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Completing Nursing Home Admissions Paperwork Can Be Challenging

Amanda L. Smith, Esq.

Admitting a loved one to a nursing home can be difficult—even traumatic for family members. As elder law attorneys, our job is to streamline the process and assist the families during this emotional, challenging time. One of the most common questions we get from family members concerns the nursing home admissions paperwork. Unsuspecting, well-meaning relatives can sign on the dotted line without truly understanding the liability they may be undertaking.

Federal Medicaid law prohibits nursing homes from requiring third-party guarantees as a condition of admission. Specifically, 42 CFR 483.15(a)(3) states:

The facility must not request or require a third party guarantee of payment to the facility as a condition of admission or expedited admission, or continued stay in the facility. However, the facility may request and require a resident representative who has legal access to a resident's income or resources available to pay for facility care to sign a contract, without incurring personal financial liability, to provide facility payment from the resident's income or resources.

All too often we come across nursing home contracts including this illegal third-party guarantee language or some type of co-guarantor signature requirement. A recent case in New Jersey highlights this exact scenario. Tracey Mitchell signed her father's nursing home admissions paperwork as "Tracey Mitchell, daughter." Years later, the nursing home sued her personally for \$49,000 in unpaid expenses. The contract she signed included the improper third-party guarantee language—the exact language prohibited by 42 CFR 483.15(a)(3). The court ruled in Ms. Mitchell's favor but not before she incurred several thousands of dollars in legal fees and spent countless hours worrying about a liability that should have never been an issue.

When counseling your clients on how to sign the nursing home admissions paperwork, you should take extra care that they only sign in their capacity as agent or representative for their loved one and not assume personal liability. In fact, you may even strike through certain provisions in the agreement. Don't be shy about communicating your concerns with a facility's applications paperwork directly with the management or directors of the nursing home.



Practice With Purpose, June 4-6, 2018

Briana Moriarty



The smell of chocolate was everywhere and the Hershey miniatures were readily available to every attendee of our Practice with Purpose in the sweetest place on Earth, Hershey, Pennsylvania.

The LWP staff was excited to welcome both new and existing members. The 3-day program provided our newest members an in-depth training on everything LWP and gave our returning members the refresher they were looking for.



Day 1 was everything Medicaid taught by Tim Crisafulli and Matt Donald, both practicing attorneys using LWP systems and process every day in their offices. Attendees had breakthroughs on how beneficial the LWP- CCS Med-Qual software can help bring their practices to a whole new level.

Day 2 focused on mastering client attraction and retention, and the attendees were blown away by the communication and social styles training. The afternoon of Day 2 walked our attendees through working with allied professionals, how the workshops help educate prospects, and create relationships with professionals and clients.

The members socialized Tuesday night during the members meet and greet reception, members got to know each other outside of the classroom and network. Laughing and sharing tips and tricks around the outdoor fireplace was a blast!

Day 3 dug deep into Trust Law and Design and the attendees were able to use the LWP-CCS to draft legal documents for a sample couple. The members enjoyed the highly legal technical day and finished up the day learning how to use the LWP planning system to help them implement everything they learned in the jam-packed 3-day session.

If you're reading this and thinking "Oh, man I missed out!"

No need to worry we are hosting our next Practice with Purpose Program, along with our **Twice Annual Practice Enhancement Retreat in October in beautiful Syracuse, New York.**

LWP is bringing it back to where it all began, and registration is now open.

We look forward to seeing you all there!

Retreat.lawyerswithpurpose.com

Lawyers With Purpose would like to recognize Greg Jimeno as MAY 2018 Member of the Month



What is the greatest success you've had since joining LWP?

Our greatest success has been the launching of our new business, Chesapeake Wills and Trusts. Our firm had focused on litigation for the past 15 years and we finally decided to expand the array of services we were able to offer the members of our community and our existing clients. This has been a very exciting and rewarding expansion of our business.

What is your favorite LWP tool?

My favorite LWP tool has been the education and training offered. From the Practice with Purpose we attended to the vast resources offered on the LWP website, LWP has provided us with everything we need to be successful.

How has being part of LWP impacted your team and your practice?

There is a sense of community within LWP and you feel that everyone is rooting for you to be successful.

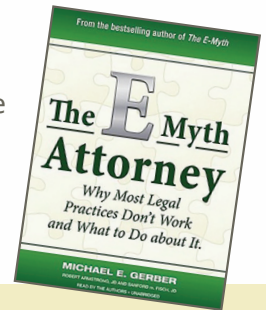
Phil and Candace have been great resources for us and we look forward to our calls with them. Amanda has been available to answer legal/technical questions when they arise and Ryan and Briana have helped our office staff make a successful transition to elder law. In addition, other, more experienced members have graciously opened their offices and workshops to us so that we can learn from their operations.

Share something about yourself that most people don't know about you.

Most people don't know that my first job when I was in high school was dressing up as Chuck E. Cheese. It was the best job I ever had (other than estate planning, of course!). I get to tell people that I was a rat long before I was a lawyer!

What is your favorite book and how did it impact your life?

The E-Myth Attorney is my favorite book. That book changed my outlook on the practice of law and has made me a better lawyer and better at running the practice.



Congratulations to you on your continued success!

Save ^{THE} Date

October 15-19, 2018
Marriott Syracuse Downtown
315-474-2424

TAPER

Twice-Annual Practice Enhancement Retreat

SYRACUSE, NY



Retreat.lawyerswithpurpose.com

"I don't have enough time."

*"My calendar is completely full with client meetings,
I don't have time to get the work done."*

"I spend my evenings and weekends drafting."

Time blocking and the use of a standard time template can help anyone overcome the obstacles mentioned above. In this article, we will discuss 3 tips on how to effectively take control of your calendar and have a more productive week.

1. Standard meeting times. Far too often we try to be as accommodating as possible to our clients so they 'feel' as if they are the most important client we have. By creating standard meeting times however, you remain in control of your calendar. Instead of asking the client, "What time works best for you?" offer them 1 or 2 of your available standard meeting times. Not only does this allow you to see what else you have going on during that week for cash flow purposes, but it also gives you time to plan on the work you need to do prior to that client meeting.

To have consistent and easy to manage times, we suggest 3 or 4 one and a half hour meetings each day for three days out of the week. Members have found meetings at 8:30am, 10:30am, 1:30pm, and 3:30pm are easy to remember and allow for a short break for a mental reset or for the team to have 'scheduled interruptions also known as Got-A-Minutes.'

2. Production and development time. Both production and development time are essential in helping us operate and grow our business. However, when we have 'pants on fire' clients banging down our doors, those two things are the first to go. If you schedule work in, you must schedule work out. We suggest blocking a full day for production time as well as development time to ensure we are able to complete the commitments we have made as well as determine what we need to do to move the business forward.

"Are you saying don't take ANY client meetings 2 full days out of a 5-day work week?"

Yes, that's exactly what I mean! If you are having 4 clients meetings a day, each of them blocked off for an hour and a half - when will you get the work done? During the evenings and on the weekends? Smashed into your lunch hour or scrambling right before a client walks in the door? Not only is that stressful for you and your team, but that's when mistakes are made. Dedicating one day to production and another day to development lessens the panic of 'when do I get the work done on and in the business' and helps you remain in control of your time.

3. Give and take. As we are all aware, there is always an exception to the rule. It's a Monday and we don't usually take client meetings, but the client services coordinator has a true crisis situation on the phone. Having a standard 'emergency' meeting scheduled into your time template allows for you and your team to easily schedule those types of clients in without causing a huge disruption to the schedule. Bear in mind, this emergency time is NOT a standard and offered meeting time. It is used solely for those crisis situations because we don't want to allow the exception to become the rule.

This is where the give and take comes into play. We have lost that production time and need to find some place during the week to make it up. Think about when you are most productive, for some that is earlier in the day before they meet with clients where others feel they are more productive in the late afternoon. Determine your preference and fill an available meeting time with the production time you've lost.

"How about I just take some time on my development day to make it up?"

The concept here is give and take. You gave away production time for meeting time therefore that's where you need to be 'swapping time.' No one would replace production time with development time, so why would you choose to lose the time you have devoted to working on your business? You shouldn't. I often suggest having 2 tentative 'emergency meetings' blocked late on Monday and an earlier time on Friday. This way if mornings or afternoons work better, you can still accommodate your client.

In summary, a properly executed time template helps you remain in control of your calendar, gives your clients an ample amount of available meeting time including tentative times for emergency issues. You should no longer worry about when you will have time to get the work done not just within your business to meet and exceed your client's expectations, but you also have devoted time to focus on how to keep your business growing and moving in the right direction, forward.