered with TowneBank to offer a series of seminars for seniors and their families. Each seminar will cover issues facing our seniors such as planning for retirement, elder law, Medicare, and long-term care planning. Oast & Hook and TowneBank will present six seminars, and each seminar will begin at 10:00 a.m. and will end at noon. Below is the list of dates and locations. Seating is limited. If you have any questions or would like to register for any of these seminars, then please phone Carol Hernandez at 757-638-6797.

#### April 6, 2010

TowneBank, First Colonial Banking Center  
984 First Colonial Road  
Virginia Beach, Virginia 23454

#### April 20, 2010

TowneBank, Oyster Point Banking Center  
1 Old Oyster Point Road  
Newport News, Virginia 23602

#### April 14, 2010

TowneBank, Member Service Center  
6001 Harbour View Boulevard  
Suffolk, Virginia 23435

#### April 27, 2010

TowneBank, Great Bridge Community Hall  
137 Mount Pleasant Road  
Chesapeake, Virginia 23322

#### April 15, 2010

Harbor's Edge  
1 Colley Avenue  
Norfolk, Virginia 23510

#### April 28, 2010

TowneBank, New Town Banking Center  
5216 Monticello Avenue  
Williamsburg, Virginia 23188

### Distribution of This Newsletter

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Oast & Hook News*, then please e-mail us at [mail@oasthook.com](mailto:mail@oasthook.com), telephone us at 757-399-7506, or fax us at 757-397-1267.