



Elder Law Advisor

Planning for Second Marriages Later in Life

Valentine’s Day falls in February, so this month I wanted to write about love and marriage. With people living longer these days, it’s quite common for people to fall in love and get married later in life. A marriage in one’s 60’s, 70’s, or 80’s is a little different than a first marriage in one’s 20’s. Those twenty-somethings probably do not have much in the way of assets, and they’re certainly not worried about long-term care expenses. They also do not have to worry about how well kids from prior marriages will get along. All of these issues are important in a second marriage.

Many couples who get married late in life understand that they will share the ordinary expenses of life. They usually do not intend that a healthier spouse will have to spend his or her assets to pay for the long-term care of an ill spouse. It is quite a shock for many older people to learn that, if one spouse needs long-term care, the assets of both spouses are considered available to pay for that care. With long-term care costs averaging over \$7,000 per month, careful advance planning is necessary to avoid impoverishing both spouses. To get the best result, this planning should be done as much as five years in advance of one spouse needing long-term care.

Another issue in second marriages involves estate planning. Did you know that under Oregon law, marriage revokes an existing will? Many people get married and do not know they need to update their will. In most second marriages, the parties have a pretty clear idea of how they want their property distributed after they pass away. But if you do not get into the lawyer’s office after getting married and do a new will, you won’t decide where your property goes. The State of Oregon will decide for you. So it’s critical to see an experienced elder law or estate planning attorney to update your will immediately after getting married.

A prenuptial agreement is a valuable tool for second marriages later in life. In a prenuptial agreement, the parties to the marriage can spell out their agreement about how property will be managed, how bills will be paid, and whose funds will be used to pay for long-term care costs. It can also be used to define the inheritance rights of each spouse and of children from prior marriages. Children from prior marriages are greatly reassured to know that their parents are thoughtfully considering these issues.

As in all matters related to aging, people in second marriages who plan ahead get a much better result in times of crisis. Ideally this planning is done prior to the marriage. If you are already married, updating your wills and planning for long-term care costs should be done right away. The greatest risk is impoverishment of both spouses due to long-term care costs, which can be avoided by careful advanced planning with an experienced elder law attorney.

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