

## How to Preserve Assets From Nursing Homes

**Q:** Is there any way I can lawfully protect my assets from nursing home expenses?

**A:** Yes. Setting aside the moral arguments on both sides of the issue, here is what the law allows:

First, you can purchase what is known as “long term care” insurance. I do not sell insurance, but this is a great option if you can afford it because it allows you to keep control over your assets while ensuring there will money available for your long term care expenses.

Second, you can use a “gifting” strategy and simply give away your assets in advance. For example, some people, while they are still living, convey their assets to their children. Remember that in order for it to be effective as a gift, your name cannot be on the asset at all – joint ownership does not work.

And if you employ this strategy, make sure you will sleep well at night knowing that you no longer own your property or money. If your child’s name is on your bank account, for example, and they have creditor or divorce or bankruptcy problems, or if they get into a car accident and get sued, guess whose money is involved in that? Yours.

Third, you can transfer assets into an Irrevocable Trust and guarantee that they will be passed down to your heirs. It is the opposite of simply putting your child’s name on an asset. An irrevocable trust is divorce-proof, creditor-proof, lawsuit-proof, etc. Like a gift, however, you no longer control the asset.

The most important item to keep in mind is that there are critical time periods when any asset transfers should be made. There exist “lookback” rules, commonly known as “penalty periods” that are strictly followed, so do your planning before you are unable to lawfully shelter assets. As always, consult with your estate planning attorney.

Published October 2004 in *Cave Spring Connection*

*Attorney Christopher Desimone is managing partner of Anderson & Desimone PC of Roanoke, Virginia. He focuses 100% of his law practice on estate planning. (540) 776-6434.*