

“LONG-TERM CARE MEDICAL – A SAFETY NET FOR COST AND MARRIAGE”

By Mitchell A. Karasov, Esq.

Question: I recently read an article in a national senior publication advising married couples to split their money and get divorced if one of them becomes in need of long-term care. The article highlighted one couple that was forced into divorce when the husband was diagnosed with early dementia and had to be placed in a nursing home. They had been married for almost 40 years, were only in their 60s, and the wife was relatively healthy. By divorcing, they each received a half of their estate, and then once the husband’s share was exhausted by paying the nursing home bills, Medicaid stepped in to cover the payment of his medical bills while her half was protected.



This story stirred me because my husband and I are going through a similar situation. He has also been diagnosed with early dementia but is still at home with me and a part-time caregiver. For me, it would not only be terribly upsetting to end our marriage, it would be unfair financially being as that I retired early to take care of him, and have been spending “our” money on his care. Please tell me there is another way for us to pay for my husband’s care without our having to divide our money and file for divorce.

Answer: Besides your emotional well-being, there are also many other reasons that would make opting for a divorce your worst option. Not only would you be cutting off any potential

right to pensions, inheritance, or insurance claims, you could also be giving up your spousal priority and right to make health care decisions for your husband, increasing your legal fees, and may even wind up having to pay for his support anyway. Please trust me – I have seen my share of real horror stories when couples have gone the divorce route.

As I’m sure is clear to everyone, there are numerous public policy reasons why we as a society would never want to encourage happily married couples to divorce purely for financial reasons. Unfortunately, the majority of people think that they must be poor, or have spent every last penny before the government will help in situations such as yours. I hope you will find solace in the knowing that nothing could be farther from reality. In California, the Long-Term Care (LTC) Medi-Cal program has a particular component designed to act as a cost safety net for nursing home care for folks in your situations.

This program makes divorce unnecessary. With proper LTC Medi-Cal planning from an experienced elder law attorney, you can retain a significant amount of the funds and properties you and your husband acquired together. Once eligible, the program pays for all, or a good portion, of nursing home care, that is currently at an average rate of \$5,600 per month.

By allowing married couples to tap into this safety net, the LTC program empowers families to utilize their financial resources to pay for care at home, in an assisted living facility, or in a board and care. Opting for these care options early has shown to minimize nursing home stays, or avoid them all together. Pre-eligibility LTC Medi-Cal planning enlightens couples as to how to use their financial resources in the interim to avoid transactions which could render someone ineligible, and also helps to maximize the amount of the assets that can be protected.

With all the possible twists and turns in your situation, I would strongly recommend that you retain an elder law attorney with a proven track record to guide you. I wish you both the best of luck.☐