

# FEBRUARY 2016 NEWSLETTER

**POZZUOLO RODDEN, P.C.**  
**COUNSELORS AT LAW**  
**THE BYE-BENSON HOUSE**  
**2033 WALNUT STREET, PHILADELPHIA, PA 19103**  
**215-977-8200**  
**[www.pozzuolo.com](http://www.pozzuolo.com)**



## **A CHILD'S RESPONSIBILITY FOR MEDICAL OR NURSING HOME COSTS OF HIS/HER PARENTS**

### **FIRM ANNOUNCEMENTS:**

#### **A. 2015 TOP ATTORNEYS**

Pozzuolo Rodden are pleased to announce that both Joseph R. Pozzuolo and Judith P. Rodden were selected as one of the region's top attorneys for 2015 by Philadelphia Life Magazine and Suburban Life Magazine. Mr. Pozzuolo was selected in two categories: business law/business planning and estate planning and administration. Mrs. Rodden was selected in employment law.

#### **B. BLOGS**

1. The following are a few of the business, tax and estate planning blogs posted on our main website [www.pozzuolo.com](http://www.pozzuolo.com) during the past month:

- a. Business Succession Tips For Family Businesses;
- b. 4 Tips For Efficient Business Succession Planning;

- c. Estate Planning- A Special Trust; and,
- d. The Full Amount Of Father's Trust Distribution Should Not Be Included As Income For Child Support Purposes

**Please visit our website [www.pozzuolo.com](http://www.pozzuolo.com) for more information on these and other relevant business, estates and employment topics.**

2. The following are a few of the family law blogs posted on our family law website [www.pozzuolofamilylaw.com](http://www.pozzuolofamilylaw.com) during the past month:

- a. Paternal Grandmother Is Not The Psychological Parent And Has No Standing To Oppose Child Relocation;
- b. Petition to Change The Surname Of Son Not In Child's Best Interest And Denied;
- c. A Completed, Executed Marital Property Settlement Agreement Found On The Internet Ruled To Be A Valid And Enforceable Agreement; and,
- d. Grandparents Granted Standing To File For Physical Or Legal Custody Of Dependent Grandchild

**Please visit our website [www.pozzuolofamilylaw.com](http://www.pozzuolofamilylaw.com) for more information on these and other relevant family law topics.**

**Please visit our Facebook page to read all of our past and future blogs:  
Pozzuolo Rodden, PC**

### **C. EDUCATIONAL SEMINARS ON YOU TUBE:**

Pozzuolo Rodden, P.C. is pleased to announce you can view the following seminars taught by Joseph R. Pozzuolo and/or Jeffrey S. Pozzuolo at "Pozzuolo Rodden, P.C.- You Tube"

\*The Negotiation and Documentation of Commercial Real Estate Loan Documents

\*The Fundamentals of Starting a Business

\*How Middle Income Families Should Plan for Retirement

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## **A CHILD'S RESPONSIBILITY FOR MEDICAL OR NURSING HOME COSTS OF HIS/HER PARENTS**

Whether you can be held responsible for the medical or nursing home costs of your parents depends on where you live. Although more than half of the states in the United States have laws on the books saying that children can be held responsible for medical or nursing home costs, states and/or courts rarely enforce such laws. One of the few exceptions to this general rule is Pennsylvania, where as recently as 2012, a court held a child responsible for his mother's

unpaid nursing home bill.

In general, the debts of a parent cannot be passed onto a child. Usually, unpaid medical or nursing home bills would be recovered by the creditor submitting a claim against a decedent's estate, thereby reducing the amount that can pass under the decedent's will or intestacy. Instead, under the Pennsylvania law, the children of an indigent parent can be held responsible for the parent's support during the parent's lifetime as the law states that children have the responsibility to care for, maintain, and financially assist their parents, if the parents are indigent. However, before the medical or nursing home provider can hold the child liable, it will have to demonstrate that the parent is unable to pay. Moreover, if the child does not have sufficient financial ability to pay, he or she will not be held responsible for the debt.

In 2012, the Pennsylvania Superior Court in the case of Health Care and Retirement Corporation of America vs. Pittas, 46 A.3d. 719 (Pa. Super, 2012) held that a nursing home resident's son was responsible for her unpaid bill in the amount of \$93,000. In that case, the mother had fled the country without paying her bill and left behind no assets to pay the bill. However, contrary to prior Pennsylvania cases, the court did not find that there had been any fraudulent transfer of assets from mother to son, which had been required in the past before holding a child liable for such bills. As recently as May 2015, a Pennsylvania court refused to hold a child liable for a parent's medical bills on the grounds that a child could only be held liable if public funds had been used for the benefit of the parent. There is currently a bill pending in the Pennsylvania legislature to overturn the statute holding children responsible for such bills.

Regardless of whether a state will enforce these filial responsibility laws, a child can still be held liable for a parent's medical or nursing home bills if the parent and child hold any property in joint names. This includes both real property and bank accounts. For instance, if a parent and child own a home in joint names, the creditor could put a lien on the property and require that the unpaid bills be satisfied from the sale of the home. Additionally, if a parent decides to engage in do-it-yourself Medicaid planning by gifting most or all of her or her assets to a child, Medicaid benefits could be denied for a length of time ranging from months to years based on the timing of the transfer, thereby leaving the parent who applied for Medicaid with no way to pay for nursing home care. In that instance, a child might feel morally obligated to pay for nursing home or medical expenses in order to keep a parent from utter poverty.

If you have questions about whether you may be held responsible for your medical or nursing home costs of your parent(s), our experienced attorneys can help.

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## **PUBLICATIONS**

All of the following professional publications and past newsletters written by attorneys of this office are available by clicking here: [http://pozzuolo.com/Pubs\\_Articles.shtml](http://pozzuolo.com/Pubs_Articles.shtml)

## **CORPORATE/TAX ARTICLES**

- Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business
- Deferred Compensation Rewards And Retains Key Employees
- Design Buy-Sell Agreements For Maximum Utility
- How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend
- How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations
- How To Look, Act And Sound Like A Professional Corporation
- How to Structure a Suitable Buy-Sell Agreement
- How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax Planning Tool
- Money Purchase Pension Plan Falls Out Of Favor
- Protecting A Client's Business From Unfair Competition Using Restrictive Covenants
- Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules
- What Type of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs
- Why An Employment Contract Is Mandatory

## **ESTATE PLANNING ARTICLES**

- Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples
- College Funding Tool Offers Estate Planning Advantage
- Diversify Strategies For An Effective Estate Plan
- Divorce and Estate Planning
- Divorce Raises The Need For Performing An Estate Planning Review
- Drafting The Durable Power Of Attorney For Wealth Protection Purposes
- Estate Planning For Pet Owners
- Remarriage Situations Can Raise Special Estate Planning Considerations
- Six Proven Estate Planning Techniques
- Special Needs Trust - An Estate Planning Tool For The Disabled

- The Limited Liability Company -A Sophisticated Tool For Estate Planning
- Using Trusts To Maximize Family Protection And Minimize Estate Tax
- Why Living Wills- Advance Directives Are An Essential Part Of Estate Planning

***Actual resolution of legal issues depends upon many factors, including variations of facts and state laws. This newsletter is not intended to provide legal advice on specific subjects. It is to provide insight into legal developments and issues. You should always consult with legal counsel before taking any action on matters covered in our updates.***

This newsletter is courtesy of Pozzuolo Rodden, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at [INFO@POZZUOLO.COM](mailto:INFO@POZZUOLO.COM).