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FIRM INTRODUCTION

The Law Office of Keith R. Miles, LLC was founded in 2008 and has a focus on holistic planning for individuals and both traditional and “blended” families.

Estate Planning should be about much more than words on a document. It is about the hopes, wishes and desires of the individual who seeks to pass along property and/or protect important individuals in their lives such as children or a surviving spouse. We recognize the uniqueness of this endeavor and as such design customized estate planning solutions for each client.

The firm is particularly focused on Elder Law issues such as Long-Term Care Planning, Medicaid Planning and Special Needs Planning. In addition, there is a focus on “crisis planning” for those with a Terminal Illness or those who need to prepare in the short-term to qualify for benefits to due health or aging related issues.

The Law Office of Keith R. Miles, LLC operates throughout Georgia and North Carolina



MEET KEITH R. MILES



Mr. Keith R. Miles comes to the fields of Estate Planning and Elder Law from deep personal experiences which affected him deeply. He began in the tax field until 2009 when his first wife passed away from pancreatic cancer. That experience caused a shift in his practice focus over to Estate Planning.

Over the course of years, Mr. Miles realized that planning for death alone was not enough. Rising health care costs and the likelihood that someone will need long-term care raises the strong possibility that someone's life savings will be spent on their health care. That would mean less, little or nothing left to their spouse, children, family or other loved ones. As a result, Mr. Miles added Elder Law to his practice to assist individuals and families to prepare for this time in life. Additionally, due to his experience with terminal illness with both his wife and his mother, he is also focused on helping families with "crisis period" planning.

Mr. Miles is an ElderCounsel Member, a Georgia and North Carolina chapter member of the National Academy of Elder Law Attorneys (NAELA) and The Estate Planning Council of North Georgia. He is an active member of the Georgia and North Carolina Bars. He is also a resigned member of the New York Bar.

Education

University Of Alabama, LL.M. in Taxation, 2013

University of Georgia, M.B.A. 2005

University of Maryland, J.D., 1995

Carnegie-Mellon University, B.S., 1992

State Bar Memberships:

Georgia (2007), North Carolina (2008), New York (1996 until resigned in 2014)

LONG-TERM CARE PLANNING

More and more, elders and their families are painfully aware that the need for even a few months in a nursing home or other care facility could be a devastating financial setback.

People with very substantial assets can manage this cost — and those with very little money can often take advantage of federal resources (i.e. Veterans Aid and Attendance) or state resources (i.e. Medicaid). Families whose circumstances land them somewhere in the very large “middle” of this equation need counsel on their options.

Our Long-Term Care Planning practice take a consistently practical, cost-effective approach to problems such as:

- How to make sure you qualify for Veterans Aid and Attendance and/or Medicaid should you need it to pay for nursing home care or other service
- How best to protect hard-earned assets to fulfill your own needs beyond what Veterans Aid and Attendance and Medicaid provides and still pass on as much as possible to your heirs
- Whether you should pursue “traditional” Long-Term Care insurance is within your means and likely to provide additional protection (i.e. partnership program)
- Whether non-traditional Long-Term Care insurance (i.e. LTC “hybrids” and/or Life Insurance with LTC riders
- What types of trusts may be useful for maintaining control of your assets and property should major health issues arise.



SPECIAL NEEDS PLANNING

The Law Office of Keith R. Miles, LLC focuses on providing Special Needs Planning for families with disabled children and adults along with anyone needing to qualify for Long-Term Care benefits such as Medicaid or Veterans Aid and Attendance.

Special Needs Trusts (also often referred to as “Supplemental Needs Trusts”) have long been used by one person to set aside funds for the benefit of another person is disabled. Parents often do this for disabled children, whether through life or through testamentary plans (i.e. their will or revocable trust).

A. Main Elements

The trusts are drafted to be completely discretionary so that the beneficiary has no legal right to demand distributions. As a result, for purposes of determining eligibility for public benefits, the trust funds are considered unavailable to the beneficiary, unless actually paid out directly to the beneficiary or in ways deemed to be “in kind” income. So while the existence of any of these special needs trusts will not adversely affect the beneficiary’s eligibility for public benefits, the use of the funds on his or her behalf might. basis.

B. “Self-Settled” Trusts

Special Needs Trusts are also manage and shelter funds belong to the disabled person himself or herself. Often these funds are available as the result of a personal injury award, an inheritance or life insurance.

For many years, a disabled individual under the age of 65 could fund a special needs trust only when established by his or her parent, grandparent, legal guardian or by a court and provide that at the beneficiary’s death any remaining funds will first be used to reimburse the state for Medicaid paid on the beneficiary’s behalf. This is known as a “Medicaid Payback” provision.

Due to Section 5007 of the 21st Century Cures Act entitled “Fairness in Medicaid Supplemental Needs Trusts”, which was signed into law on December 13, 2016, disabled individuals can now create their own special needs trust.

If these requirements are met, the assets in the trust will not be countable if the beneficiary applies for Medicaid or Supplemental Security Income (“SSI”) and transfers to the trust will not cause an eligibility period when applying for either Medicaid or SSI. The rules governing these self-settled supplemental needs trust are codified in 42 U.S.C. §1396p(d)(4).

C. Trusts to shield excess income to qualify for Medicaid

“In “income cap” states”, qualified income trusts created to shelter the excess income of over-income institutionalized applicants for Medicaid will be permitted. These trusts follow the outline of those authorized in *Miller v. Ibarra*, 746 F. Supp. 19 (D. Colo. 1990).

D. Special Needs Trusts for those over the age of 65

For those individuals who are over 65, the only way to preserve his or her own assets to supplement Medicaid or SSI benefits is to place the funds into a pooled trust to be managed for many disabled beneficiaries by not-for-profit associations. Unlike the individual disability trusts described above, these trusts may be for beneficiaries of any age and may be created by the beneficiary himself or herself. In addition, federal law does not require the state to be repaid for its Medicaid expenses on the beneficiary’s behalf upon his or her death if the funds are retained in the trust for the benefit of other disabled beneficiaries.

E. Special Need Trusts to leave funds for others while trying to qualify for Medicaid

Finally, in addition to creating safe harbors for certain disabled Medicaid applicants to shelter his or her own funds, a Medicaid applicant can also avoid transfer penalties by transferring his or her assets into a trust “solely for the benefit” of a permanently disabled individual under the age of 65. 42 U.S.C. §1396p(c)(2)(B)(iii) and (iv). The beneficiary does not have to be a child, or even a relative, of the grantor.



ESTATE PLANNING: WILLS, POWER OF ATTORNEYS AND ADVANCE DIRECTIVES FOR HEALTH CARE

Wills are powerful, legally binding estate planning documents that can protect your loved ones and your assets after you pass away while ensuring that your final wishes are carried out. Whether you have a small or larger estate, or you are relatively young or are older, devising a will now is critical for the future.

The Law Office of Keith R. Miles, LLC is experienced at crafting comprehensive wills (we do not offer “simple wills” due to our focus on Long-Term Care Planning and Special Needs Planning) to meet our clients’ needs, financial situations and wishes.

While our clients can always rely on us to provide them with customized solutions and personalized representation, they can also count on us to provide them the highest quality legal services for all of their wills and estate planning needs.

The wills-based estate planning services are focused on understanding our clients’ needs, minimizing the potential challenges they (and their loved ones) may face if trying to qualify for government benefits like Veterans Aid and Attendance or Medicaid, and maximizing the possible benefits of establishing a will (including many times a testamentary Special Needs trust) for their estate.

To this end, some of the specific wills-based services include (but are not means limited to):

- Appointing an executor and naming your beneficiaries
- Appointing a guardian for your minor children
- Setting up powers of attorneys beyond the standard formatting to include unlimited gifting powers, powers to create revocable and irrevocable trust to facilitate qualification for SSI, Veterans Aid and Attendance, Medicaid and other government benefits
- Devising advanced medical directives or end-of-life directives
- Assisting with obtaining a Long-Term Care Plan Directive
- Distributing your various assets
- Setting up special trusts for particular people (like special needs children or spouses in nursing homes)
- Modifying the terms of existing wills to allow for Long-Term Care and Special Needs Planning