

# A STEP AHEAD

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## ~EPIC~ PRESCRIPTION DRUGS FOR SENIORS

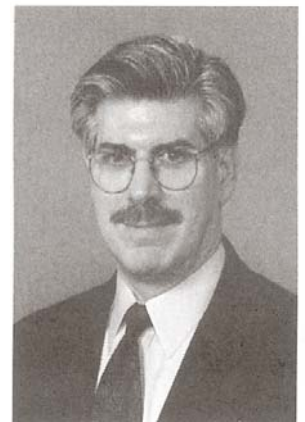
### New York State's Prescription Drug Plan for Seniors

In our last newsletter we featured an article on the new Medicare prescription drug program. Another prescription program is available to seniors in New York State. **EPIC**, the *Elderly Pharmaceutical Insurance Coverage* program is a State sponsored prescription plan for senior citizens who need help paying for prescription drugs. It is available to residents who are 65 years of age or older and have an annual income of \$35,000 or less if single, \$50,000 or less if married. Seniors who receive full Medi-

caid benefits or have other prescription coverage that is superior to the benefits provided by EPIC will not be eligible for EPIC benefits.

There are two different plans available depending upon income. Single seniors with income of up to \$20,000 and married seniors with income of up to \$26,000 are eligible for the "Fee Plan." In the Fee Plan, the annual enrollment fee is calculated on a sliding scale determined by the income earned. For example, single or married seniors earning under \$6,000 per year pay \$8 per year to enroll.

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## WILLS DO NOT AVOID PROBATE

We are frequently asked whether having a will avoids probate. Actually, the opposite is true. If a will is the foundation of your estate plan, a probate proceed-

ing is guaranteed to retitle the assets you own in your name. For purposes of illustration, consider a home. Would you pay a stranger hundreds of thousands of

dollars for a home that belonged to someone who had passed away without some proof that the seller was authorized to sell it? Of course not.

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## WILLS DO NOT AVOID PROBATE

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The document that establishes the authority to sell the property is called Letters Testamentary and is issued by the Surrogate's Court during a probate proceeding. If there was no will, the document issued by the Surrogate's Court to evidence the seller's authority to sell the property is called Letters of Administration and is issued during what is referred to as an administration proceeding.

Apart from the cost and delay associated with this probate or administration proceeding, the public nature of the proceeding is often of concern. Everything contained in the Court's file, including the names and addresses of your closest family members

and beneficiaries and a listing of your assets and their values, is accessible to the general public. It can be used to contact your family members for solicitations regarding estate property and, sometimes, for other reasons.

The decision as to whether a will, a trust or another method of disposing of assets after death will be the best alternative can only be determined after an evaluation by an experienced and qualified attorney. All too often we have seen estate plans created by well-meaning but unqualified attorneys, or even, in a do-it-yourself fashion, by the decedent without the benefit of professional guidance, with disastrous results. We also

frequently redo out-of-date estate plans that will otherwise cost the beneficiaries tens of thousands of dollars, or more, in taxes and other unnecessary fees and expenses. After one has spent a lifetime accumulating assets, it is discouraging and unfortunate for large sums to be lost because a qualified professional was not consulted. Do not let this happen to you!! We offer a complementary review of our clients' estate plans every three years. For our friends with whom we have not yet consulted, we are available to review your strategies to make sure they correctly reflect your current wishes at a nominal fee.

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## THE ABCs OF GUARDIANSHIP

*Continued from page 4*

without an appropriate power of attorney and health care proxy, important financial or healthcare decisions may be delayed on behalf of the allegedly incapacitated person. During this time, no Medicaid planning can be implemented on his or her behalf. We have seen un-

contested guardianships take as long as ten months to resolve because of Court delays. This kind of a delay could cost a family over one hundred thousand dollars because of the inability to implement Medicaid planning during the pendency of the guardianship proceeding.

These are just some of the reasons we strongly encourage all of our clients to have a power of attorney, health care proxy and living will. This not only guarantees the retention of control over these important decisions, but also allows for the expression of intentions that reduce family stress and dissension.

## ~ YOUR HEALTH CARE PROXY ~ MAKE IT WORK HARDER FOR YOU

Signing your health care proxy is just the beginning. Don't stop there if you want it to protect you to the fullest.

First, speak to the person whom you have selected to serve as your agent and successor agent. Tell them that you have appointed them to this important role. Describe the circumstances under which they will be required to act on your behalf and explain the decisions that you will want them to make. Let them read the document. Make

sure they have no misgivings about the decisions they may be required to make.

Next, give a copy of the document to your primary care physician and other health care providers. If you are scheduled for a medical procedure, bring a copy with you.

Finally, don't fill out a new health care proxy unless you want to revoke the old one. If an emergency arises and you are taken to the hospital, explain that you have a valid

health care proxy at home and that arrangements will be made to supply it soon. Ask a friend or family member to bring a copy. Call your attorney and ask that it be sent by facsimile. Do not let the emergency room or admitting staff convince you to complete a new document. Documents that are completed in the hospital setting, under pressure, when you are awaiting treatment, are not the product of thoughtful planning and do not necessarily reflect your wishes.

## PRESCRIPTION DRUG PLAN

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At the top range, singles earning \$19,001 to \$20,000 pay \$230 annually and married seniors earning \$25,001 to \$26,000 pay \$300 annually.

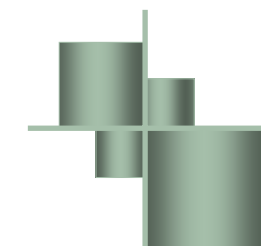
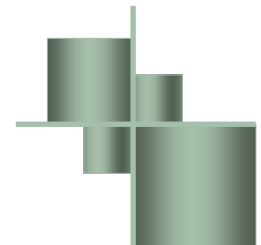
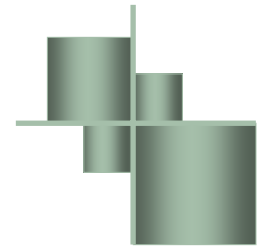
Those who do not qualify for the Fee Plan, singles earning between \$20,001 and \$35,000 and married seniors earning between \$26,001 and \$50,000, are eligible for the "Deductible Plan." There is no fee to join the Deductible Plan. Instead, seniors pay the full cost of their prescriptions until the deductible is met. The

deductibles range from \$530 to \$1,230 per year for single seniors and from \$650 to \$1,715 for married seniors. Seniors on this plan need not maintain records or provide receipts to demonstrate the satisfaction of the deductible. This information is automatically tracked by EPIC.

Seniors in the Fee Plan and seniors in the Deductible Plan who have met their deductible, pay a co-payment on the prescriptions they purchase. The co-payments depend on the price of the particular prescription

and range from \$3, for prescriptions under \$15, to \$20, for prescriptions costing \$55 and higher.

Virtually all prescription medicines are covered under the EPIC program. Insulin, and insulin syringes and needles are covered, as well. It is important to note that no distinction is made between brand name and generic drugs. However, there is a limit to the number of tablets that can be purchased at any one time. Enrollees can purchase up to 100 tablets or a 30-day supply at a time.



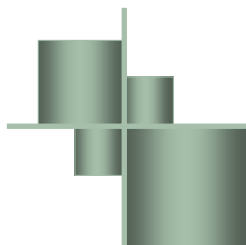
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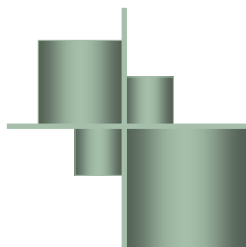
## We Practice Preventative Law !

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### **B&D..IN THE NEWS**

Berwitz & DiTata LLP now publish a monthly column entitled “*A Senior Brief*” in two well respected Bar journals: The Attorney of Nassau County and the Queens County Bar Bulletin.



### **B&D..ON THE ROAD**

Berwitz & DiTata LLP will be conducting a seminar at the offices of the “North Shore Financial Group” in Hauppauge, N.Y.

## GUARDIANSHIP THE ABCs

A guardianship proceeding seeks a Court determination as to whether an individual is “incapacitated”, meaning whether he or she is incapable of caring for financial and/or personal needs and, if so, to appoint a guardian to act on behalf of the individual. Not only is it costly, the time delay can result in significant financial and personal loss.

You can expect a guardianship proceeding to cost thousands of dol-

lars including filing fees and attorney fees, the doctor's fee for evaluating the allegedly incapacitated person and the fees of the Court Evaluator, who is appointed by the Court to investigate and advise it as to whether a guardian is required and who will be best suited to serve in that capacity.

It is not unusual for the entire proceeding to take months to complete. During this time,

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