

## **BASIC ESTATE PLANNING, PART FOUR: STRETCHING ASSETS IN THE EVENT OF A NURSING HOME STAY**

**By Jim Silbernagel & Tony Jasen**

***Real Wealth® Radio Network***

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*(Note: The following is the Real Wealth® Radio Network's response to a question from Sylvester in Oshkosh.)*

**Question:** How does a power of attorney help protect assets from a nursing home?

That is a great question and it points once again to the importance of working with a strong advisory team in sorting out your estate planning matters. We've already discussed the importance of working with a professional to be sure specific language, or clauses, are included in your power of attorney documents. One of these clauses is a gifting clause. A lot of general practitioners who design powers of attorney don't contemplate the future need for any type of gifting program. Whether it is to protect assets from inheritance or estate taxes in the future or possibly stretching the assets in the event of a nursing home stay, it is an essential part of the document.

The power of attorney document itself won't protect your assets from being depleted in the event of a nursing home stay. The important thing to understand is that if the document is drafted appropriately and includes the right language in it, called a gifting or divestment clause, you will empower your power of attorney to stretch your assets in this situation. Remember, this is a trusted person that you have chosen to handle your affairs if you are unable to do so. By including this clause they are able to do some asset protection planning in the event of your incapacity. A gifting clause allows your agent, usually your spouse, children or trusted advisor, to maneuver or shift assets, to gift them and put them aside. It grants them the ability to transfer assets in the event that you need a nursing home stay.

It may sound a bit dangerous to put gifting powers in the power of attorney document. So, how can you be assured that this is the right thing to do? You need to determine whether you want your agents to have that authority. You might want to include some protective clauses to restrict how the money is gifted. For example, the document can be designed to empower your agent to only be able to transfer gifts to a safe harbor or only to themselves if it is consistent with your overall estate plan and someone with adverse interest approves it. This means your agent can't just do whatever he or she wants to do, but is empowered to do what he or she needs to do in these circumstances. You do want to make sure that your spouse, if applicable, has the ability to do whatever planning is necessary to preserve the assets for themselves in the event one spouse is admitted to a nursing home. Limitations and safety valves can always be designed in these documents to make sure that your chosen power of attorney doesn't take advantage of the situation.

Remember, a team of *Real Wealth®* Advisors can easily assist you with the specific language, or clauses, you should include in your power of attorney. They can guide you through the entire estate planning process. It is important to work with a qualified attorney who has spent a lot of time working in the area of estate planning and family issues rather

than a general practitioner. A financial advisor can act as a quarterback, working with your attorney and accountant to help you best take advantage of your individual financial circumstances.

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**Jim Silbernagel** and **Tony Jasen** lead Wisconsin's only statewide, homegrown Real Wealth® Advisor Network and have been conducting their Financial Talk Show since 1990. They have garnered a reputation as down-to-earth financial professionals who look well beyond the obvious product-driven environment associated with Financial Planning to the *real* life issues of wealth. Their vision is to educate their listeners on the deeper issues of wealth management and its relationship with their life, specifically their stage in life, and to help people maximize life from *Real Wealth*®.

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