

# Pro Tip TUESDAY

## Pro Tip on ESTATE PLANNING

### Guardian Angels

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We all get older. For the lucky, the aging process can be a graceful transition from youth. For others, it can be brutally cruel. It's difficult to watch a loved one's mental faculties decline. It's terrifying for the person losing words, names, and thoughts.

If you have a loved one who is experiencing memory loss or is suddenly making poor decisions, there is a legal process to formally appoint a caretaker, or a "guardian." This process is only to be used as a last resort if less restrictive alternatives, such as a power of attorney, are not in place before the loved one has lost the ability to evaluate and communicate information effectively. To have a guardian appointed, there must first be an adjudication of incapacity. Determining whether someone is competent to make their own decisions is an involved process. Proper medical evidence must be presented to the court. The party seeking an adjudication of incapacity must establish that the individual is impaired to such a significant extent that they are partially or totally unable to manage their financial resources or meet the essential requirements for their health and safety.

A person cannot be declared incompetent simply because he or she makes irresponsible or foolish decisions, but only if the person is shown to lack the capacity to make sound decisions. For example, a person may not be declared incompetent simply because he or she spends money in

ways that seem odd to someone else.

Pennsylvania's guardianship laws are designed to (1) permit an incapacitated person to participate as fully as possible in decisions that affect them; (2) assist such individuals to meet the essential requirements for their physical health and safety, protect their rights, manage their financial resources, and develop their abilities to the maximum extent possible; and (3) accomplish these objectives through a least restrictive alternative.

**Today's Pro-Tip:** have a qualified attorney prepare a Power of Attorney document that gives an individual of your choosing the ability to make decisions on your behalf should your mental faculties decline. Drafted properly, a power of attorney document can lay "dormant" until a licensed physician certifies in writing that you are incapable of caring for yourself. Once a physician certifies the need for assistance, the Power of Attorney springs to life without needing to go to court. Call 570-784-4654 to discuss options if someone you love is experiencing cognitive decline or if you would like a Power of Attorney designed to eliminate the possibility of a future guardianship proceeding.

## Pro Tip on FINANCIAL SERVICES

### Trigger Leads & Opting Out

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Whether you're trying to protect your personal information, avoid pushy telemarketers or streamline the process of borrowing money, there are plenty of good reasons to stop trigger leads.

#### What are trigger leads and how do they work?

A trigger lead is a marketing product that is sold by the three major credit bureaus to lenders who are looking for customers with certain specifications such as a specific type of loan. After you apply for a loan, the lender will pull your credit report, signaling the credit bureau that you're shopping for credit. You'll start receiving phone calls, letters, or emails when your information is sold to competing lenders that now have access to your information.

#### Who uses trigger leads and are they legal?

Trigger leads are legal under the Fair Credit Reporting Act (FCRA) and can provide a benefit to customers who can compare prices on services. In addition, a trigger lead could prompt lenders to offer rates and terms to outbid rival offers. In fact, trigger leads are used by many legitimate companies to increase sales. Examples are mortgage companies, insurance companies, and car dealerships.

However, there is also the potential for abuse of trigger leads by disreputable companies that can misrepresent themselves to trick borrowers. With the slowdown in business that many companies are experiencing today, trigger leads are more prevalent than ever, along with illegitimate offers.

You may start receiving phone calls, emails, or letters with unsolicited offers from other com-

panies that now have access to your data. In addition, trigger leads could expose borrowers to potential identity theft.

#### Can consumers prevent trigger leads?

The bottom line when it comes to trigger leads is that you must be very careful when applying for a loan. Knowing who you're dealing with and carefully researching lenders can help protect yourself from disreputable offers.

Another option is to "Opt-Out" to prohibit your name from being used by credit reporting agencies for sale to creditors or insurers. You can control access to your file for five years online, or permanently by mail, within 72 hours. Register at OptOutPre-screen.com.

Opting-Out will stop unwanted credit offers by mail; eliminate unwanted review of your credit file; and will provide you with an added level of assurance that your credit file will only be viewed by companies chosen by you or your lender.

So, while trigger leads might help you get an even better offer on a mortgage or auto loan than the one you were considering, the reality is that these sales tools can make you more susceptible to fraud and deception. Take steps to protect yourself, and always do your homework before taking out a loan.

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