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## OFFICE LOCATIONS

Multiple office locations for your convenience.

### Virginia Beach (Main Office)

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### Norfolk Office

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### Suffolk Office

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### Newport News Office

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## FREE WEBINAR/SEMINAR SCHEDULE PLAN NOW TO PROTECT YOUR LOVED ONES

If you're a homeowner over age 50... Protect Yourself and Your Loved Ones from Losing Your Hard-Earned Assets to the Government, Attorneys, The IRS, and In-Laws!!

### LEARN HOW A PROPERLY DRAFTED AND MAINTAINED LIVING TRUST ESTATE PLAN CAN:

- Protect your family from losing their inheritance to greedy in-laws, divorce, lawsuits, creditors, and government claims!
- Help protect you and your family from being wiped out by nursing care bills
- Protect your valuable IRAs (and retirement plans) so they may later provide much-needed retirement income for your loved ones
- Alternative ways to plan for long-term care, other than Medicaid
- Why Wills don't protect assets from nursing home costs and how certain trusts can provide powerful asset protection

*If you cannot join us for a seminar, please call our office at (757) 280-1808 to request your free copy of "Don't Go Broke in a Nursing Home"*

ONLINE  
WEBINAR

THURSDAY,  
**April 7th**  
at 10:00 a.m.

IN-PERSON SEMINAR  
at Virginia Beach Central Library

TUESDAY,  
**April 19th**  
at 2:00 p.m.

ONLINE  
WEBINAR

THURSDAY,  
**April 28th**  
at 2:00 p.m.

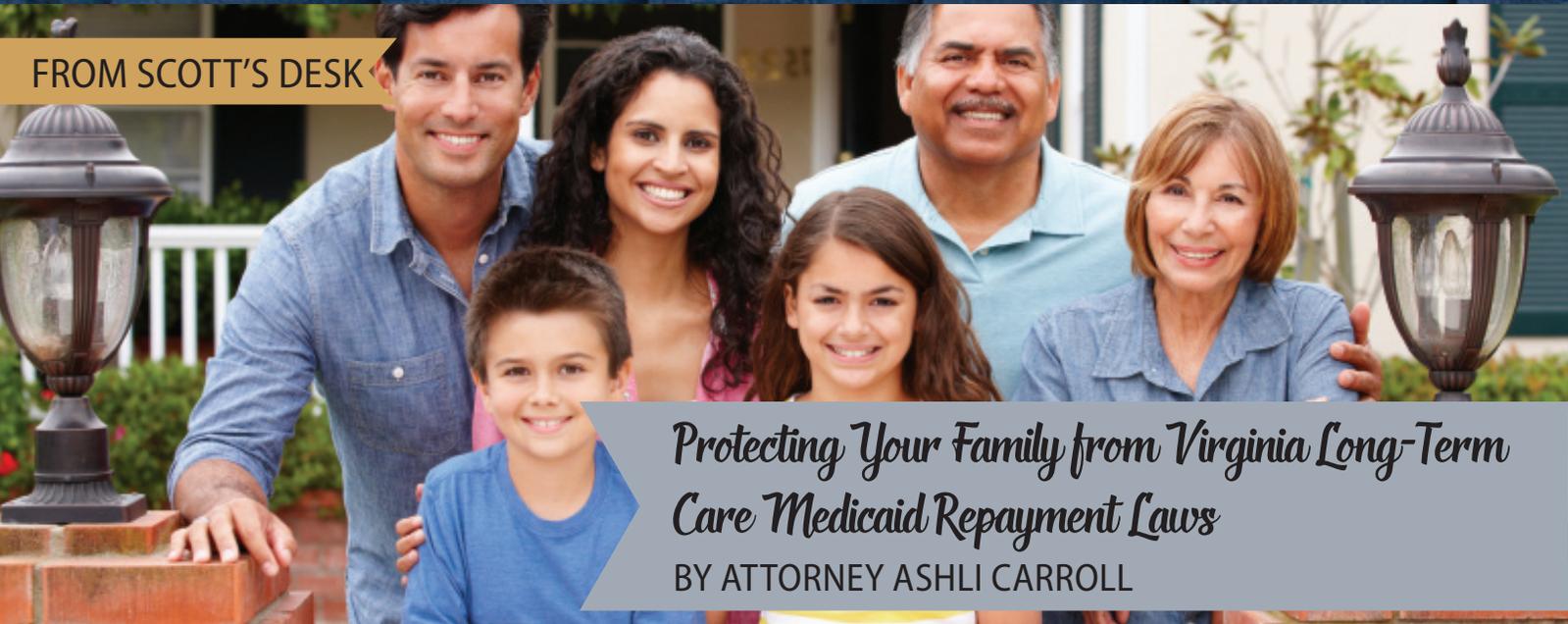


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# Your Alperin Law Monthly Newsletter

FROM SCOTT'S DESK



## Protecting Your Family from Virginia Long-Term Care Medicaid Repayment Laws

BY ATTORNEY ASHLI CARROLL

Families often believe that once a loved one is eligible and a recipient of long-term Medicaid that the remaining family assets are protected. This is not entirely true due to various Federal and state Medicaid repayment laws. In 1993, the Omnibus Budget Reconciliation Act was enacted, and it required all states to implement a Medicaid Estate Recovery program (MER) and to seek reimbursement of long-term care costs for persons who are 55 years of age or older. Long-term care expenses include but are not limited to nursing home care, home and community-based services to prevent premature residence in the nursing home facility, and hospital/prescription drug costs. MER rules allow Medicaid to seek reimbursement for long term care expenses through the Medicaid beneficiary's probate estate. Probate matters are those strictly in the deceased Medicaid beneficiary's name only or property held as tenants in common where the deceased Medicaid beneficiary's interest does not automatically transfer to the other owner. While all states allow Medicaid to seek reimbursement for costs

through a decedent's probate estate, some states also allow Medicaid to go after the deceased Medicaid beneficiary's non-probate assets.

The Expanded Estate Recovery program (EER) is an optional program that states may adopt that will allow Medicaid to seek reimbursement for long-term care expenses through the deceased Medicaid beneficiary's non-probate assets. Assets that do not go through probate are typically assets jointly held other than by tenants in common, life estates, and assets in a living trust. Virginia is an EER state, and as such, Virginians are subject to (EER) payback provisions.

Consider the following common scenario: Mom is a resident of a local nursing home and is a Medicaid beneficiary. All of Mom's interest in the home is transferred into Dad's name alone under the Medicaid spousal transfer rules. Dad is now in the nursing home too. Without careful planning, Dad's Medicaid eligibility could be in danger if the children hastily decide to sell the home to remove it from Dad's estate. If the children

sell the home, a portion of the proceeds from the sale will go to Dad, and this will adversely impact his Medicaid eligibility causing him to become disqualified for many months. Dad's disqualification will force the children to pay out of pocket for his care until he becomes Medicaid-eligible again. If Dad's interest is a life estate interest, then selling the home will also cause adverse tax consequences for the children. If the children sell the house as remaindermen of Dad's life estate interest, then they are going to be subject to the capital gains tax because they did not reside in the home and are considered remaindermen of Dad's interest. They will not receive the capital gains tax exclusion, thus creating a large tax bill for the children. Finally, in Virginia, anything in Dad's probate estate and non-probate estate could become subject to Virginia's EER rules, leaving the children less of an inheritance, if any at all.

If you or a loved one are considering long-term care planning, contact our office to meet with our Elder Law attorneys to protect your home and estate from Virginia Medicaid's Expanded Estate Recovery.

# Creating a Long-Term Care Plan for a Family Member with Dementia



Dementia is a progressive illness that will cause a steady and irreversible cognitive decline. If your family member has recently been diagnosed with dementia, it's important to act now to create a long-term care plan. Early planning eliminates guesswork by letting your loved one express their wishes while they are still able to do so.

## **Evaluating Long-Term Care Options**

An elder law attorney can help you understand the available options for long-term care and connect you with the appropriate community-based resources for home health care, assisted living, nursing home care, and/or hospice care. Since the cost of care is likely to be an important consideration, your attorney can advise you on Medicaid planning options that will let your loved one qualify for benefits while preserving assets for a spouse remaining home.

Your attorney can also provide assistance applying for other

applicable benefits to pay for the cost of care. For example, veterans and widowed spouses of veterans who have never remarried may be eligible for VA Aid & Attendance benefits.

## **Power of Attorney**

Power of attorney documents give someone the authority to step in once your loved one is no longer able to make decisions on their own behalf. This person is often referred to as an agent or a proxy.

There are two types of power of attorney documents that will need to be included in your loved one's care plan:

### **Power of attorney for finances**

This provides the authority to handle financial matters such as accepting payments, paying bills, filing taxes, and managing investments.

### **Medical power of attorney**

This provides the authority to make decisions regarding medical treatment

in accordance with your loved one's living will.

Power of attorney documents most often name a spouse or adult child to act as a person's agent, but anyone over 18 is eligible to serve in this role. An alternate individual should be named in case the first choice is unable or unwilling to serve when needed.

When power of attorney documents are prepared while a person with dementia can still participate in the decision-making process, this avoids the need to have the court appoint a guardian.

## **Do You Need to Speak With an Elder Law Attorney?**

If you need to speak with an experienced elder law attorney, please contact us online, or call us to schedule your free consultation. We have offices throughout Virginia, including Chesapeake, Newport News, Norfolk, and Suffolk.

## Recipe:

# Spinach and Three-Cheese Stuffed Shells



## INGREDIENTS

- 2 tablespoons extra-virgin olive oil
- 1 pound ground spicy Italian sausage
- Two 28-ounce cans crushed tomatoes
- 1 red bell pepper, seeded and sliced
- 2 teaspoons dried oregano
- ½ teaspoon crushed red-pepper flakes, plus more as needed
- Kosher salt and freshly ground pepper
- One 8-ounce bag frozen chopped spinach, thawed and squeezed dry

- One 1-pound box jumbo pasta shells
- 16 ounces whole-milk ricotta cheese
- 2 cups shredded Gouda cheese
- 1 cup fresh basil leaves, chopped, plus more for serving
- 8 ounces fresh mozzarella cheese, torn

## DIRECTIONS

1. Preheat the oven to 350°F. Heat the olive oil in a large oven-safe skillet over medium-high heat. When the oil shimmers, add the sausage and cook, breaking it up with a wooden spoon, until

browned, 5 to 8 minutes. Reduce the heat to low and add the crushed tomatoes, bell pepper, oregano, red-pepper flakes and a pinch each of salt and pepper. Simmer until the sauce thickens slightly, 10 to 15 minutes. Stir in the spinach. Taste and add more salt, pepper and red-pepper flakes.

2. Meanwhile, bring a large saucepan of salted water to a boil over high heat. Add the shells and cook according to the package directions, until al dente. Drain well.
3. In a medium bowl, combine the ricotta, Gouda and basil. Transfer the mixture to a gallon-size zip-top bag. Push the mixture into one corner of the bag, squeeze the air out of the top of the bag, and snip about ½ inch off that corner.
4. Working with one at a time, pipe about 1 tablespoon of the cheese mixture into each shell, then place them in the skillet. Sprinkle the shells evenly with mozzarella.
5. Transfer the skillet to the oven and bake until the cheese has melted and is lightly browning on top, 25 to 30 minutes. Let cool for 5 minutes, then top with fresh basil to serve.

\*If you're feeding a vegetarian crowd or just prefer to go meatless, you can omit the sausage and simply add more crushed red-pepper flakes to taste.