



By: Leonard L. Shober,  
Esquire, Shober & Rock

Every now and then, I'm reminded about an essential element of our elder law practice. It's easy to get lost in the technical work and forget that our past experience with families is just as valuable. Families not only need legal advice; they need reassurance that their problems are not unique to them.

Many clients come to me believing their story is unusual and that it may be too difficult to address. They feel they somehow failed, and that's why their loved one needs a nursing home. A *Time Magazine* story from 2010 ("When Elder Care Brings Back Sibling Tensions") was a reminder of the difficulties faced by such families. It concerned the author's failed attempts to assist her sibling in caring for an ailing parent. Most of her frustrations are things we see every day.

I recently talked with a daughter who felt the need to call and tell me that her elderly mother's weight loss wasn't her fault or her sister's fault. She explained that, while she lived in another state, she kept in constant contact with her sister and ailing mother. Her sister, who had nine children, lived locally and took care of her children and her mother. Her mother lived alone with the assistance of the sister and a paid caregiver.

Despite this support, mom had the invariable problems that illness and aging bring. There were minor injuries and a few ambulance calls. A "helpful" neighbor was worried and, rather than

*Leonard Shober is a partner in Shober & Rock, an elder law, tax and estate planning firm that focuses on the legal needs of the elderly and disabled. Len attended Temple University School of Law and graduated in 1986 with honors. Prior to law school, Len was a social worker and family counselor, a background that has greatly assisted his work with the elderly and families in crisis.*

## The Price

talking to the daughters, reported the case to the Area Agency on Aging ("AAA"). Although AAA found no wrongdoing, the representative suggested that the family get more help. AAA thought the aide might not have the skills to keep up with mom's deteriorating condition. To give the daughters time to seek a new caregiver, mom was admitted to a respite facility.

During the interview for respite care, an admissions worker asked them questions about their mother. "How did the injuries occur?" "Did you supervise the caretaker?" "Didn't you notice your mother's frailness?" A social worker who talked to mom thought she should be in a nursing home. She implied that the sisters could be liable if mom was injured at

home. The daughters called me in desperation. What can we do? We have a Power of Attorney. Mom wants to be home. Can we take her home? Are we in trouble? Can we really be held liable for this?

I gave them the advice I often give: "Believe it or not, this is pretty normal, and we see it all the time." The facility is protecting itself from liability. If there's any question about returning home, a facility will err on the side of caution and discourage that. This suggestion from a facility is very difficult for a family to interpret. Once third parties are involved, it can all get very complicated and very scary.

The care of an aging parent is difficult if not impossible. Many people will start second-guessing when

something goes wrong. I tell people that the kids or caregivers who come to my office always have good intentions. Every one of them feels the need to explain that they don't care about money. They care about their parent. They all are conflicted about intervening. They want mom to have her dignity and her independence. They do not want to lose mom or dad or their family. There is often a caregiver child living with mom or dad or near their home and there are often kids who move away. Arthur Miller, in his play of the same name, suggests that each pays a "price."

I remind our caretakers that this may be the most difficult family event they'll ever face. I tell them that it's faced by most families. If I'm speaking to the one who stayed, I tell him or

her not to assume that a sibling who is far away doesn't care. I tell them about our experiences with caretakers who are far from home. We see conflict and guilt and therefore a certain level of defensiveness in discussions about care. A casual question from an interviewer from AAA becomes an accusation. A nursing home application becomes an admission of failure. I tell them this is normal; it happens all the time.

Money is the most volatile topic. I sometimes joke that I am going to hang a sign in my office that says "I know you're not doing it for the money."

There is no road map, but the children who take the time to seek our counsel are showing they want to understand what's needed and what's proper. The kids who abuse their parents and run off with their money never come to our office. We've seen hundreds of families. We've seen many in tough circumstances and try to help by telling them what other families have done. We often know when a course of action will actually hurt rather than help a situation.

I often tell new clients they can relax. That's what I told the sisters. You're doing the right thing. It's not easy. Don't be defensive. Work together. Keep communication open. Let everyone know what's happening. Surprises aren't good. There will be problems. You'll be questioned. You know your mom and are trying to do what's best for her. It's normal. Relax. It's the price we pay for being in a family.

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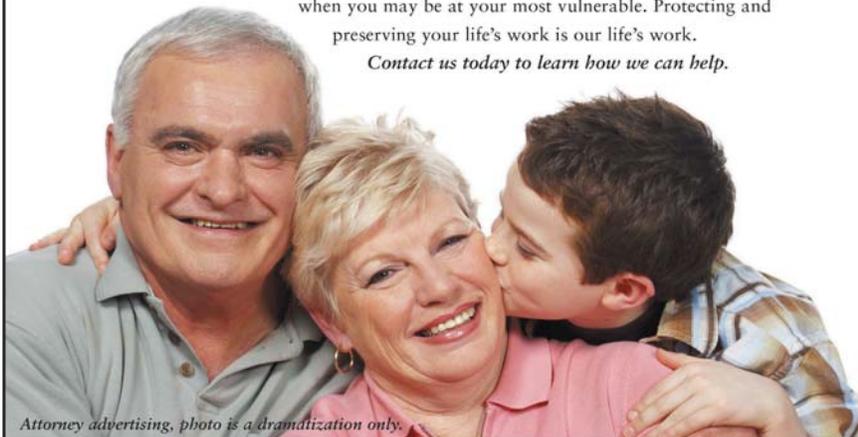
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