



# ELDER LAW *Update*

NEWS AND IMPORTANT INFORMATION FOR SENIORS AND THEIR FAMILIES

## IN THIS ISSUE

- The Growing Problem Of Guardianship Abuse .....Page 1
- Caregiver Burnout And What Can Be Done About It .....Page 3
- A Personal Note From Jan.....Page 4

## THE GROWING PROBLEM OF GUARDIANSHIP ABUSE



Guardianship is a process designed to protect seniors who can no longer manage their own affairs. Tragically, predators increasingly exploit the system to take advantage of vulnerable seniors for personal gain.

The guardianship process typically begins when a member of the senior’s family or a social worker notifies the court that the individual in question is unable to care for himself or herself. In many situations, the court names a family member as guardian. However, when families cannot agree on who should act as guardian, or no family members are available to assume this responsibility, the court can appoint a public guardian, also known as a professional guardian. In theory, public guardians are neutral parties dedicated solely to the well being of the ward (the ward is the person being

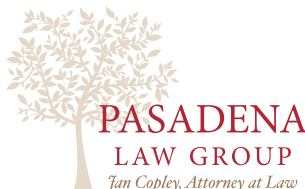
looked after by the guardian). The problem is that many states fail to adequately monitor guardians, enabling unscrupulous public guardians to take advantage of their wards. Even well-intentioned public guardians are often poorly trained.

According to the auditor for the guardianship fraud program in Palm Beach County, Florida, one and a half million adults in the United States are under the care of guardians—either family members or professionals. These guardians control approximately \$273 billion in assets. Given such numbers, the potential for guardianship abuse is enormous and continues to rise with an aging population.

(CONT.)



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Public guardians can determine where the ward lives, block family visits and sell the ward's property, including his or her home, vehicles, furniture, artwork and even personal mementos. What is more, public guardians can charge for their "services" and pay themselves from the ward's bank account and other estate assets.

Perhaps worst of all, once the court has appointed a public guardian it can be extremely difficult for the ward or the ward's family to reverse the court's decision and regain control over his or her affairs and life savings.

As one would imagine, guardianship abuse is most prevalent in areas where seniors often retire, such as Palm Beach, Sarasota, Naples, Albuquerque, San Antonio and Las Vegas. Fortunately, growing awareness of the problem and the work of advocacy groups has led to some improvements in the system.

For example, in 2016 Florida created an Office of Public and Professional Guardians to set standard practices and rules for public guardians. The office has the power to revoke a guardianship.

Elsewhere, the Nevada Supreme Court has commissioned a study to investigate failures to oversee the state's guardianship system. The Nevada legislature is slated to enact a new law next year entitling all wards to be represented by attorneys in court.

Much more needs to be done to combat this form of elder abuse. In the meantime, our firm can use a number of tools and strategies, such as powers of attorney, to avoid the possibility of guardianship exploitation. Contact us today to discuss your particular situation.

## CAREGIVER BURNOUT AND WHAT CAN BE DONE ABOUT IT

Caregivers often devote so much time and energy to caring for a loved one that they fail to take adequate care of themselves. If you are serving as the caregiver in your family, you need to understand the difficulty of what you are undertaking and recognize the signs that you may be trying to do too much.

Let's begin by taking a look at some of the signs of caregiver burnout. Ask yourself the following questions:

- Are you exhausted even after a full night's sleep?
- Do you seem to catch an unusually large number of colds?
- Do you feel like your whole life revolves around caregiving but you don't get any satisfaction from it?
- Are you always tense or do you feel like you've lost the ability to simply relax?
- Are you increasingly impatient with the person in your care?
- Do you often feel helpless, sometimes even hopeless?

**Contact Us Today To Discuss Your Particular Situation.**



If you answered yes to some of these questions, and you didn't feel this way until you began serving as caregiver, you may indeed be approaching burnout. It is essential for you to take better care of yourself. By doing so, you will likely be able to provide better care for your loved one.

First, you must understand that what you are feeling is not at all uncommon. Caregiver burnout is much more prevalent than you might think. Why? Americans are living longer than ever before and frequently need long-term care as they grow older. Many people can't afford professional care and rely on loved ones for the care they need.

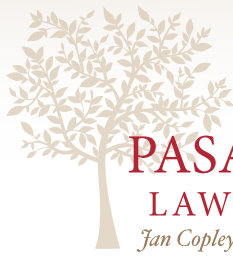
Here are four steps you can take if you believe you might be suffering from caregiver burnout.

1. Learn as much as you can about your loved one's illness and how to care for it. The more you know, the more effective you'll be and the better you'll feel about your efforts.
2. Recognize your limits. This involves taking a more realistic approach to how much time and effort you can give your loved one. Then, be sure to express those limits to doctors and other family members.
3. Learn to accept how you feel about the responsibilities of being a caregiver. Anger, fear, resentment, guilt, helplessness, grief... all of these emotions and more are commonly experienced by caregivers.

4. Talk to people about your feelings. Keeping your emotions bottled up doesn't do you or the person you are caring for any good. Confiding in friends and family members can provide a sense of relief and help you overcome feelings of isolation.

This last step is extremely important. Remember—you are not alone. Support is available from people who understand what you are going through and can help you cope with the stress involved. You must do whatever it takes to avoid a sense of isolation. You'll find support groups within the community online, in the phone book, through your physician, and from organizations associated with the health problem of the loved one under your care.





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## A PERSONAL NOTE FROM JAN

### *Welcome to our last newsletter of 2017!*

Thank you for all the support you have given to the Pasadena Law Group over the last year.

In this newsletter, we focus on things we don't like to think about — how our elders may need care, and how, sometimes, caring can go wrong.

We talk about guardianships — known as “conservatorships” in California. A conservator is a person named by a court to manage a disabled person's physical and/or financial affairs. Unfortunately, not all conservators act in the best interests of their clients.

We have had problems involving conservatorships in California. In 2001, a scandal caused one judge on the Riverside County Superior Court to resign, and there were accusations of abuse by professional conservators in Los Angeles County in 2006 and 2007.

As a result, California has taken steps to protect conservatees. Almost anyone who is a conservator for two or more people must be licensed by the California Department of Consumer Affairs. To qualify, you must, among other things, receive at least thirty hours of education, pass an exam, and submit to credit and background checks.

I think one of the most important parts of my job is to keep my clients out of conservatorship. With proper planning, we can almost always avoid it. However, I need your help to do so. First, nominate the right people to look after you if you are not able to do so (your child may not be the best candidate). Second, update your plan if you feel someone you've named is no longer the right person. Third, cooperate with your plan: if someone you trust tells you that you need help, take what they say seriously and get help, rather than forcing someone to go to court to protect you from yourself.

I want to wish all of you a wonderful Holiday Season and a healthy, happy and prosperous 2018.