



*Martin Shenkman, his wife Patty and her service dog Elvis will be traveling all along the East Coast during August speaking to benefit the American Cancer Society.*

**WEALTH PLANNING > ESTATE PLANNING**

## Having Tough Client Conversations About Health Issues

*A cancer diagnosis can affect estate and financial planning.*

Martin M. Shenkman | Jul 26, 2017

Every estate and financial planner must ask and discuss tough issues with clients. One of the toughest centers around the client's health. Without an understanding about health, the client and/or a family member faces, proper planning isn't

possible. The impact health issues might have on the client's finances, life expectancy and charitable planning profoundly affect what steps are appropriate for that client. Comprehensive proactive planning should address some of these issues while they're theoretical (that is, before the client or a family member receives a specific diagnosis). This isn't new or unusual. Every planner discusses disability, life and long-term-care coverage with clients at appropriate life stages. But more can and should be done.

Many clients worry or fear the "C" word—cancer.

### **By the Numbers**

Advisors must understand the prevalence of cancer to internalize how critical these planning conversations are.

According to the American Cancer Society :

- One in two men will develop cancer in their lifetime, and one in four men will die from cancer.
- One in three women will develop cancer in their lifetime, and one in five women will die from cancer
- In 2017, nearly 1.7 million new cancer cases will be diagnosed
- In 2017, 600,920 Americans are expected to die from cancer. That translates to 1,650 people per day.

Pause for a moment and reflect on the above statistics. It's likely that a substantial proportion of your client families will be affected. Consider the 10 most common cancer diagnoses each year:

- Non-melanoma skin cancer. There are 5.4 million new diagnosed cancers every year in 3.3 million people.
- Lung cancer. 220,000 people. Two primary types: small cell and non-small cell. Lung cancer claims nearly 155,870 lives annually.

- Breast cancer. The most common cancer in women. Invasive breast cancer: 255,180; non-invasive (in situ): 63,410.
- Prostate cancer. 161,360 people. The most common cancer in men, most over age 50.
- Colorectal cancer. 135,430 people.
- Bladder cancer. 79,030 people.
- Melanoma. 87,110 people (invasive); 74,680 people (non-invasive, in situ).
- Non-Hodgkins lymphoma. 72,240 people.
- Kidney cancer. 63,990 people. Mainly people over age 40, but one type of kidney tumor usually affects young children.
- Leukemia. 62,130 people. It affects both adults and children and kills more children under age 20 than any other cancer.

The statistics are frankly terrifying for many. But the realities aren't always bleak because of the incredible advances in cancer prevention and early detection, treatments and research. It's important to be mindful of this fact of when having conversations about planning issues with clients. Consider:

- There's been a 25 percent decline in cancer death rates since 1991.
- There are more than 15.5 million people alive in the United States who have a history of cancer.
- By 2026, there will be more than 20 million cancer survivors in the United States.
- Nearly half (46 percent) of all cancer survivors are 70 years or older. The majority of cancer survivors (64 percent) were diagnosed five or more years ago; 15 percent of cancer survivors were diagnosed 20 or more years ago.

## Questions to Consider

Advisors need to consider a myriad of impacts the treatment and maintenance of a cancer diagnosis might have on the client. The emotional impact can be dramatic and may make it difficult for the client to consider, let alone actually address, any

type of planning. This is particularly problematic because the most important time for the client to plan may be at the point he's diagnosed. Later, there may not be time for those difficult (physically, emotionally and otherwise) conversations. Will the client's health insurance cover most or only some of these costs? Who will assist the client with the likely mountain of paperwork, forms, insurance submissions and other documentation? Can the client afford a care manager to assist? Even if the client can afford a care manager, will the client hire one? Will a spouse or other family caregiver be willing to permit a care manager to assist, or will he view it as his responsibility or domain to handle these matters?

Practitioners need to be empathetic about the myriad of new and often difficult circumstances the client with cancer is grappling with.

### **It's a Tough Conversation**

Having a discussion with a client about life expectancy when there are no current health issues are difficult. (For example, How long might we make that grantor retained annuity trust?) When the client is facing a real threat to longevity, the conversation is even more difficult. Whether the cancer will prove fatal to a client, a cancer diagnosis invariably alters health and life itself. Survivors may fear a recurrence, which can be immobilizing. Cancer impacts not just the patient but also the entire family and other loved ones. The conversations an advisor should have need to be broader than the mundane questions necessary to complete a living will or health proxy. Empathy, hearing and understanding the client's personal concerns, and responding to them can be reassuring to the client on this journey.

Practitioners need to recognize the incredible challenges the client and family face. They should make efforts to educate both the cancer patient/client and the family and loved ones on steps that they can take to preserve or gain control over the aspects of life affected by cancer. Some of the questions practitioners might address include:

- What cancer diagnosis do you have? What stage? Is it advanced? Is it localized?

- What's the impact on life expectancy? Practitioners need to explain that the time frame is essential to determine how urgent planning might be, or whether there's sufficient time to plan with less pressure.
- What's your prognosis? What's the anticipated disease course and treatment? This can be difficult as some clients don't assimilate information from their physicians or are uncomfortable.
- What are the likely consequences of the treatments? What are side effects? Will it impact your ability to function? Will it impact your ability to work and if so for how long and to what extent?
- What's the anticipated financial cost of the treatment course? What insurance coverage do you have, and how much of the costs might it cover or not? Some treatments are so costly that the phrase "financial toxicity" has been used to describe the consequences. Practitioners should ask the client whether he's discussed costs of care with his medical professionals.

Having tough conversations with a client diagnosed with cancer may be essential to your having the information to provide the advice and professional guidance the client and family require.

## **Financial Security**

Financial security may be affected dramatically or even destroyed. While many advisors provide services to have significant financial means compared to the general population, the potential of cancer treatments having a negative financial impact is still very real. Thus, even clients who might have previously felt immune from budget worries may need to rethink their financial and related planning. Prudent clients plan for retirement and have periodic financial forecasts updated to ensure they're on track. Prudent clients have addressed disability insurance and other forms of coverage. Yet, when a cancer diagnosis is received and work may be temporarily or permanently impacted, what were thought to be reasonable health care cost assumptions in a budget are blown off the charts by actual medical and ancillary costs. You may need to reconsider every assumption underlying even a wealthy client's planning.

Here's a figure to consider : "For a healthy 65-year-old couple retiring, projected lifetime health care premiums add up to \$321,994 in today's dollars...Sadly, and shockingly, that doesn't reflect the full range of likely expenses. Add in deductibles, co-pays, and costs for hearing, vision, and dental care, and the total rises to \$404,253 in today's dollars." How might these "healthy" figures be increased because of a cancer diagnosis? How might changes to the nation's health care system exacerbate the out-of-pocket costs for some clients? For a client worth \$20+ million, it may not matter. For a client with a net worth of perhaps \$2 million to \$10 million who might have felt he or she was wealthy and immune from budgetary issues, the impact might range from an inconvenience to devastating.

Many factors might affect the economic impact on the client of a cancer diagnosis:

- Insurance coverage, type of policy
- Employer coverage tends to be more generous than private policies
- Are there out-of-pocket limits, and what are they?
- Drug costs vary greatly
- Patient costs are front-loaded
- Timing of the diagnosis and the insurance plan year
- What non-covered treatments might the client need or want?

Thus, for many clients, even those who viewed themselves as wealthy, the cancer journey may necessitate rethinking budgets, revising financial forecasts, curtailing an annual gift program to children, and other steps. These financial challenges may serve to exacerbate the insecurities and angst the client is already feeling from the medical challenges. Deferring addressing these issues, however, may only serve to draw out angst that a revised and viable financial plan might alleviate. Deferring addressing new cancer-triggered financial issues for too long might prove ruinous for some clients.

## **Estate Planning**

For wealthy clients, a cancer diagnosis might suggest accelerating planning. Perhaps a client who was on the fence about significant estate-tax planning needs to act quickly. The nature of planning might have to change depending on the diagnosis and life expectancy.

- If the prognosis is for a much-shortened life expectancy, a different type of planning altogether might be warranted. Perhaps interests in a family business that might qualify under current law for valuation discounts should be immediately sold to various trusts to lock in those discounts. Perhaps the opposite might be preferable, retain appreciated assets in the client's name to achieve a step-up in income tax basis on death.
- If the prognosis is for several years of remaining life expectancy, perhaps a spouse should consider shifting assets to the client just diagnosed to secure an increase in the income tax basis of the assets without violating the 1-year requirement of Internal Revenue Code Section 1014(e).
- If the prognosis is for a shortened life expectancy, but there's a likelihood of surviving more than 18 months, a sale for a private annuity might be worth evaluating.
- If the prognosis is optimistic based on the cancer and other factors, perhaps traditional planning will continue to be appropriate, and the diagnosis might just serve as catalyst to proceed.

## **Information to Empower the Advisor**

Being informed and having resources to access will equip the advisor to address not only client situations that assuredly will be encountered with frequency, but also the reality that each advisor or the advisor's own family is likely to be impacted. The planning that's appropriate for a client diagnosed with cancer will depend on the specific diagnosis and other factors. Clients who lack formal medical background might not fully understand the information conveyed by their medical providers and are commonly emotionally impacted by the diagnosis, which might make it difficult to synthesize or communicate to financial and estate planners the relevant information. The American Cancer Society has a wealth of resources to help planners endeavoring to assist clients. Professional advisors can access many of

these resources through the American Cancer Society's National Professional Advisor Network (NPAN). Professional advisors can join NPAN ([www.cancer.org/npan](http://www.cancer.org/npan)) and receive information and assistance that will almost assuredly help better advise the substantial portion of clients affected by cancer.

## Upcoming Webinars

Two webinars will be presented on different planning topics to promote and help the American Cancer Society in its efforts:

1. "Estate and Financial Planning Nuggets for a Time of Turmoil!" on Aug. 15, 2017, at noon EST with Stephan R. Leimberg, Esq., and Martin M. Shenkman, Esq.: [leimbergservices.com/webinar\\_pay81417.cfm](http://leimbergservices.com/webinar_pay81417.cfm)
2. "Recent Developments with Practical Estate Planning Implications to Advisers," on Aug. 25, 2017, at noon EST with Howard Zaritsky, Esq., and Martin M. Shenkman, Esq.: [attendee.gotowebinar.com/register/8025243396439712770](http://attendee.gotowebinar.com/register/8025243396439712770)

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