

Utah Spirit

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Elder Law: Home Care or a Nursing Home?

This month's column addresses an issue faced by an increasing number of families. There are no magic answers. To treat this subject, I will draw upon an actual case as an example.

I was requested by my client to fight against the State of Utah for the return of her mother from a nursing home. At 90 years of age, she was placed in a nursing home by Adult Protective Services ("APS"). The action taken by APS was based on an allegation by a home care provider that the elderly woman's daughter and caretaker was negligent in providing home care.

My client was terribly distraught over the State's actions and wanted me to fight whatever battles became necessary for the return of her mother. I eventually prevailed at the Utah Supreme Court, which ruled that the State had "unlawfully" taken my client's mother from her home, and the Court ordered the State to return the mother to her daughter.

My client informed me that her mother had always feared going into a nursing home. Her mother had sought the daughter's promise to never place her in such a facility.

At great sacrifice to her and her family, she fulfilled that promise by caring for her mother at home. Since the daughter worked full time, she hired day care providers to supplement the family's care. Medicare paid for some but not all of this home care.

Home care costs vary widely but can easily exceed \$20 per hour. 40 hours of care per week amounts to \$800 per week, or more than \$3,400 per month. Depending on the needs of your elderly parent, this could be more or less. Home care costs, however, can easily exceed the costs of a nursing home.

But the cost of home care is just one factor to consider. Quality of care should be of paramount concern. Quality can often be better at home where loving family members can provide personal attention and care for an elderly parent or relative. When there are several family members providing care, the work load is usually more evenly distributed among those care providers. When only one or two care providers are available, "burn out" often results and the quality of care diminishes or may be severely impaired.

Each situation must be evaluated separately. Factors, such as the quality and costs of care, suitability of your home to provide the needed care, the number of care providers, and your own strength and health should be given serious consideration.

As in the case described above, you may also feel compelled to fulfill a request made by your parent to remain at home and not to be placed in a nursing home. Home care is generally

preferred, and if practical, home care should be the first priority. However, all limitations of the care providers must be weighed against the potential benefits of home care.

Caring for a loved one at home has its risks. In an effort to avoid a nursing home, unintentional neglect may result. If outsiders supplement your home care, they may observe substandard care and then report their observations to APS. Such a report will trigger an investigation by APS which could result in charges or the removal of a loved one from your home.

Depending on the physical condition of your loved one, you might also consider a combination of home care and institutional care. Many nursing homes also offer day or temporary care. Such care can supplement home care and provide relief to family members. This approach may prevent burn out and in turn extend the time before a nursing home becomes the only option.

If possible, consult your elderly parent in the decision. Visit various nursing homes with your parent if practical; compare the quality of the facility and its staff; and consult your Elder Law Attorney.