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David L. McGuffey, CELA* – Attorney
 Marnie Dodd, LCSW – Elder Care Coordinator
 Jan Hair – Elder Care Coordinator
 Jennifer Cohran – Elder Care Coordinator
 Denise Y. Cox – Legal Secretary
 Melinda Griffin – Administrative Assistant

*Certified Elder Law Attorney by the National Elder Law Foundation

SELF ASSESSMENT OF ESTATE AND CARE RISK

For: _____:

This form is designed to help you self-assess certain risks you may be facing. The Elder Law Practice focuses on planning with you as you face and respond to risks such as those mentioned below. If you would like to know more about how we can assist you, please do not hesitate to contact us.

Estate Planning:

There are at least three types of documents that should be included in your estate plan and all of them should be updated regularly to ensure that they reflect your current wishes and values. The first is a health care advance directive; this document appoints someone to make health care decisions for you if you cannot speak with your own health care providers. The second is a power of attorney; this document empowers someone to serve as your agent and to make financial decisions if you cannot manage your own affairs. The third document is one that distributes your estate after your death. This last document can take different forms. For example, you could have a Will, or you could have a trust with a pour-over Will (one that conveys your remaining assets to the trust). Failure to have the first two documents in place, or to have adequate documents in place, puts you at-risk of needing a guardianship or conservatorship; a guardianship or conservatorship is a court-supervised process which can be expensive, time-consuming, and inconvenient and can prevent your family values from being followed. Failure to have the last document in place, or if the documents are inappropriate, can result in your assets passing in a manner that is inconsistent with your values. There are other risks as well that may be averted or minimized with planning.

Decisions

At-Risk Unknown N/A

Health Care Decision-making:

Risk that no one will have authority to speak with health care providers and make decisions if you cannot make your own health decisions.

Risk of confusion or inability to direct care because no one knows what you want done.

Risk that other family members cannot talk to health care providers because HIPAA releases are not in place.

Risk that Guardianship will be necessary.

Decisions

At-Risk Unknown N/A

Financial Decisions:

Risk that no one will be able to use your assets to take care of you because they do not have authority. _____

Risk that someone will misuse or steal your assets. _____

Risk that assets will not be managed properly because durable power of attorney is not in place or because the power of attorney is inadequate. _____

Risk that Conservatorship (sometimes called "living probate") will be necessary. _____

Estate Planning:

Risk that your estate will not pass according to your wishes because there is no Will or because your Will is inadequate. _____

Risk that your Will is not current because it is old and your values may have changed since the last time you prepared a Will. _____

Risk that your estate may be subject to estate taxation. _____

Risk that planning is inadequate to protect assets for disabled children or grandchildren. _____

Risk that your business will not continue after you retire because of inadequate succession planning. _____

Risk that your estate will be used to pay debts of your heirs instead of being used to benefit them. _____

Risk that your assets will be squandered after you die instead of being spent on education or other things you value. _____

Risk that your estate will pay for more than one probate estate. _____

Risk that failure to consider non-probate rules will cause your estate to pass unevenly or in a manner you did not anticipate. _____

Risk that your current plan will trigger family disputes. _____

Other issues:

Risk that family values may be neglected or forgotten (Ethical Will). _____

Risk that disputes may arise when dividing family heirlooms. _____

Risk that burial will be planned during a time of crisis. _____

Budgeting and Retirement Planning:

The goal of retirement is to provide for your needs after you leave the work-force. This can be done in a number of ways, but the first step is to determine what your needs, values and goals are and to prepare a budget. For many people, this will also include speaking with a financial advisor and taking other steps to protect your estate or to enhance your ability to out-pace inflation with investment income.

Decisions	At-Risk	Unknown	N/A
Risk that you have not adequately anticipated your spending needs (do you have a budget).	_____	_____	_____
Risk that income does not meet current needs.	_____	_____	_____
Risk of not understanding rights under Medicare or private health insurance plans.	_____	_____	_____
Risk due to having no long-term care insurance.	_____	_____	_____
Risk of making poor investment decisions (no financial advisor in place).	_____	_____	_____
Risk of making poor tax decisions (no tax planner in place).	_____	_____	_____
Risk of inadequate response if chronic health problems arise (no response plan).	_____	_____	_____
Risk that inadequate information will cause you to make poor decisions about future eligibility for public benefits.	_____	_____	_____
Risk that survivors will not know how to respond appropriately if something happens to you.	_____	_____	_____
Risk that your spouse will not be adequately cared for if something happens to you.	_____	_____	_____

Living Situation and Care Plan:

One of the goals of Life Care Planning is to help you age-in-place. If you do not have adequate information to make the right decisions at the right time, or if you do not have an appropriate advocate, then your ability to age-in-place may be compromised. Life Care Planning is not health care; it compliments your health care or long-term care plan by informing you of risks that might place you in jeopardy and by helping you identify resources that could be used to help you live at home or in the least restrictive setting possible. Among the risks you may face is the possibility of failing to ask the right questions at the right time to get the care you need. You might fail to have care coordinated because you have different care professionals who do not communicate with each other. You may not be getting a realistic assessment of your loved one's needs because their needs are hidden or masked.

Paying for care is a significant issue. You can't get help if you can't pay the bills. For Veterans, Aid & Attendance may help finance your health care expenses if you are eligible. Others may be entitled to Medicaid to help pay the cost of long-term care

expenses not covered by Medicare or private health insurance. Without a plan, you may over-spend for care, or you may not get the benefits you are entitled to receive.

Decisions	At-Risk	Unknown	N/A
Risk to your independence and/or dignity due to a chronic health condition.	_____	_____	_____
Risk that you will need to change your current residential setting due to poor or inadequate planning. You are currently living at:	_____	_____	_____
<input type="checkbox"/> At home <input type="checkbox"/> Home with assistance <input type="checkbox"/> Assisted Living <input type="checkbox"/> Nursing Home <input type="checkbox"/> Other _____			
Risk that you may be injured because your caregiver network is inadequate.	_____	_____	_____
Risk that your caregivers may be injured or “burned out” because they do not have sufficient support.	_____	_____	_____
Risk that you are not getting your questions answered because you don’t know what to ask.	_____	_____	_____
Risk that inadequate knowledge keeps you from maximizing your chance of getting the right care at the right time.	_____	_____	_____
Risk that you lack adequate knowledge to enforce your health care rights.	_____	_____	_____
Risk that care will not be coordinated among various health care providers.	_____	_____	_____
<u>Long-Term Care Insurance:</u>			
Risk that benefits payable under a long-term care insurance will not be maximized.	_____	_____	_____
<u>Veteran’s Benefits:</u>			
Risk of inadequate V.A. benefits due to lack of understanding about eligibility rules.	_____	_____	_____
Risk that you will not be eligible for V.A. benefits.	_____	_____	_____
Risk that you won’t know how to get V.A. benefits.	_____	_____	_____
<u>Medicaid:</u>			
Risk of not getting Medicaid benefits due to confusing nature of eligibility rules (the “Maze”).	_____	_____	_____
Risk that inadequate or improper planning will impair your eligibility.	_____	_____	_____
Risk that you will not get Medicaid when you need it.	_____	_____	_____

Risk that you will be subject to Medicaid penalty.	_____	_____	_____
Risk that your spouse will not be protected when you need Medicaid (or that you won't be protected when your spouse needs Medicaid).	_____	_____	_____
Risk that you will spend more than you need to spend to get Medicaid.	_____	_____	_____
Risk that Medicaid application process will burden family members.	_____	_____	_____
Risk that failure to plan will make your estate subject to unnecessary Medicaid Estate Recovery claims.	_____	_____	_____

Conclusion:

After you assess your situation, if you have questions, please know that we are available to help. A Life Care Plan can help you put all of the pieces of the puzzle together and minimize the risks identified above. As we work with you, it can also help uncover other risks that may not be discussed above. The Elder Law Practice can work with you to minimize or avoid the risks that could prevent you from getting the right care at the right time, and can help you minimize the risk of squandering your estate paying for long-term care. We begin by assessing your situation, including the risks identified above, after we are retained.

The Elder Law Practice does not warrant or guaranty that we can eliminate any risk or provide any particular result. Planning is a process designed to minimize risks, but planning for long-term care and end-of-life inevitably requires us to make certain assumptions about your life, to adjust the plan as your needs change and to respond to changes in the law. Public benefits laws are complex and change frequently.

More information about our practice is available at www.mcguffey.net.