

LOOKING BACK TO SEPTEMBER

For many of us, the month of September is associated with 'back to school' or a focus on education, which was certainly true for Beth. On September 8 and 9, Beth attended the National Elder Law Foundation's annual conference, held in Chicago, Illinois. On September 10, she had the pleasure of speaking

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STAY ALERT TO FINANCIAL SCAMS BY BETH A. MCDANIEL



My early morning walk along Chicago's Lakefront Trail, bordering Lake Michigan

Falling victim to a financial scam doesn't imply incapacity or a lack of sophistication. Financial scams are a pervasive and affect people across the spectrum of age and social backgrounds, with senior citizens being

particularly targeted. Here are real-life examples of scams that have impacted individuals I know:

- A couple receives an urgent call from a member of a non-profit organization they actively support. The caller alleges to be stranded in London, having lost their wallet. The caller references mutual acquaintances, including those who recently attended the same conference as them. Without hesitation, the couple wires the money.

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WHAT IS THE DIFFERENCE BETWEEN A HEALTH CARE DIRECTIVE AND A POLST FORM?



Pastor Joe of Cornerstone Christian Fellowship

A Healthcare Directive (AKA "Directive to Withhold Life Sustaining Treatment" or "Living Will") is a legal document which provides an individual's end of life wishes should the individual be dying in...

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to the legacy group at Cornerstone Christian Fellowship in Bellevue, Washington. On September 12 and 14, Beth had the privilege of speaking about estate planning to the Alaska Airlines Master Executive Council, which represents 3,000 Alaska Airlines pilots.

If you would like any of our attorneys to speak to a group on an estate planning related topic, please contact Margo Passeau in our office at 425-296-3121 or margo@bethmcdaniel.com

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It is when they receive a second phone call in the middle of the night, this time from an individual with a thick accent requesting additional funds, that the couple realizes they have fallen victim to a scam.

- A victim is persuaded by an individual to make a bank withdrawal and place the cash inside a bag. Once the cash is withdrawn, the victim and perpetrator meet in

the bank's parking lot to ostensibly lay hands on the bag and pray over the money. After the perpetrator is long gone, the victim discovers that the bags were switched, and the perpetrator absconded with the money.

- A daughter must take protective measures to stop her dad from giving money away to the 'nice women' he meets on Facebook.

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- A victim maxes her credit cards and takes a loan against her house to help her 'online boyfriend' with his business venture. She only realizes it is not real when he abruptly ghosts her.

A 2023 AARP report estimates that older Americans annually lose \$28.3 billion to financial exploitation. In most cases, the perpetrator was known to the victim and the crimes are not reported due to shame or embarrassment.

Online thieves are becoming more sophisticated than ever. A September 29, 2023, bulletin from the FBI warns of a recent nationwide increase in 'phantom hacker scams' that are significantly impacting senior citizens. According to the bulletin, this phantom hacker scam is an evolution of more general tech support scams, layering imposter tech support, financial institution, and

government personas to enhance the trust victims place in the scammers and identify the most lucrative accounts to target. Through the scams, victims often suffer the loss of entire banking, savings, retirement, or investment accounts under the guise of "protecting" their assets. Between January and June 2023, 19,000 complaints related to tech support scams were submitted to the FBI Internet Crime Complaint Center (IC3), with estimated victim losses of over \$542 million.

If this were not grim enough, with the advent of advancing technologies, it is becoming easy to 'spoof' another phone number or a victim's loved one's voice from a publicly posted video. Know too that scammers are astute at exploiting their victim's heightened emotional state – happy or negative – to manipulate them into making ill-advised decisions.

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How should you protect yourself?

Here are a few tips which could help:

- Never give cash or gift cards to a representative of a 'lawyer' who is helping a loved one get out jail or a company trying to 'protect you from fraud.'
 - Never give banking information or other personal identifiers (social security number, mother's maiden name, birthdate, etc.) to someone who calls you.
 - If you contact a company through the company's website, make sure that you verify that you are going through the actual company's website, versus the first site that pops up when you conduct an online search for the company.
 - Have a secret word that only family members know. Ask for the secret word to help verify the identity of a family member who calls in a panic requesting help.
 - Do not click on unsolicited pop-ups, links sent via text messages, or email links or attachments.
 - Do not contact any telephone number provided in a pop-up, text, or email.
 - Do not download software at the request of an unknown individual who contacted you.
 - Do not allow an unknown individual who contacted you to have control of your computer.
 - Do not ignore warning texts from your financial institution (like at least one victim did) that you may be involved in a scam.
 - Never send information like bank account numbers or social security numbers through e-mail that is not
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encrypted or otherwise secure – even if the recipient is trusted and well known to you.

- If you are doing a significant fund transfer, transfer a small amount first to confirm the transfer instructions are correct (and not fraudulent) prior to transferring more significant funds.

- Remember that if something sounds too good to be true – like an online ad selling tennis shoes for \$19.99 a pair that usually sell for \$140 per pair – it, unfortunately, probably is.

- To ensure your digital safety, it is essential to have robust security software in place. Keeping it up to date is also paramount. If you need security software, before purchasing it, I recommend conducting a thorough research by reading reviews

and seeking recommendations from knowledgeable individuals before making a purchase decision.

Once you have chosen the right software for you, download and install it directly from the official website of the security software company. Regularly run scans to detect and remove any malware. After eliminating malware, it is prudent to rerun the scan to confirm that your system is entirely free of malware.

Remember that legitimate security software companies will never initiate contact with you through calls, emails, or texts to inform you about issues with your computer. Likewise, they will not send unsolicited pop-ups with phone numbers for you to call regarding problems with your computer.

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Where can you find help if you or a loved one has been scammed?

- For fraudulent transfers involving financial accounts or a credit card, contact your financial institution immediately. Although the financial institution may not always be able to make you whole, they may be able to mitigate the damage.
- The AARP Fraud Watch Network Helpline (877-908-3360) is staffed by volunteers who help AARP members and non-members with tips and referrals to resources.
- The FBI requests that victims report fraudulent or suspicious activities to their local FBI field office ((206-622-0460 or 1-800-225-5324 to find a field office near you) and the FBI IC3 at www.ic3.gov. Be sure to include as much information as possible, including:
 - The name of the person or company that contacted you;
 - Methods of communication used, including websites, emails, and telephone numbers; and
 - The bank account number(s) where the funds were wired to and the recipient's name(s).
- File a report with the Federal Trade Commission (<https://reportfraud.ftc.gov/#/>), as this agency will report the fraud to the appropriate law enforcement agency.

If you have additional information that we should offer to our clients regarding online scams, please contact Margo Passeur at (425) 296-3121 or margo@bethmcdaniel.com as we would love to pass it on. Let's help keep each other safe.

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in a hospital or nursing home. To be valid, it must be notarized or signed in the presence of two disinterested witnesses.

This document becomes operative when an individual reaches a terminal condition or a permanent unconscious condition. In the context of this document, a 'terminal condition' is established through diagnosis by the attending physician and is legally defined in Washington law as an incurable and irreversible condition caused by injury, disease, or illness, that would within reasonable medical judgment cause death within a reasonable period of time in accordance with accepted medical standards, and where the application of life-sustaining treatment would serve only to prolong the process of dying. A 'permanent unconscious condition' is determined by two physicians and

is defined as an incurable and irreversible condition in which the individual is medically assessed within reasonable medical judgment as having no reasonable probability of recovery from an irreversible coma or a persistent vegetative state.

A Healthcare Directive, at the very least, articulates an individual's preferences concerning the withholding of nutrition or hydration. In our practice, the Healthcare Directive form goes further by encompassing preferences regarding CPR, ventilation, intubation, and the use of antibiotics. It is important to note that a Healthcare Directive can diverge in its stipulations concerning terminal conditions versus permanent unconscious conditions. Additionally, the directive may grant the individual's agent discretion regarding decisions surrounding life sustaining

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treatment. This is a common stipulation for clients regarding the administration of antibiotics.

A Healthcare Directive should be included with the individual's health records and should be provided to any attending physician. It is advisable that Healthcare Directives be updated at least every five years.

In short, although a Healthcare Directive is an 'optional' document, it provides helpful information to your agent, family, and healthcare providers, including whether you want to continue to receive 'life sustaining treatment' when you are facing end of life in a hospital or nursing home setting.

In Washington, the POLST (Physician's Order Regarding Life-Sustaining Treatment) Form was established the result of amendments made to Washington's

Natural Death Act in 1992. The primary objective was to provide clear guidelines to healthcare professionals operating in out-of-hospital environments and emergency medical personnel who respond to injury or illness incidents for the purpose of treating individuals who have formally expressed their wishes through a written directive or durable power of attorney, indicating their preference to avoid 'futile emergency medical treatment'

It is essential to know that in Washington, emergency medical personnel are prohibited by law to act based on end-of-life directives that may be conveyed through bracelets, necklaces, or tattoos.

If you are seriously ill or in poor health from one or more chronic or serious health conditions, you should discuss the possible execution of the POLST form with

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your physician and the risks you would face in a medical emergency. In some cases, clients execute POLST forms so that emergency medical treatment is not given. In such cases, oxygen and other comfort measures would instead be administered.

Of course, executing a POLST form is not a guarantee that your end of life wishes would be honored in a medical emergency as, although you would likely post it on your refrigerator or another prominent place in your home, it is highly unlikely that you will have the POLST form with you should an emergency occur in a public place like a Mariner game or grocery store (that said, a client has shown me a small, laminated version of the form which she carries with her).

Although Medicare requires health care institutions ask patients about

advance care planning documents, it prohibits them from compelling or requiring patients to have a Healthcare Directive or POLST form. Also know that in situations where both a POLST form and a Healthcare Directive contain conflicting instructions, the document executed most recently takes precedence.

It is essential to understand the distinctions between a Healthcare Directive and a POLST form. As mentioned, a POLST form requires a doctor's signature and imparts specific directives to emergency medical personnel in non-hospital or nursing home settings, whereas a Healthcare Directive provides end of life directives when the individual is dying in a hospital or nursing home setting.

Sadly, during my legal career there have been a few instances where confusion and frustration arose for clients when emergency medical

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personnel failed to adhere to the Healthcare Directive after a 911 call was made from the home. It can be traumatizing to watch emergency responders administer lifesaving treatment to dying loved ones, sometimes to no avail, especially when knowing that was not the loved one's desire.

If you have questions regarding a Healthcare Directive, POLST form, or any other estate planning documents, please contact our client care specialist, Margo Passeau, directly at (425) 296-3121 or by e-mail at margo@bethmcdaniel.com.

Disclaimer: this newsletter is informational only and should not be construed as legal advice.
