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Nationwide Retirement Institute® Legacy Essentials

Aging clients and your role

By Doug Ewing, JD, CFP®, RICP®

Client relationships evolve over time, shifting from investment guidance to retirement income planning to estate planning. This last phase can be emotionally delicate but is perhaps the most important service you can provide for a client and their family. **This case study is the story of a financial professional named Beth and her excellent use of empathy to prepare her clients Susan and Bill for this final phase of living well.**

Leading with empathy: Helping one client prepare for aging

Over the past 20 years, Beth has built a successful financial planning practice. Many of her clients have been working with her since the beginning. Susan and Bill are two of Beth's favorite clients. They are in their mid-70s and have three adult children: Melissa, David and Charlie. Beth has always looked forward to her regular meetings with Susan and Bill, which she has jokingly described as "10% investments and 90% catching up on our lives." While some people might see that as an inefficient use of her time, Beth is skilled in the practice of empathy. She has spent many hours with Susan and Bill, listening to them talk about their family, asking them about their worries and concerns, and learning what is truly important in their lives. As a result, Susan and Bill have come to trust Beth's guidance and have acted on most of her recommendations.

In their most recent meeting, Beth noticed a change with Bill. He had always been outgoing and talkative, and usually took the lead in the investment conversations. He loved to talk about current events and was always interested in how recent headlines might impact their investments going forward. This time, however, he seemed a little subdued. On a couple of occasions, he seemed to lose track of his thoughts while he was speaking and even got a little flustered. As Bill struggled, Beth noticed Susan watching him. Beth could see the concern on her face.

Key topics:

Looking out for cognitive decline

As Beth has many older clients, she was also concerned. In fact, Beth recently shared with her staff the Alzheimer's Association's "10 Early Signs and Symptoms of Alzheimer's" so that they might be able to spot potential issues as they interact with clients. Bill was demonstrating early signs of cognitive decline, which can eventually progress to dementia. After their meeting, Beth decided to call Susan to express her concerns.

In their conversation, Beth noted that while Bill's issues were very minor, this might be a good time to review their plans, just in case. The risk, Beth explained, is that if Bill's symptoms were to progress, it could eventually impact his ability to make financial or legal decisions on his own. This is sometimes referred to as the loss of legal capacity. The good news is that despite his current issues, Bill still clearly had legal capacity to help put a plan in place.

Susan agreed that it was time to talk to Bill. She confided to Beth that she had also noticed some changes. She would work on getting him to the doctor. In the interim, Beth would review things and come back to them with a plan.

The importance of making estate plans and naming beneficiaries

Beth was methodical in reviewing Susan and Bill's file. First, she noted that they'd had their estate plan reviewed by their attorney two years ago. This was within her usual recommendation of every 3 to 5 years. She also knew, based on their last meeting, that there had been no major changes in the family — such as births or deaths — that would require any changes to their plan.

Beth also reviewed the beneficiary designations on Bill's financial accounts. These included an IRA, a Roth IRA, an IRA that Bill had inherited from his mother and a life insurance policy. Bill had named Susan as the primary beneficiary of those accounts. His three adult children were named as contingent beneficiaries. In earlier conversations, Bill had advised Beth that if one of his adult children died before he did, he would want that child's share of inheritance to go to the deceased's heirs. Accordingly, Beth had made sure that Bill designated his contingent beneficiaries as "per stirpes."

Dementia[1]

This is a general term for a decline in mental ability that is severe enough to interfere with daily life. While Alzheimer's disease is the most common cause of dementia, accounting for 60% to 80% of cases, there are also other causes, some of which are treatable. People experiencing signs or symptoms of dementia should talk to their doctor about it as soon as possible.

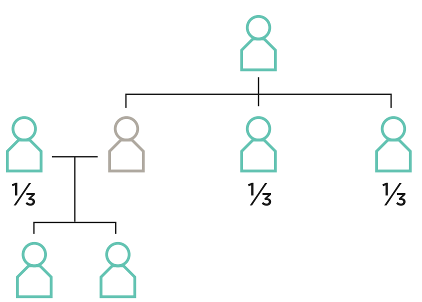
Legal capacity[2]

This is the ability to understand and appreciate the consequences of one's actions and to make rational decisions. In most cases, if a person with dementia is still able to understand the meaning and importance of a given legal document, they probably have the legal capacity to execute it (to carry it out by signing).

PER STIRPES VS. PER CAPITA

Per stirpes

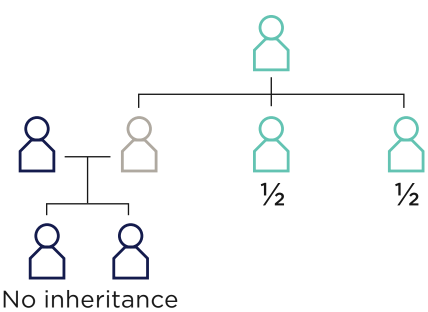
If a beneficiary passes away, their share of the inheritance eventually goes to the deceased beneficiary's heirs.



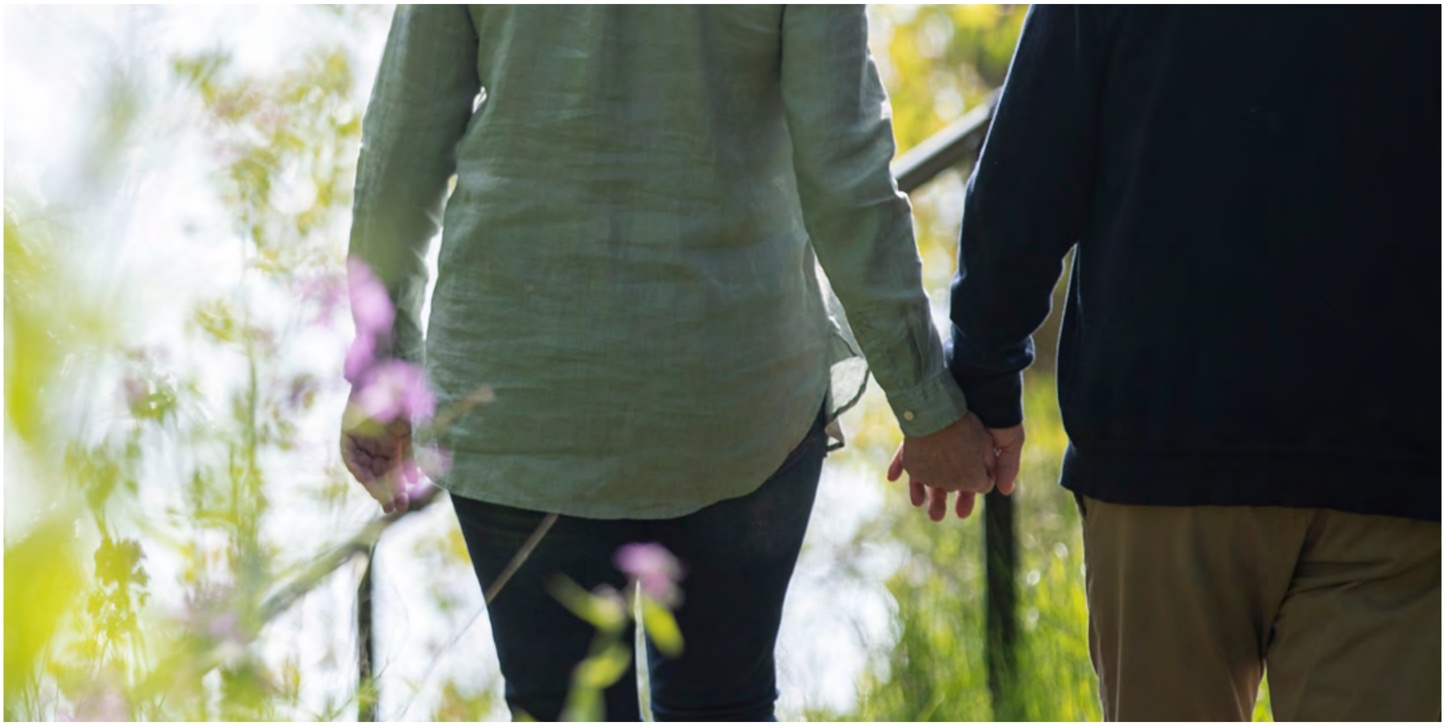
Per stirpes must be specified in the beneficiary designation. Check with the firm to ensure that they are willing to make such a designation.

Per capita

If a beneficiary passes away, their share of the inheritance is split among the remaining, originally named heirs.



This is the "default setting" at many financial services firms.



Having estate plans and beneficiary designations up to date and accurate is an important part of planning for aging clients. If Bill were to lose his legal capacity, he would no longer be able to make changes to either. Even when Bill names an agent under a properly executed power of attorney, that agent generally would not be able to make changes to Bill's estate plan or beneficiary designations if Bill were to lose his legal capacity.

In the near term, however, the issue will be how to manage Bill's financial and medical decisions if Bill becomes unable to do so. Beth noticed in her notes that she had recommended in a prior meeting that Susan and Bill talk to their attorney about setting up powers of attorney for finances and advance health care directives as a part of their estate plan. She made a note to make sure that they had done so.

If Bill were to lose his legal capacity, he would no longer be able to make changes to his beneficiary designations.

When Beth and Susan met for coffee the following week, the news about Bill was mixed. Testing suggested some possible cognitive issues, but nothing severe. Bill's doctors had, however, ruled out several other potential causes of cognitive problems, such as a thyroid condition or a vitamin B_{12} deficiency. That meant other potential causes, such as Alzheimer's, could not be ruled out.

"So how is Bill feeling about everything?" Beth asked. She watched as Susan struggled to not cry. "He's really not good right now. He knows he's having a problem. He's embarrassed. And he'll never admit it, but I think he's worried."

Beth was also having trouble keeping it together. "Susan, remember when we finally got Bill to talk about what he wanted his life to look like when he started getting old? He made it pretty clear how he felt. He didn't want you or the kids to have to take care of him. He just wants to play golf, take naps, and then stay out of everyone's way, right?" They laughed. "That's why you have long-term care insurance. For right now, let's focus on making sure we're ready if things get worse. That reminds me, did you ever talk to your attorney about getting powers of attorney and advanced health care directives?"

"We did, but we haven't actually completed them yet," Susan said. "Our attorney suggested we think about who we would want to manage our affairs if we couldn't do it. Obviously, our first thought was to name each other, but then we wondered what would happen if we both had a problem. I guess we'll need to talk to our attorney about that."

Key estate planning documents

Durable power of attorney for finances

In a power of attorney (POA) for finances, a client can name an agent who will then have legal authority to act on behalf of the client. When planning for possible incapacity, it is important that the POA be "durable." This means it will remain in effect after the client loses legal capacity.

Normally, a POA will give the agent concurrent authority to act for the client — even while the client still has legal capacity. Clients who prefer that authority not be given to the agent until they lose legal capacity can execute a "springing" POA, which becomes effective only after the loss of legal capacity has been confirmed, usually by the client's physician.

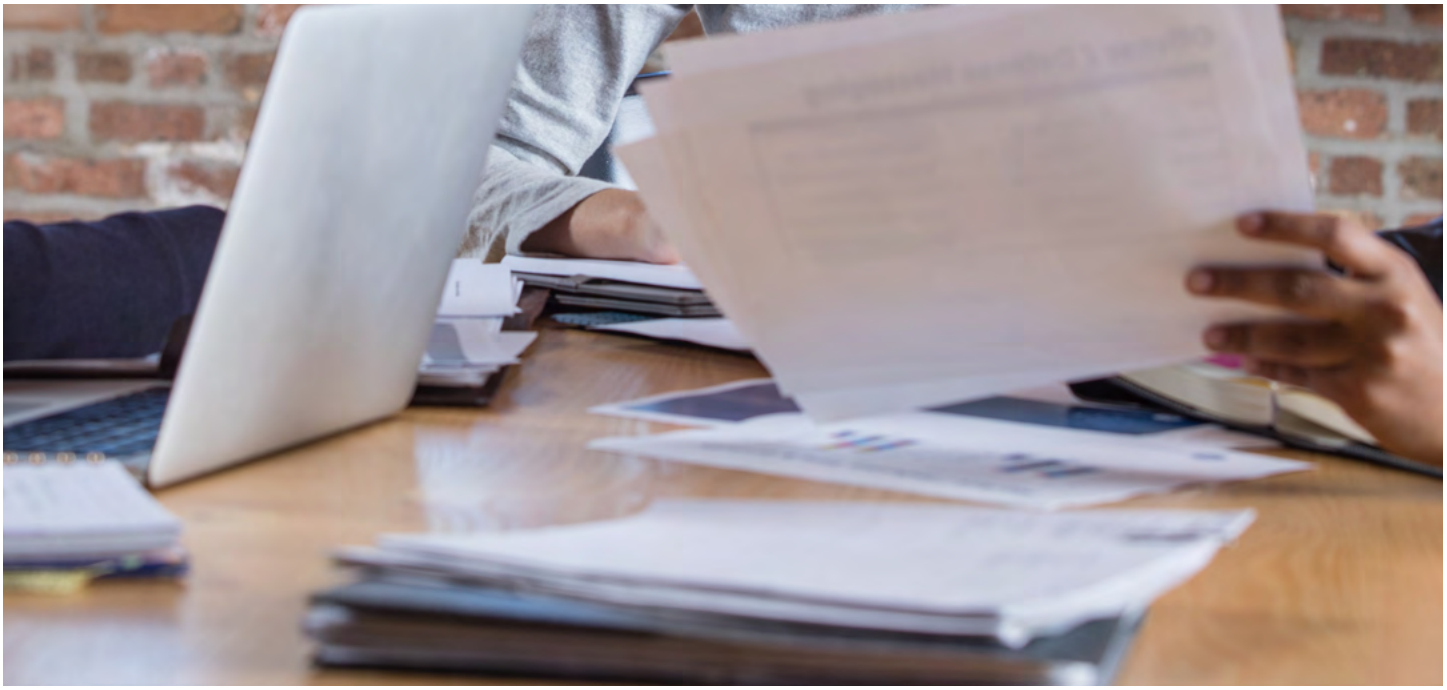
While POAs for finances can vary from state to state, they typically give an agent the authority to sign documents and otherwise manage the finances of the client. This includes things such as managing bank and other financial accounts. Be aware, however, that a POA generally will not allow an agent to change beneficiary designations or alter estate plans. That's why it's always important to establish those details before legal capacity becomes an issue.

Durable power of attorney for health care

A durable POA for health care names an agent — also called a **health care proxy** — to make health care decisions on behalf of the client in the event the client cannot. This can potentially include life-and-death decisions such as whether to accept or refuse medical treatment. It will also give the agent access to medical records, the ability to hire or fire health care providers, and even the ability to take legal action in the client's name. Because a POA for health care typically does not become effective until the client becomes incapacitated, the client may also want to execute a **HIPAA authorization** if they would like the prospective agent to be able to access medical information prior to incapacity.

Living will

A living will — also called an **advance health care directive** — is a document in which a person states their wishes for end-of-life care. It can address issues such as whether the client wants pain medications (even if they hasten death), whether they consent to a feeding tube or ventilator, or whether they want to be kept alive even after brain activity ceases.



Trusted contact person

FINRA Rule 4512 requires financial professionals to request the name and contact information for a "trusted contact person." This is a person, designated by the account owner, whom a financial professional can contact for assistance in administering the owner's account. It's important to note that while a trusted contact person can provide assistance, such as helping the financial professional contact the owner, he or she does not have authority to give instructions about the management of the account.

Powers of attorney

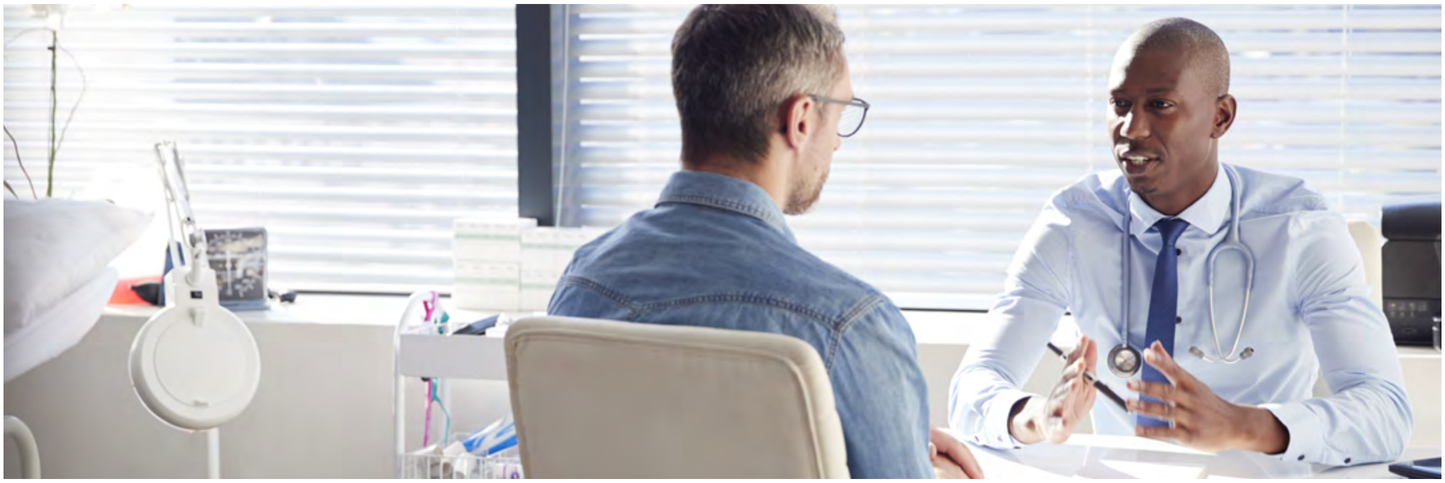
Beth knows that Susan and Bill have three adult children. Melissa, the oldest, works as a marketing director for a large pharmaceutical company and has two kids in middle school. David, the middle child, lives out of state and isn't always the best about keeping in touch with his parents or siblings. When he does call, it's often to ask for money. Charlie, the youngest, is an aspiring musician. He lives locally — including a couple of recent stints living with mom and dad. Even at 33 years old, he is "the baby," and he is very close with his parents.

At this point, Beth had only met Melissa. When Melissa's parents named her as their "trusted contact person" in their account paperwork, Beth called to introduce herself and explain Melissa's role and to let her know when Beth might need to contact her. Susan and Bill always described Melissa as their "Type A," and she did not disappoint. She was careful to understand her role in the process. While Beth had yet to meet David or Charlie, she was very familiar with their situations from her many conversations with Susan and Bill.

"Would you mind if I shared a couple of thoughts?" Beth asked Susan.

"There are two roles we need to assign," she began. "First, we'll need someone to manage your financial affairs if you become unable to do so. Second, we'll need someone to make medical decisions if either of you becomes unable to do so. Your instincts were good in that you and Bill naming each other for these roles might not help much if you were both to have a problem. This might be a good opportunity to give your kids a role in helping you."

"I've worked with your attorney before," Beth continued. "She usually recommends something called a 'springing' power of attorney for finances. This means that it won't become effective until you or Bill actually lose your legal capacity to manage your own affairs. If that happens, then whomever you name as your agent in the POA will be able to act on your behalf to manage your finances. I always suggest that when picking an agent for finances, you find someone who is financially savvy and has some practical experience managing money. Based on what you've always told me about Melissa, which I saw myself when we spoke, I think she'd be an excellent choice."



"As for health care," Beth explained, "this is a somewhat different role. An agent for health care will make medical decisions in the event you're not able to. So here, you're looking for someone you feel understands your wishes. Someone you feel really comfortable talking to. It can also be helpful if your agent lives close by and can be physically present. Of course, you should also provide them with a living will. This is simply your written instructions about your wishes for care. For example, if you were really sick and unlikely to get better, would you want doctors to take extraordinary measures to keep you alive? Knowing your wishes in advance can be a comfort when your agent is faced with tough decisions. Again, Melissa would be a very reasonable choice, but many people will select different agents for finances and health care."

Susan thought about this and said, "Charlie is our baby. He and Bill are so close. We've talked a lot about what is going on. He's just so attentive and caring. I'd always feel comfortable knowing he is looking out for us. Do you think he'd be a good choice?" Beth smiled and said, "What I'm hearing is that you think he'd be a good choice. And that's what really matters." Susan laughed. "I'm not going to tear up again, am I?"

"No, you're not," Beth insisted. "But you do need to talk to Bill and get those documents done, OK?" Susan agreed and started to collect her belongings, then stopped. "You know," she said, "there is something else that I've been wanting to talk to you about."

"Bill and I were talking the other day," Susan began. "As you know, we're both vaccinated now and feeling much better about everything, but the whole COVID thing got us thinking. I know we have long-term care insurance, but we really don't ever want to go into a nursing home.

1 out of 4
older adults falls each year

Every **11 seconds**, an older adult is treated in the emergency room

Every **19 minutes**, one passes away

Falls are the leading cause of injuries

Fall-related injuries result in **5 times more hospitalizations** than other causes

Source: National Council on Aging

I saw an article online the other day about aging in place. That's what we want. We want to stay in our home as long as we possibly can. Will our plan allow us to do that?"

Beth nodded. "I am hearing this from a lot of my clients," she said. "Yes, aging in place is an option for many people, but we really need to think it through. Do you have a few more minutes to talk?" Susan put her purse down. "Yes."

Considerations for aging in place

"The planning we've done so far has been about cognitive issues," Beth explained. "When we think about aging in place, that's one factor, but we also really have to think about some of the physical aspects of aging. There will come a time when you'll start to have some mobility challenges. For example, simply falling down becomes a huge issue as people age."

Beth had always made it a point to periodically meet with clients at their homes. She felt that this gave her a little extra insight into their lives. "You and Bill have a beautiful home. I'd want to stay there as long as possible, too. But as we age, little things that we've never even noticed can become a challenge. For example, my parents have a step down from the kitchen to the family room. Just one little step. My dad has fallen on that step twice in the past six months."

Beth continued, “I noticed that your house has a few steps to the front door …” Susan interrupted her, saying “but we usually go in through the garage.” “OK,” Beth responded. “Is the door from your garage wide enough to accommodate a wheelchair?” Susan thought about it. “I have no idea. Maybe?”

“See what I mean?” Beth said. “It’s the little things you never think about.” The good news was that Beth had done some research on aging in place. She had even located a local builder who had received a Certified Aging-in-Place Specialist designation from the National Association of Home Builders (NAHB). Beth suggested that they arrange for an evaluation of their home.

NAHB aging-in-place checklist

These are just some of the recommendations. The full checklist can be found at nahb.org.

- Single-story living, including a full bath
- No steps between rooms on the same level
- 5′ by 5′ clear/turn space in living areas, kitchen, bedrooms and bathrooms
- 36-inch-wide hallways with enhanced lighting
- No-step or ramp home entry with a cover and sensor lights
- Nonslip flooring
- Flush thresholds
- Lever door handles
- Anti-scald controls on faucets
- Bracing in walls for the installation of grab bars around tubs, showers and toilets
- Residential elevator or lift for multilevel homes when single-level living is not possible

“So the home itself is one issue,” Beth continued, “but there are a few more things to consider as well. Eventually, you’ll probably get to a point where you need help around the house. Think about things like yardwork, cleaning, getting around, cooking meals. Do you think the kids would be available to help with that?”

“No,” Susan said, “that’s not what we want.” “That’s fine,” Beth replied. “Then we’ll have to make sure we can find room in your budget in case you need to bring in some paid help for that.”

Qualifying for a long-term care claim

Activities of daily living

- Bathing
- Dressing
- Eating
- Transferring
- Toileting
- Continence care

A person must need help with two of six ADLs to qualify for LTC claims.

Instrumental activities of daily living

- Household chores
- Meal preparation
- Transportation
- Shopping
- Managing money
- Paying bills

IADLs do not qualify for LTC claims.

Indemnity benefits

Long-term care policies that provide indemnity coverage pay a cash benefit once the criteria for a claim have been met. The insured is generally free to spend that cash benefit however they like. This is different from a reimbursement policy, which will typically reimburse only specific expenses as outlined in the policy.

The cost of care

Aging.com estimates the national average of home health care to be about $20 per hour or $4,000 per month. This suggests about 50 hours of care per week. Hourly rates for care can vary from state to state, with a high of $27 per hour in North Dakota and a low of $16 per hour in Louisiana and West Virginia (2021 figures).

Ten years to liquidate

Under the SECURE Act, the life-expectancy or “stretch” distribution option for nonspouse beneficiaries was largely eliminated. Going forward, nonspouse beneficiaries will generally have only 10 years to distribute and pay taxes on an IRA inherited from a parent.

“Eventually,” Beth said, “if you get to the point where you or Bill need help with things like getting out of bed, using the bathroom, getting dressed or eating, that’s when your long-term care insurance would kick in. Remember that when we selected your coverage, we went with an indemnification type of policy. This means that as long as you qualify for a claim, we’ll be able to spend that benefit on whatever we need to. This will give us some flexibility in your care. Ideally, we can arrange for home health care. Still, we have to be realistic about things. If Bill ever got to a point where he needed round-the-clock care, home health care could become too expensive. We would probably have to look at some other options.”

“I understand,” Susan said. “This is so helpful. I have one last request.” “What’s that?” Beth asked. “Would you be willing to come by the house sometime when Melissa and Charlie could be there too? I’d really love for you to talk to them and answer any questions they might have about their roles in all this.” “Of course,” Beth replied.

Meeting with a client’s power of attorney agents

A couple of weeks later, Beth went to Susan and Bill’s house to meet with Melissa and Charlie. She was happy to see that Bill was in good spirits as he teased and joked with his kids. Susan and Bill had completed their powers of attorney and health care directives. Susan had asked Beth to update the kids on everything, including the estate plan, beneficiary designations and their roles should they be needed.

Not surprisingly, Melissa had a lot of questions. If, for example, the POA became effective for Bill, could she still consult with Susan on decisions. “Absolutely,” Beth responded. Both Melissa and Charlie would always be free to consult with either parent on any of the decisions they were required to make.

Melissa also had questions about what would happen if they eventually inherited a retirement account from their parents, as she had recently read about a change in tax laws about inherited IRAs. Beth carefully explained the change in the rules and how she might want to manage them. After hearing her explanation, Charlie, who did not have a lot of experience managing money, sheepishly asked, “But you can help us with that, right?” “Yes,” Beth replied, “I’ll always be available to help.”

Connecting with the next generation

After the meeting, Beth and Melissa walked out to their cars together. “Thank you for everything you’ve done for my parents,” Melissa said. “They seem to be doing so much better with everything now. I think the situation with my dad was kind of a wake-up call.” Beth agreed. “Your parents have always been very proactive about their finances, and they’re in good shape for the rest of their retirement. The best part is that with you and Charlie involved, they know that whatever happens, things should be easier for everyone. I’ve seen what can happen when people ignore this stuff. It can be difficult.”

“I don’t know if you know this,” Melissa added, “but my mom has been trying to get me to sit down with you to discuss my own finances.” Beth laughed, “I’m flattered.” “Most of our retirement money is still in our 401(k)s at work,” Melissa continued, “but we’d still love to get your opinion on how we’re doing. And then there’s the whole college thing ...” “Whenever you’re ready,” Beth said, “I’d be happy to sit down with you.”

End of case study.

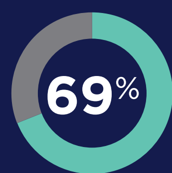
Perspective

The story of Beth, Susan and Bill is an illustration, but it's intended to point out the importance of empathetic connections with clients — and their heirs. Consider these statistics: Only 13% of affluent investors choose to work with their parents' financial professional. Of the 87% who don't, 88% indicated that they never even considered it.[3] One of the reasons cited for this was that the parents' financial professionals had made no effort to connect with them, nor had they incorporated the children into the planning process.

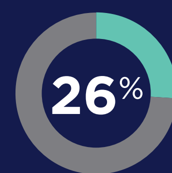
The Nationwide Retirement Institute's Legacy Essentials program is built around helping financial professionals build deeper and more productive relationships by developing their empathetic skill set. Throughout our story, Beth repeatedly used her empathetic communication skills to understand Susan and Bill's most important values more fully. She watched. She listened. She demonstrated to Susan and Bill that she hears them and understands who they want to be in retirement.

As a result, she has truly become a trusted partner in their eyes. They act on her recommendations. Susan even went out of her way to introduce Beth to her most important centers of influence: her adult children. This is an opportunity for Beth to get to know those beneficiaries and demonstrate to them the value of the work she has done. This should increase the likelihood that they will continue to work with her after Susan and Bill pass away.

Being able to help clients as they age is an important skill set. Having a simple, repeatable plan to help clients face the challenges of aging is crucial to serving this demographic.



of wealth is held by people 55+



of wealth is held by people 70+

In the U.S., according to the Federal Reserve Bank of St. Louis.

The risks of not planning

To further appreciate the importance of planning, let's consider the risks of not taking these steps. First, there is the possibility of guardianship. When someone loses their legal capacity to act but has not given someone else the authority to act for them, guardianship may be needed. Guardianship, sometimes referred to as conservatorship, is a cumbersome legal process in which a court names a legal guardian to protect the interests of the client. Guardianship is also premised on a finding of incapacity. Therefore, guardianship will generally mean that the client loses the ability to manage their own affairs.

In many instances, a court will appoint a family member or close friend to serve as a guardian. The situation can become more complicated, however, when family members cannot agree on who should serve as the guardian. This can result in the court appointing an independent guardian, usually a professional who acts as a guardian for many people. They will often have limited knowledge of the client's personal situation and may be harder to work with. Independent guardians must be paid, and hourly rates can be as high as $200 to $300 per hour. This is why many legal professionals recommend guardianship only as a last resort.

In addition, a failure to plan can lead to financial complications. As we've seen, even aging in place can involve substantial costs for the client. There are home modifications, costs for needed services such as housekeeping and, of course, the significant expenses of home health care. (Medicare does not cover long-term care.) If the client gets to the point where aging in place is not possible, they will probably need even more expensive options such as nursing home care. For some people, running out of resources to cover these costs will be a real concern.

A lack of planning can also result in clients having to draw down tax-deferred retirement savings to pay for care. This can indirectly increase costs because distributions from these accounts are taxable. Medical and long-term care expenses may be partially tax deductible (to the extent they exceed 7.5% of adjusted gross income), but many seniors don't itemize their deductions. What's more, the added income could increase a client's Medicare premiums or increase the taxes owed on their Social Security benefits. For clients who do not plan, a large health care or long-term care expense could derail their retirement income plan.

[3] Engagement: Not Your Father's Advisor," Cerulli Associates, The Cerulli Edge U.S. Retail Investor Edition (2Q 2019).

Review

Let's recap the steps that Beth took for Bill and Susan:

1

She got them to think and talk about aging. This happened well before our story began, but we know she had those conversations. Encouraging clients to share their thoughts on what life will be like as they get older makes the benefits of planning, including long-term care coverage, obvious to the client.

2

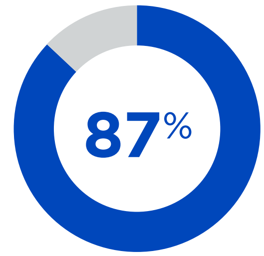
Beth reviewed their estate plan and beneficiary designations. This is always an important step. Even with proper planning, estate plans and beneficiary designations generally cannot be changed once the client loses legal capacity.

3

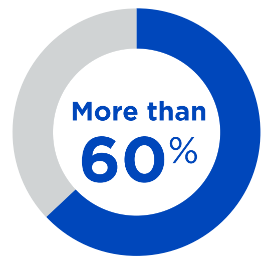
She made sure that Susan and Bill put POAs and advanced health care directives in place. This does three things. First, it helps ensure that whatever happens, there will be no disruptions in the family's ability to manage affairs and make important decisions. Second, it allows Beth to work with the entire family, developing a relationship with the next generation. Finally, it ensures that guardianship is off the table.

4

She addressed housing. As Beth pointed out, aging in place requires careful planning and might not always be possible. But her guidance supported a client goal and increased the likelihood that Susan and Bill will stay at home longer than they would be able to without planning.



of respondents said it is more important than ever to stay at home for long-term care.



said they'd rather die than go to a nursing home.

Source: Nationwide Retirement Institute® Long-Term Care Survey, conducted by The Harris Poll (November 2020).

Conclusion

This case study has demonstrated how an empathetic financial professional can provide clients with important and valuable guidance on how to plan for the challenges of aging. The Nationwide Retirement Institute's Legacy Essentials program offers a wealth of resources that can help you develop your empathy skills and put them into action. Engaging clients while helping them plan their legacy will allow you to expand your sphere of influence while both protecting and growing your business.

For more information on this topic, visit **NationwideFinancial.com/Legacy-Essentials**.

Other resources that may be of interest

Housings options: Aging at home

May be shared with clients. Considerations for those who want to live at home as long as possible.

Preparing for an effective LTC conversation with clients

For financial professionals. The right approach can produce better results.

The challenges of dealing with elder care and long-term care conversations

May be shared with clients. The discussions families can't afford to postpone.

Legacy planning checklist

May be shared with clients. A guide to estate planning considerations and steps.

[1] https://www.alz.org/alzheimers-dementia/what-is-alzheimers

[2] https://www.alz.org/help-support/caregiving/financial-legal-planning/planning-ahead-for-legal-matters

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