Contracts may prevent misunderstandings among siblings, parents

by Marsha Kay Seff

It happens too often: The daughter caring for her parents gets ticked at her siblings for not helping. Before long, everyone's angry.

Some Dutiful Children have genuine gripes; their siblings could and should be doing a lot more to help. Others neglect to ask for help, either playing martyr or expecting others to read their minds.

Whatever the family dynamics, rifts created in times of caregiver stress are difficult to bridge. And when parents are gone and we no longer have a relationship with siblings, we miss out on so much family history - and love.

In order to keep the peace, protect relationships and still feel they're getting a fair shake, some primary caregivers are asking parents to help draw up legal agreements, compensating the Dutiful Child for all the hard work. And make no mistake, looking after aging parents is tough, no matter how much we love them.

Obviously, the agreements only work when parents have assets to divvy up and the capacity to sign a legal document.

San Diego Eldercare attorney Judy Copeland has drawn up dozens of these contracts. Cost varies from about $500 to $1,000, depending on the length of the process. She believes every family caregiver should have contract. "That way, everyone knows what's expected of them," she says.

Without one, she points out: "The unhelpful siblings often think the dutiful sibling should sacrifice themselves and do all the care for free. This preserves the estate for the unhelpful ones to inherit."

She warns all adult children that they're not entitled to an inheritance. "It's up to the parents to give what they want, and the gifts are not always deserved."

Actually, Copeland says, it's a good idea to ask all siblings to sign the contract. That way, no one is surprised, and siblings can't change their minds later.

The monetary value of caregiving differs from family to family. The Dutiful Child must decide how much

they do for their parents and what that's worth. Different services are worth different amounts, so you need to be realistic. Just because a massage therapist might charge $60 an hour doesn't mean you, as an amateur, are entitled to that much.

To get started, you might phone a few home-care companies to get their fees. Of course, Copeland says, when you determine your own worth, you need to factor in what you're giving up to be a caregiver, including how much income you're losing.

Even if you as the Dutiful Child hire professional help, you need to factor everything you still do, including staying on top of what's going on.

Naturally, you need to factor in how much your parents can afford. How much Social Security do they get, and how much are their expenses? What's the value of their estate?

The downside is that you need to pay taxes on this income, unless your parents treat it as a gift.

There are several ways of arranging payment. You might, for example, get a lump sum upfront. Then, if you don't live up to the contract, you'd have to repay it. Otherwise, Copeland points out, your siblings could sue for breach of contract.

If you get paid upfront and your parents die early, you might get to keep the money, depending how the contract is worded. "You're gambling that they won't live too long, and your parents are gambling that they'll outlive the money they've given you," Copeland says. "It's akin to a private annuity."

You might design the contract so that if your parents run out of money and you're still helping out, you're compensated from the eventual sale of the house, Copeland suggests.

The bottom line is if you're paid for your Herculean efforts, you might not feel so put upon and you might not burn out as quickly.

As for the siblings who haven't had to bear the responsibilities of caregiving, Copeland believes, "They make out no matter how much the Dutiful Child is getting paid by the parents."

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