

Dementia Capable Webinar Series Post Test Answers:

“Legal Issues for People Living with Dementia and Their Caregivers” presented by
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Provided by the *Rosalynn Carter Institute for Caregiving*
In partnership with the *Georgia Division of Aging Services*

Multiple Choice

1. An “Agent” under a Power of Attorney for financial affairs should:
 - a. Be more careful with their “Principal’s” money than they are with their own money
 - b. Not make gifts of the Principal’s money
 - c. Not commingle the Principal’s money with their own money
 - d. All of the above**

Explanation: An Agent under a Power of Attorney is a “fiduciary.” This means they have a duty of the highest order to their “Principal: the person who delegated authority to them.

2. Which of the following statements is false?
 - a. The Uniform Power of Attorney Act requires a power of attorney to be signed in the presence of at least one witness
 - b. The Uniform Power of Attorney Act requires a power of attorney to be notarized
 - c. The Uniform Power of Attorney Act requires the person signing the power of attorney (the “Principal”), the witness, and the notary to all sign the power of attorney in the presence of each other
 - d. The Uniform Power of Attorney Act requires you to sign the form provided in the Official Code of Georgia. No other form of power of attorney will be accepted by a financial institution**

Explanation: Any power of attorney of attorney signed with the formalities required by the Uniform Power of Attorney Act is considered a valid statutory power of attorney. If a financial institution refuses to accept the power of attorney you can get an attorney’s opinion regarding the whether the power of attorney is valid under the law.

3. Medicare will **not** pay for the following care:
- a. Skilled Nursing or Skilled Rehabilitation services in a Skilled Nursing Facility for up to 100 days
 - b. Dialysis
 - c. **Long term custodial care in a skilled nursing facility for a person who needs help with bathing, eating, dressing, transferring or toileting**
 - d. Chemotherapy

Explanation: Medicare only pays for “acute” care. Under Part A this includes up to 100 days of skilled care in a skilled nursing facility. Medicare does not pay for custodial care. You have to qualify for Medicaid if you do not have the money or long term care insurance to pay for custodial care.

4. Which of the following is **not** a countable resource?
- a. Money in a checking account
 - b. The cash value of a life insurance policy that will pay \$25,000 upon death
 - c. **A Retirement Fund consisting of a \$250,000 Individual Retirement Account owned by the “Community Spouse”**
 - d. Money in an annuity that has not been annuitized

Explanation: An IRA owned by the Community Spouse is an exempt resource which means it is not counted as part of “countable resources” when applying for Medicaid.

5. Which of the following is true?
- a. A Family Caregiver Agreement does not have to be in writing
 - b. An Agent for the person needing care can sign the Family Caregiver Agreement both for themselves as the Care Provider and their Principal as the Care Recipient
 - c. A lump sum Family Caregiver Agreement is valid in Georgia
 - d. **The family caregiver must pay income tax on the money they are paid by the Care Recipient for providing care**

Explanation: Just like money paid to any other caregiver, the family caregiver must pay income tax on the money they are paid for providing care.

6. Which of the following are legal crisis Medicaid Planning Strategies?
- a. Transferring excess property to a trust for a disabled child
 - b. Transferring the home place to the spouse
 - c. Converting excess countable resources to an income stream through the use of a Medicaid Compliant Promissory Note
 - d. **All of the above**

Explanation: Even in a crisis situation, with proper planning, assets can be protected.

7. Which of the following is true?
- a. Qualifying and applying for Medicaid is simple and I should just listen to what they tell me at the Nursing Home
 - b. If I want help I should meet with a lawyer who is a general practitioner who does not specialize in Elder Law
 - c. I shouldn't think about making changes to my will when my loved one has been diagnosed with dementia
 - d. **None of the above**

Explanation: It is bad enough to be faced with caring for a loved one with dementia. Seek guidance from an experienced professional who specializes in Elder Law.

True or False

8. Filing a Petition for Guardianship and/or Conservatorship is less time consuming, causes less stress, and is cheaper than preparing Advanced Directives giving another person authority to make financial and/or health care decisions for you if you lose the ability to make decisions for yourself.

False

Explanation: A Petition for Guardianship and/or Conservatorship requires the filing of a Petition with the probate court where the proposed ward is found or is domiciled. An attorney must be appointed for the proposed ward and the court will order a doctor, a psychiatrist, or a licensed social worker to perform an evaluation.

9. When applying for Medicaid, the state will count the income of the community spouse in deciding whether the nursing home spouse is eligible for Nursing Home Medicaid benefits.

False

Explanation: Under the “name on the check” rule only the income of the person applying for Medicaid is considered when applying for Medicaid. The “community spouse” (spouse who does not need Medicaid and is living at home or in an assisted living) gets to keep all of their income.

10. The only way to qualify for Nursing Home Medicaid is to “spend-down” money on nursing home care until you have less than the countable resource limit.

False

Explanation: There are lawful pre-crisis and crisis Medicaid planning strategies that are available to help preserve assets for the care of the community spouse, the person needing nursing home care or other family members.

11. In order to qualify for VA Pension a veteran must have served for 90 days in a combat zone.

False

Explanation: In order to qualify for VA Pension a veteran (or his or her surviving spouse who is applying after the death of the veteran) must have served at least 90 days on active duty. One day must have been served during a period of war. War time service is all that is required. Not service in a combat zone.

12. Family members should make a will leaving money to a loved one who has been diagnosed with dementia so they will have money available to help pay for their care in the event they need to go into a nursing home.

False

Explanation: You should never leave money or other property to a person who is in a nursing home or may need nursing home care because it may make them ineligible for Medicaid. Instead, create a trust in your will and leave them money in a “Supplemental Needs Trust”. Then, the money in the trust can be used to supplement what Medicaid is paying for.