

(/) YOU ARE HERE:

COLUMNS (/INDEX.PHP/COLUMNS)



Try out now for your chance to become an NYC lifeguard!

Qualifying tests begin in January.

FIND OUT HOW!

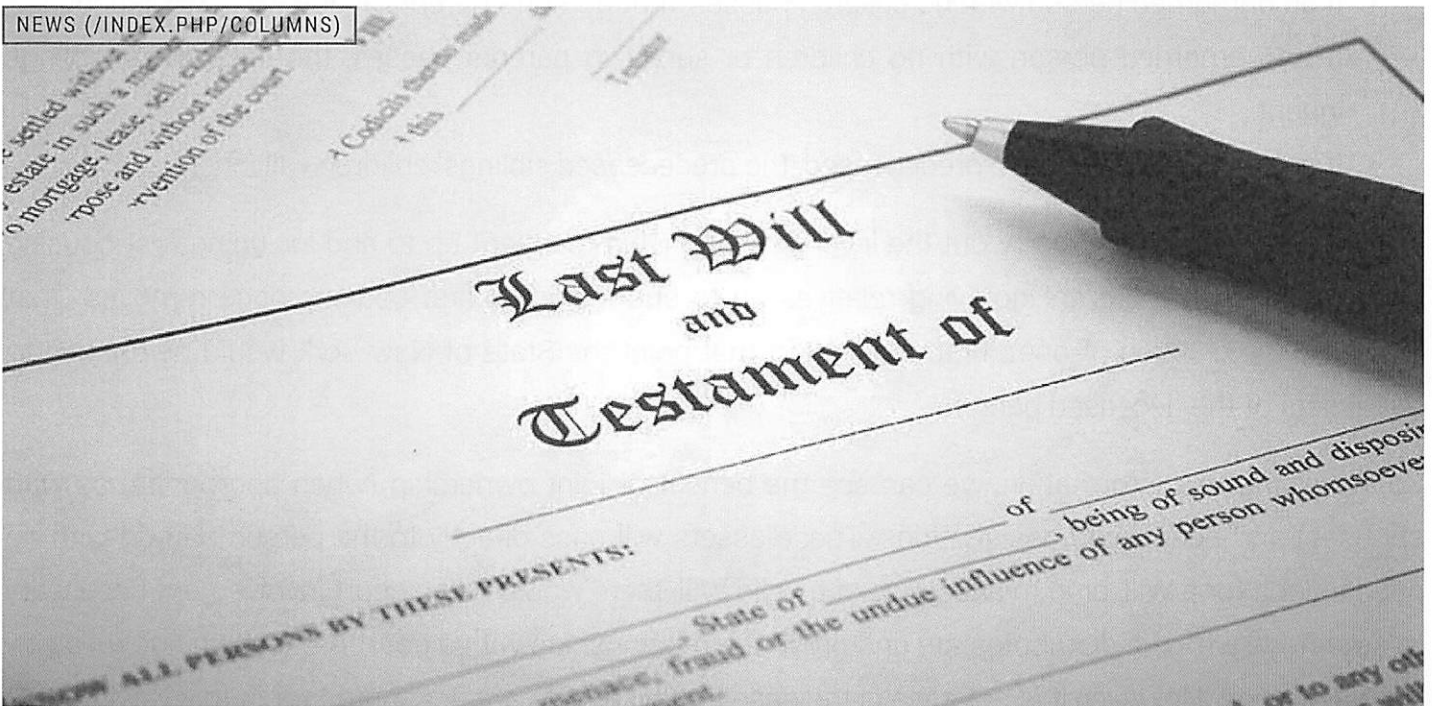


(<https://www.nycgovparks.org/opportunities/jobs/lifeguards>)

Estate Planning Answers

NANCY J. BRADY / 07 JANUARY 2021

NEWS (/INDEX.PHP/COLUMNS)



PREVIOUS ARTICLE

Facts You Probably don't Need

◀ (</index.php/columns/7319-facts-you-probably-don-t-need-56>)

NEXT ARTICLE

Silva Nabs Endorsement

(</index.php/columns/7316-silva-nabs-endorsement>) ▶



It is important to have a Last Will and Testament in place when you pass away. Property or financial assets titled in the name of a joint owner, or with

(1) beneficiary designations will pass to those joint owners or beneficiaries. Let's look at what happens when a New Yorker dies with assets titled in his or her name alone (with no joint owner or beneficiary named) and has left no Last Will and Testament in place.

When a person dies leaving no Will, he or she is said to have died "intestate," and his/her property is distributed according to the law in New York found in the Estates Powers and Trusts Law (EPTL 4-1.1)

EPTL 4-1.1 lays out a list of relatives who will inherit from the person who died (decedent). The relatives so entitled to inherit from the deceased person are known as "distributees."

- Basically, if the decedent has a spouse and no children, the spouse inherits everything owned by the decedent at the time of death.
- If the decedent has no spouse, but has children, then the children would inherit everything. If the decedent had a child who predeceased the decedent, and the predeceased child had children, those grandchildren will inherit their deceased parent's share.
- If the decedent left a spouse and children behind, the surviving spouse will inherit \$50,000 first, then half of the balance of the remaining estate, and children inherit the other half.
- If an unmarried person with no children passes, that person's parents, if surviving, will inherit.
- If an unmarried person with no children or surviving parents passes, the decedent's siblings inherit.
- If any of the siblings have predeceased, the predeceased siblings' children will inherit.

The statute continues to carry out the level of relationship to inherit up to and including first cousins once removed. If there are no living relatives up to and including first cousins once removed (that would be the children of one's first cousins) at that point the State of New York would be entitled to the assets of the deceased person.

So, reviewing this information, we can see the benefit of joint ownership (when appropriate as with spouses) and beneficiary designations. These assets will pass directly to the person named with no need to look for a Will, or in the absence of a valid Will, there would be no court involvement necessary to determine who the distributees are and prove the relationships with a court proceeding known as an Administration. However, it is not always the case that all assets are accounted for in this way. People have different reasons for not titling property jointly with another person (for example if someone is unmarried). An individual might have had the misfortune to have passed as the result of medical malpractice, or in an accident that might necessitate legal action, and may result in a monetary award which would pass according to the distributees outlined in the EPTL.



married come to our office, generally, the spouses wish to leave everything to the surviving spouse, and often, upon the passing of the first spouse, (again generally) spouses wish to divide the assets

(1) among their children. A Last Will and Testament would avoid the surviving spouse being left only the first \$50,000 and half of assets titled in the decedent spouse's name.

Wills are also useful in the event there are minor children (under the age of 18), disabled relatives who should not inherit outright, as well as family members who the decedent would have preferred to leave less than their intestate share. There are many other ways having a Last Will and Testament can accomplish one's estate planning goals, rather than leaving things to chance, and not having a Will in place, we will discuss this topic in more detail in our next article.

The attorneys can be reached at 1-718-945-7777. See our display ad for more information. Nancy Brady RN, Esq., Partner at Brady & Bader LLP Attorneys at Law

By Nancy J. Brady



ALSO ON ROCKAWAYTIMES

(/)

FULL SWEDE AHEAD

9 months ago · 1 comment

Sign up via our free email subscription service to receive notifications ...

Rockaway Native Among First East ...

10 months ago · 2 comments

Sign up via our free email subscription service to receive notifications ...

Celebrate National Pizza Week With ...

a year ago · 1 comment

Sign up via our free email subscription service to receive notifications ...

Into the D Local's U

9 months ago

Sign up via our free email subscription service to receive notifications ...



0 Comments

Rockawaytimes

Disqus' Privacy Policy

Login ▾

Recommend

Tweet

Share

Sort by Best ▾



Start the discussion...

LOG IN WITH

OR SIGN UP WITH DISQUS

Name

Be the first to comment.

Subscribe Add Disqus to your site Add DisqusAdd Do Not Sell My Data

BLOG COMMENTS POWERED BY DISQUS (<http://disqus.com>)

PREVIOUS ARTICLE

Facts You Probably don't Need

(/index.php/columns/7319-facts-you-probably-don-t-need-56)

NEXT ARTICLE

Silva Nabs Endorsement

(/index.php/columns/7316-silva-nabs-endorsement)



subscription service to receive notifications when new information is available.

(/) Name

E-mail

SUBSCRIBE

MOST READ LATEST NEWS



NEWS (/INDEX.PHP/COLUMNS) JAN 12 2017

130 Kids Receive Free Bikes (/index.php/columns/1924-130-kids-receive-free-bikes)



NEWS (/INDEX.PHP/COLUMNS) AUG 03 2017

Fun Times at the Graybeards Family Fun Run (/index.php/columns/2710-fun-times-at-the-graybeards-family-fun-run)



NEWS (/INDEX.PHP/COLUMNS) JUN 16 2016

Playoffs In Full Swing (/index.php/columns/1005-playoffs-in-full-swing)



NEWS (/INDEX.PHP/COLUMNS) MAY 11 2017

SPOTTED: Globetrotting! (/index.php/columns/2370-spotted-globetrotting)

NEWS (/INDEX.PHP/COLUMNS) SEP 22 2016

St. Camillus / St. Virgilius Basketball Registration (/index.php/columns/1471-sa)

(/) YOU ARE HERE:

COLUMNS (/INDEX.PHP/COLUMNS)



Try out now for your chance to become an NYC lifeguard!

Qualifying tests begin in January.

FIND OUT HOW!



(https://www.nycgovparks.org/opportunities/jobs/lifeguards)

Tips for Having 'The Talk' with Seniors

BY NANCY J. BRADY / 26 NOVEMBER 2020

NEWS (/INDEX.PHP/COLUMNS)

PREVIOUS ARTICLE

Domestic Violence, Crime Stats & More Highlighted at 100 PCT Meeting
(/index.php/columns/7190-domestic-violence-crime-stats-more-highlighted-at-100-pct-

NEXT ARTICLE

By Gille Ann Rabbin, Esq., CIPP/US, CIPP/E
(/index.php/columns/7188-by-gille-ann-rabbin-esq-cipp-us-cipp-e)

Conversations about estate planning, aging and mortality can be difficult, emotional topics to discuss, however, having these conversations is essential for every family. Holiday visits when loved ones are together can present opportunities to begin to broach these topics. Unless you're certain your parents have an up-to-date Will, Power of Attorney documents, and a wider plan for what should happen in the event of their passing, you shouldn't assume everything will be taken care of.

According to recent surveys, less than half of Americans have done estate planning, or a Last Will and Testament. If a parent dies without a Last Will and Testament, or beneficiary designations on financial assets, (known as "intestate"), such a situation could lead to added emotional strain and stress. And it could have unintended financial implications for all their children or other family members.

The following tips can help facilitate discussion of these hard topics thoroughly and respectfully to prepare for the future.

~~Discussing estate planning and all it entails is not something that should happen without any~~
(1) planning. Make a list of topics and questions, then let your parents know what you want to chat about with them. If possible, set a time and date and choose a private venue that everyone will feel comfortable in. Be aware that you may need to schedule a few conversations as there could be too much to cover in one sitting. Remember to use language that's respectful and supportive, and to take a breather if emotions run high or the stress becomes overwhelming.

2. Identify Key People

There are several key people you may need to contact for estate planning purposes. Ask your parents for the names and contact details of their doctors, attorneys, financial planner, accountant, insurance broker, clergy, closest friends. Look at their address book and update all addresses and telephone numbers.

3. Address the Topic of a Will

Determine whether there is an existing Will in place and whether the document is up to date. If a Will was created more than five years ago, suggest that your parents review the Will to make sure it's still a reflection of their wishes. Establish where they keep the document and confirm who they've appointed as the executor/s. The same goes for any trust that may have been created.

4. Talk About Power of Attorney

Find out whether your parents have appointed someone to manage their financial and other affairs during their lifetimes, especially if they become incapacitated. If they haven't given someone power of attorney, suggest they consider doing so.

5. Discuss End-of-Life Wishes

Even though the subject may be uncomfortable to talk about, you should discuss your parents' end-of-life wishes with them. Their estate plan will be incomplete without these directives, so it's important to include them.

The appointment of a health care proxy who can make medical decisions for your parents if they become incapable of making those decisions themselves.

A Living Will that provides direction to the health care proxy about what type of care should be administered or withheld in end of life situations. The Living Will should specifically address cardiopulmonary resuscitation, mechanical ventilation, artificial feeding and hydration, administration of antibiotics, and pain relief measures.

~~Talk about the type of insurance policies in place, including health insurance, life insurance,~~
(/)
homeowner's insurance, long term care insurance and worker's compensation or disability insurance. If you haven't already done so, take note of the names and contact details of the insurance brokers. Check where the policy documents are kept, and if possible, make certified copies of them.

7. Request Access to Tax Returns

It can be helpful to know where tax return paperwork is stored. It may be necessary to have copies of returns for up to five years if your parent(s) require government benefits to finance their medical long-term care. These documents may be required after death if the administration of your parents' estate becomes complicated. Confirm where you can find these documents and that they're all up to date.

8. Discuss All Other Practicalities

In addition to subjects such as power of attorney and insurance, there are several other practicalities you should include in your conversations.

Make a list of their accounts – financial accounts such as bank and mutual fund, credit accounts, and store accounts. Talk about the memorial service they want and whether they want to be buried, cremated, or some other option. Discuss whether they have prepaid funeral arrangements, or if they care to do so.

Conclusion

Estate planning conversations are tough no matter how you tackle them. Try your best to be patient with your parents and transparent with other family members about what you're doing. If you have siblings, invite them to be part of the conversation.

Accept that these talks can take time and avoid placing pressure on those involved to get it all done in a few hours. The smaller details are critical and should not be rushed. Lastly, always consult an attorney if you're unsure about the legal aspects or implications of any of the points mentioned above.

This information is for general purposes and should not be construed as individual legal advice. The attorneys can be reached at 1-718-945-7777.

(Nancy Brady: RN, Esq., Partner, Brady & Bader LLP Attorneys at Law)

By Nancy J. Brady



ALSO ON ROCKAWAYTIMES

(/)

Callie's is Open For Business and ...

10 months ago · 1 comment

Sign up via our free email subscription service to receive notifications ...

FULL SWEDE AHEAD

9 months ago · 1 comment

Sign up via our free email subscription service to receive notifications ...

Floyd Bennett Field Closed

9 months ago · 2 comments

Sign up via our free email subscription service to receive notifications ...

Rockaway Among Fi

10 months ago

Sign up via our free email subscription service to receive notifications ...

0 Comments

Rockawaytimes

Disqus' Privacy Policy

Login

Recommend

Tweet

Share

Sort by Best



Start the discussion

BLOG COMMENTS POWERED BY DISQUS (<http://disqus.com>)

PREVIOUS ARTICLE

Domestic Violence, Crime Stats & More Highlighted at 100 PCT Meeting
(/index.php/columns/7190-domestic-violence-crime-stats-more-highlighted-at-100-pct-

NEXT ARTICLE

By Gille Ann Rabbin, Esq., CIPP/US, CIPP/E
(/index.php/columns/7188-by-gille-ann-rabbin-esq-cipp-us-cipp-e)

Sign up via our free email subscription service to receive notifications when new information is available.

Name

E-mail

SUBSCRIBE

MOST READ

LATEST NEWS



[Seniors Receive Free Bikes \(/index.php/columns/1924-130-kids-receive-free-bikes\)](#)

(/)



[NEWS \(/INDEX.PHP/COLUMNS\)](#) AUG 03 2017

[Fun Times at the Graybeards Family Fun Run \(/index.php/columns/2710-fun-times-at-the-graybeards-family-fun-run\)](#)



[NEWS \(/INDEX.PHP/COLUMNS\)](#) JUN 16 2016

[Playoffs In Full Swing \(/index.php/columns/1005-playoffs-in-full-swing\)](#)



[NEWS \(/INDEX.PHP/COLUMNS\)](#) MAY 11 2017

[SPOTTED: Globetrotting! \(/index.php/columns/2370-spotted-globetrotting\)](#)

[NEWS \(/INDEX.PHP/COLUMNS\)](#) SEP 22 2016

[St.Camillus / St. Virgilius Basketball Registration \(/index.php/columns/1471-sa\)](#)

(/) YOU ARE HERE:

COLUMNS (/INDEX.PHP/COLUMNS)



Try out now for your chance to become an NYC lifeguard!

Qualifying tests begin in January.

FIND OUT HOW!



(<https://www.nycgovparks.org/opportunities/jobs/lifeguards>)

Focus on Elder Law: Medicare Open Enrollment: Is It Time to Change Plans?

BY NANCY J. BRADY, RN, ESQ., PARTNER, BRADY & BADER LLP, ATTORNEYS AT LAW / 15 OCTOBER 2020

NEWS (/INDEX.PHP/COLUMNS)

PREVIOUS ARTICLE

ROCKAWAY MUSIC & ARTS COUNCIL
DISTRIBUTES FUNDS

(/index.php/columns/7059-rockaway-music-arts-council-distributes-funds)

NEXT ARTICLE

Run/Walk For Cause Awareness

(/index.php/columns/7056-run-walk-for-cause-awareness)

Medicare's Open Enrollment Period, during which you can freely enroll in or switch plans, runs from October 15 to December 7. If you haven't done so already, now is the time to start shopping around to see whether your current choices are still the best ones for you. During this period, you may enroll in a Medicare Part D (prescription drug) plan or, if you currently have a plan, you may change plans.

During this seven-week period if you so choose, you can return to traditional Medicare (Parts A and B) from a Medicare Advantage (Part C, managed care) plan, enroll in a Medicare Advantage plan, or change Advantage plans. Beneficiaries can go to www.medicare.gov (<http://www.medicare.gov>) or call 1-800-MEDICARE (1-800- 633-4227) to make changes in their Medicare prescription drug and health plan coverage.



Rock Times, few Medicare beneficiaries take advantage of Open Enrollment, but
 of those who do, nearly half cut their premiums by at least five percent. Even beneficiaries who have

been satisfied with their plans in 2020 should review their choices for 2021, as both premiums and plan coverage can fluctuate from year to year.

Are the doctors you use still part of your Medicare Advantage plan's provider network? Have any of the prescriptions you take been dropped from your prescription plan's list of covered drugs (the "formulary")? Could you save money with the same by switching to a different plan?

For answers to questions like these, carefully look over the plan's "Annual Notice of Change" letter you received from Medicare. Prescription drug plans can change their premiums, deductibles, the list of drugs they cover, and their plan rules for covered drugs, exceptions, and appeals. Medicare Advantage plans can change their benefit packages, as well as their provider networks.

Remember that fraud perpetrators will inevitably use the Open Enrollment Period to try to gain access to individuals' personal financial information. Medicare beneficiaries should never give their personal information out to anyone making unsolicited phone calls selling Medicare-related products or services or showing up on their doorstep uninvited. If you think you've been a victim of fraud or identity theft, contact Medicare.

Here are more resources for navigating the Open Enrollment Period: Medicare Plan Finder, which helps you find a plan to match your needs: medicare.gov/find-a-plan (<http://medicare.gov/find-a-plan>); Medicare coverage options: medicare.gov/medicarecoverageoptions (<http://medicare.gov/medicarecoverageoptions>)

The 2020 Medicare & You handbook, which all Medicare beneficiaries should have received. The handbook can also be downloaded online at: [www.medicare.gov/forms-help-resources/medicare-you-handbook/downloadmedicare-you-in-different](http://www.medicare.gov/forms-help-resources/medicare-you-handbook/downloadmedicare-you-in-different-formats) (<http://www.medicare.gov/forms-help-resources/medicare-you-handbook/downloadmedicare-you-in-different>) formats

The Medicare Rights Center: www.medicareinteractive.org (<http://www.medicareinteractive.org>) Your State Health Insurance Assistance Program, which offers independent counseling: <https://www.shiptacenter.org> (<https://www.shiptacenter.org>).

This information is provided for general information, and, therefore, should not be considered specific legal advice. The attorneys can be reached at 1-8-718-945-7777.

By Nancy J. Brady, RN, Esq.,
 Partner, Brady & Bader LLP,
 Attorneys at Law



(/)

ALSO ON ROCKAWAYTIMES

<p>Callie's is Open For Business and ...</p> <p>10 months ago • 1 comment</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>Rockaway Native Among First East ...</p> <p>10 months ago • 2 comments</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>Floyd Bennett Field Closed</p> <p>9 months ago • 2 comments</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>Celebrate Pizza Wee</p> <p>a year ago • 1</p> <p>Sign up via our free email subscription service to receive notifications ...</p>
--	--	---	---

0 Comments Rockawaytimes Disqus' Privacy Policy Login ▾

Recommend Tweet Share Sort by Best ▾

Start the discussion

BLOG COMMENTS POWERED BY DISQUS (<http://disqus.com>)

<p>PREVIOUS ARTICLE</p> <p>ROCKAWAY MUSIC & ARTS COUNCIL DISTRIBUTES FUNDS</p> <p>(/index.php/columns/7059-rockaway-music-arts-council-distributes-funds)</p>	<p>NEXT ARTICLE</p> <p>Run/Walk For Cause Awareness</p> <p>(/index.php/columns/7056-run-walk-for-cause-awareness)</p>
--	--

Sign up via our free email subscription service to receive notifications when new information is available.

Name

E-mail

SUBSCRIBE



(/)



NEWS (/INDEX.PHP/COLUMNS) JAN 12 2017

130 Kids Receive Free Bikes (/index.php/columns/1924-130-kids-receive-free-bikes)



NEWS (/INDEX.PHP/COLUMNS) AUG 03 2017

Fun Times at the Graybeards Family Fun Run (/index.php/columns/2710-fun-times-at-the-graybeards-family-fun-run)



NEWS (/INDEX.PHP/COLUMNS) JUN 16 2016

Playoffs In Full Swing (/index.php/columns/1005-playoffs-in-full-swing)



NEWS (/INDEX.PHP/COLUMNS) MAY 11 2017

SPOTTED: Globetrotting! (/index.php/columns/2370-spotted-globetrotting)

NEWS (/INDEX.PHP/COLUMNS) SEP 22 2016

St. Camillus / St. Virgilius Basketball Registration (/index.php/columns/1471-sa)

(/) YOU ARE HERE:

COLUMNS (/INDEX.PHP/COLUMNS)



Try out now for your chance to become an NYC lifeguard! Qualifying tests begin in January.

FIND OUT HOW!



(<https://www.nycgovparks.org/opportunities/jobs/lifeguards>)

Elder Law: Act NOW, Don't Let the Window Close on YOU

NANCY J. BRADY, RN, ESQ., PARTNER, BRADY & BADER, LLP ATTORNEYS AT LAW / 10 SEPTEMBER 2020

NEWS (/INDEX.PHP/COLUMNS)

PREVIOUS ARTICLE

◀ Barely Spotted: Shining Through (/index.php/columns/6923-barely-spotted-shining-through)

NEXT ARTICLE

Spotted: The Jersey Shore (/index.php/columns/6920-spotted-the-jersey-shore) ▶

Many New Yorkers with aging spouses, parents or loved ones are familiar with the concept that in order for the government to pay for nursing home care, you cannot have assets over a very small amount, and if you transferred assets within a certain amount of time, you may still not be eligible for government benefits. Currently the maximum amount of assets an individual applying for Medicaid can have is \$15,750. This amount does not include qualified money, such as IRA and certain pensions.

In NY we also have "community" Medicaid, which includes home care benefits. These benefits provide for home attendant services, including live in services, paid for by the NY Medicaid program for the elderly blind and disabled. Home care services through community Medicaid is a wonderful program



seniors to remain at home with the care they need, rather than having to go

the community Medicaid program, the same asset limit of \$15,750 applies (as
(1) for nursing home benefits).

A big difference between full Medicaid benefits for nursing home care (to finance costs for persons living permanently in a facility) and the community Medicaid program (to finance care in the home by home attendants) is that up until now, if you transferred assets out of your name, no matter when or to whom, the month following the asset transfers to below the eligibility limit, you can apply for community Medicaid with home care benefits (of course you have to need the assistance as well).

Re-read the above paragraph carefully. In NY, up until now, if you need home care benefits, you could transfer assets out of your name to below the eligibility limit, and qualify to apply for community Medicaid the very following month, with no penalty, or waiting time for eligibility.

On October 1, this is all going to change. After October 1, 2020, if assets are transferred out of someone's name, there could be a period of up to 30 months ineligibility for benefits before they can be eligible to apply for community Medicaid to get home care paid for through the Medicaid program.

These changes were enacted by NYS Governor's orders over the past few months. The group most affected by these changes will be mostly elderly unmarried New Yorker's who require some assistance with taking care of themselves in order to remain safely at home. There are very limited exceptions to the transfer of asset rules.

If the person needing care is married, and the spouse is not on Medicaid, assets can be transferred to the spouse- under a program called spousal refusal – which is still allowed in NY but could change in the future.

If the person needing care has a disabled child (even if the "child" is an adult), assets could be transferred to the disabled child without a transfer penalty for the person who plans to apply for Medicaid. These are the most common exceptions, there are a very few others, which usually do not apply (such as transfer to a minor child).

The window of time left to receive advice regarding transfers, and completion of all transfers before October 1 is very limited. If you or your loved one anticipate needing this type of benefit, you must act quickly. It is not advisable to make these types of transfers without legal advice. Please call our office if you would like a consultation at 1-718-945-7777.

By Nancy J. Brady, RN, Esq.,
Partner, Brady & Bader,
LLP Attorneys at Law



ALSO ON ROCKAWAYTIMES

(/)

Floyd Bennett Field Closed

9 months ago · 2 comments

Sign up via our free email subscription service to receive notifications ...

Celebrate National Pizza Week With ...

a year ago · 1 comment

Sign up via our free email subscription service to receive notifications ...

Rockaway Native Among First East ...

10 months ago · 2 comments

Sign up via our free email subscription service to receive notifications ...

Into the D Local's U

9 months ago

Sign up via our free email subscription service to receive notifications ...

0 Comments

Rockawaytimes

Disqus' Privacy Policy

Login ▾

Recommend

Tweet

Share

Sort by Best ▾



Start the discussion...

LOG IN WITH

OR SIGN UP WITH DISQUS

Name

Be the first to comment.

[Subscribe](#) [Add Disqus to your site](#) [Add Disqus](#) [Do Not Sell My Data](#)

BLOG COMMENTS POWERED BY DISQUS (<http://disqus.com>)

PREVIOUS ARTICLE

[Barely Spotted: Shining Through \(/index.php/columns/6923-barely-spotted-shining-through\)](/index.php/columns/6923-barely-spotted-shining-through)

NEXT ARTICLE

[Spotted: The Jersey Shore \(/index.php/columns/6920-spotted-the-jersey-shore\)](/index.php/columns/6920-spotted-the-jersey-shore)



Subscribe to our e-mail subscription service to receive notifications when new information is available.

(/) Name

E-mail

SUBSCRIBE

MOST READ LATEST NEWS



[NEWS \(/INDEX.PHP/COLUMNS\)](#) JAN 12 2017

[130 Kids Receive Free Bikes \(/index.php/columns/1924-130-kids-receive-free-bikes\)](/index.php/columns/1924-130-kids-receive-free-bikes)



[NEWS \(/INDEX.PHP/COLUMNS\)](#) AUG 03 2017

[Fun Times at the Graybeards Family Fun Run \(/index.php/columns/2710-fun-times-at-the-graybeards-family-fun-run\)](/index.php/columns/2710-fun-times-at-the-graybeards-family-fun-run)



[NEWS \(/INDEX.PHP/COLUMNS\)](#) JUN 16 2016

[Playoffs In Full Swing \(/index.php/columns/1005-playoffs-in-full-swing\)](/index.php/columns/1005-playoffs-in-full-swing)



[NEWS \(/INDEX.PHP/COLUMNS\)](#) MAY 11 2017

[SPOTTED: Globetrotting! \(/index.php/columns/2370-spotted-globetrotting\)](/index.php/columns/2370-spotted-globetrotting)

[NEWS \(/INDEX.PHP/COLUMNS\)](#) SEP 22 2016

[St.Camillus / St. Virgilius Basketball Registration \(/index.php/columns/1471-sa\)](/index.php/columns/1471-sa)

(/) YOU ARE HERE:

COLUMNS (/INDEX.PHP/COLUMNS)



Try out now for your chance to become an NYC lifeguard! Qualifying tests begin in January.

FIND OUT HOW!



(<https://www.nycgovparks.org/opportunities/jobs/lifeguards>)

BOOMERS BEWARE

NANCY J. BRADY, RN, ESQ., PARTNER, BRADY & BADER, LLP / 13 AUGUST 2020

NEWS (/INDEX.PHP/COLUMNS)

PREVIOUS ARTICLE

Facts You Probably don't Need

◀ (</index.php/columns/6820-facts-you-probably-don-t-need-36>)

NEXT ARTICLE

Boat Ablaze (</index.php/columns/6818-boat-ablaze>) ▶

Estate Planning: Don't Assume

Estate planning is the area of practice having to do with planning the ultimate distribution of your belongings and assets. The planning involves the titling of assets, completion of pertinent documents (will, Power of Attorney and in some cases Trust documents) to preserve one's assets during one's lifetime, as well as arranging for the quickest, least costly means to transfer assets when one passes. Estate planning can also minimize estate tax consequences for your loved ones if planning is done during your life.

In New York, the law provides means to appoint someone to manage our finance and health care decision making should we become incapacitated. If valid Power of Attorney documents and Advance Medical Directives are completed when someone is well, taking these steps can avoid complicated and costly court proceedings to have someone appointed to take those roles.



goals of estate planning, it is important to address some common married couples often assume they can access their spouse's assets/property.

(1) While it is true that one spouse can access all of the funds in a joint account (if the account is titled properly) just because one is married, he/she cannot access assets in which they are not joint owner, and cannot make transfer of real property even if they are joint owner.

In completing a Power of Attorney, one can select the representatives they would want to make financial decisions for them and represent them in all financial and real property transactions, avoiding the need for Guardianship proceedings in an emergency. For these reasons, the Power of Attorney is a very valuable document to have in place. We therefore recommend that all clients have this document in place, including married and unmarried clients.

Many people assume they don't need a will, or that everything they own at their passing will transfer automatically to their surviving spouse. While it is important to name beneficiaries on financial assets so that these assets pass outside of the will, and thereby avoid probate (the process required to prove a will valid, or in the absence of a will who is entitled to the estate). For those assets titled in one's name alone with no beneficiary designation, or "payable on death" designation, your will is the document that spells out who should inherit from you.

People sometimes mistakenly assume they don't need a will because they have beneficiary designations on all their financial assets. While it is true that assets that allow for beneficiary or joint owner designations can avoid probate, it remains important to have a will for many other reasons—there may be an old unclaimed account, of lawsuit proceeds if one dies as the result of an accident, negligence or malpractice.

Assets left without beneficiary designations, payable on death designations, or joint owners will pass to the persons delineated by the intestacy statute in the state of New York. This order of persons who will inherit (known as distributes) may be different than what the deceased would have intended. For example, if you have no will, and are single, with no children, assets that are titled in your name alone when you pass away would pass to your parents via the intestacy statute. If your parents are elderly, they may lose government benefits if they inherit from you. If your parents are wealthy, inheriting from you could bring their estate value higher, resulting in tax consequences for their beneficiaries.

Another example is if one of a married couple passes with no will and assets in his own name, the surviving spouse is NOT entitled to the entire value of the asset passing through probate, but to the first \$50,000 plus half. So – if a house valued at \$500,000 is titled in only one spouse's name, if that spouse passes away without a will, the surviving spouse is entitled to \$50,000 and then half of the



s \$275,000—all together, and the children are entitled to the remaining (ps) unintended consequence can be avoided by completing a will leaving

(/) everything to one's spouse.

Having the basic estate planning documents in place can accomplish many goals, besides the examples given. Estate planning can allow young parents to designate guardians for minor children, trusts for any age disabled person can be included in a will , and the will can provide for the people you want to inherit from you, rather than be confined to the plan delineated in the NY State intestacy statute. Beyond the basic estate planning documents, based on individual circumstances, trust planning can be used as part of estate planning.

In conclusion, in today's ever-changing world, it is more important than ever to take an active role in your own estate planning. In New York, we all have a "default" estate plan as laid out by the intestacy statute. That plan is not often the plan we would choose for our families. The most difficult hurdle in completing your own estate planning is the decision to go forward and just do it. You, your family and your loved ones will be glad that you did. The attorneys at Brady & Bader LLP would be happy to assist you with your estate planning, we can be reached at 1-718-945-7777.

By Nancy J. Brady, RN, Esq., Partner, Brady & Bader, LLP

BLOG COMMENTS POWERED BY DISQUS (<http://disqus.com>)

PREVIOUS ARTICLE

Facts You Probably don't Need

◀ (</index.php/columns/6820-facts-you-probably-don-t-need-36>)

NEXT ARTICLE

Boat Ablaze (</index.php/columns/6818-boat-ablaze>) ▶



Click the RSS icon to subscribe to our RSS subscription service to receive notifications when new information is available.

(/) Name

E-mail

SUBSCRIBE

MOST READ LATEST NEWS



NEWS (/INDEX.PHP/COLUMNS) JAN 12 2017

130 Kids Receive Free Bikes (/index.php/columns/1924-130-kids-receive-free-bikes)



NEWS (/INDEX.PHP/COLUMNS) AUG 03 2017

Fun Times at the Graybeards Family Fun Run (/index.php/columns/2710-fun-times-at-the-graybeards-family-fun-run)



NEWS (/INDEX.PHP/COLUMNS) JUN 16 2016

Playoffs In Full Swing (/index.php/columns/1005-playoffs-in-full-swing)



NEWS (/INDEX.PHP/COLUMNS) MAY 11 2017

SPOTTED: Globetrotting! (/index.php/columns/2370-spotted-globetrotting)

NEWS (/INDEX.PHP/COLUMNS) SEP 22 2016

St. Camillus / St. Virgilius Basketball Registration (/index.php/columns/1471-sa)

(/) YOU ARE HERE:

COLUMNS (/INDEX.PHP/COLUMNS)



Try out now for your chance to become an NYC lifeguard! Qualifying tests begin in January.

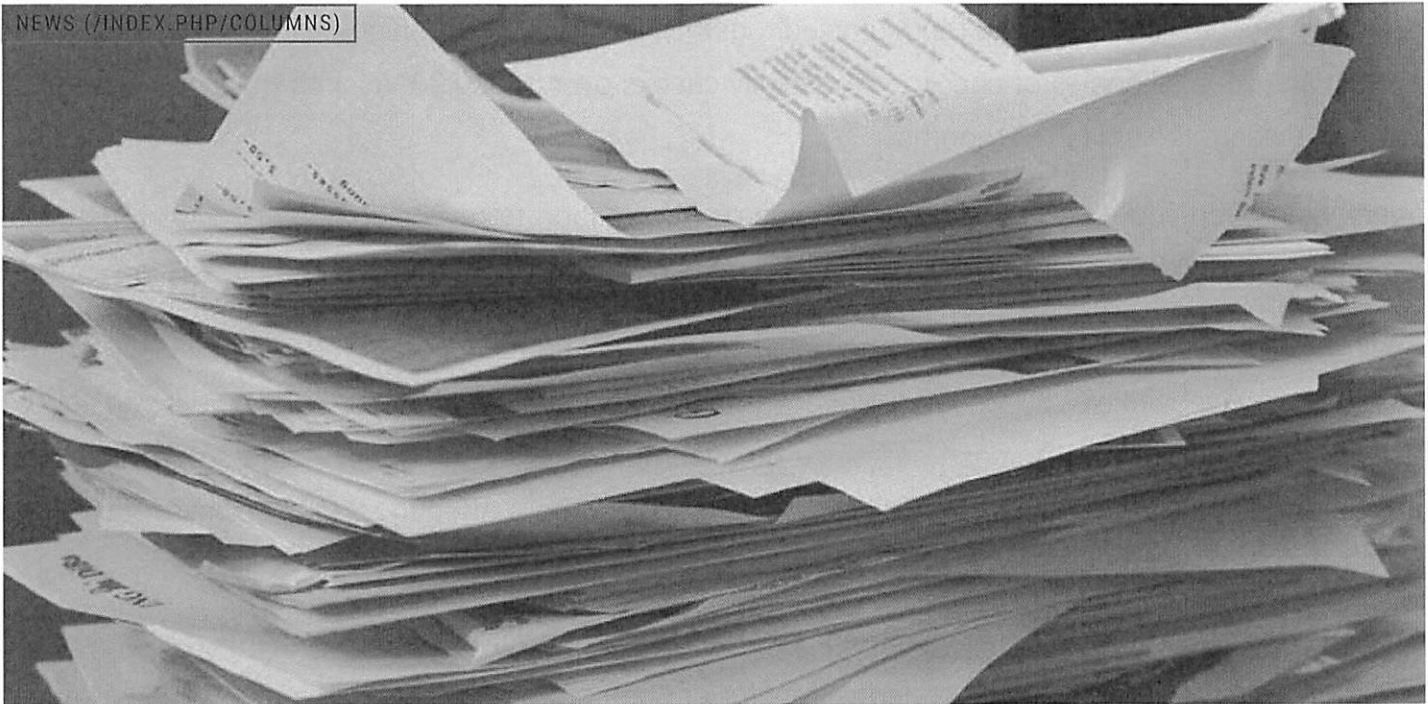
FIND OUT HOW!



(<https://www.nycgovparks.org/opportunities/jobs/lifeguards>)

Boomer Planning Getting Things In Order

NANCY J. BRADY, RN, ESQ., BRADY & BADER LLP, ATTORNEYS AT LAW / 16 JULY 2020



NEWS (/INDEX.PHP/COLUMNS)

PREVIOUS ARTICLE

◀ Khaleel Anderson Leads Assembly Race (/index.php/columns/6725-khaleel-anderson-leads-assembly-race)

NEXT ARTICLE

RISE Working And Seeking Some Help (/index.php/columns/6723-rise-working-and-seeking-some-help) ▶



the past few months has resulted in many people getting their "house in order." It has also resulted in many people cleaning out old files, and deciding what to shred, and what to keep. For me, this dreaded task has been spurred in part by the local free shredding event taking place this month at our local bank. While it is important to debride the file cabinets for space and orderliness, it is important NOT to discard documents you may need in the future. As elderlaw attorneys we often make recommendations to our clients as to what documents should be kept, and what can be shredded and discarded. In addition to keeping a list ready for your loved ones with important numbers such as your doctor, insurance company, passwords to your computer if needed, alternate numbers for family members, and the location of your important papers, the following is a summary of what we recommend you keep in your files.

To begin with, since you most likely have recently met with your accountant, we recommend keeping the prior five years of tax returns, with accompanying documentation. So, this is 2020- you should keep returns for 2019, 2018, 2017, 2016 and 2015. Having these returns available becomes important should you become ill and need to provide documentation of your finances for medical benefits eligibility. Each year you do your taxes, you can discard the oldest return.

All financial statement for the past sixty months: Since this is July, you should keep all pages of all statements for any accounts you had ownership interest in (even if closed) from July 2015 through now. It is not necessary to keep them stapled together, just keep all the pages – even if they are blank pages- and keep all copies of checks – especially checks over \$2000.00. As with the taxes, each year you can discard the oldest 12 months.

Every year when you receive your updated income information from Social Security or your pension, keep those statements. You will only need to keep the most recent year for those statements.

Savings bonds: Keep these in a safe place. You should look up the value of these periodically, on the U.S. Treasury website (www.treasurydirect.gov (<http://www.treasurydirect.gov>)). Each year you should ask your accountant what to cash out, since the income is taxable the accountant can provide good advice regarding how much or how little you should cash without affecting your income for taxes too greatly.

Stock certificates: If you hold original stock certificates consider transferring them to a brokerage account. This will make it much easier to transfer or cash out stock if the need arises and will avoid the issues that arise with lost stock certificates.

Stock and lease to cooperative: Keep the originals in a safe place and make a set of copies and keep in a different place.



Good policies: Living where we live, most of us have had firsthand experience with these documents handy after Hurricane Sandy, keep a set of copies separate

(1) from your originals, on your computer or with a family member.

Title to your motor vehicles and insurance information: Keep originals in one place and set of copies in another.

Personal documents to keep include birth certificates, baptismal certificates, passports, even if expired, photo ID- drivers or non-driver's license. You should keep marriage certificates, spouse's death certificate, divorce decree. Military discharge papers should also be kept. It is advisable to make copies of each of these documents and keep the originals in a safe place and the copies in a different place, on your computer, or give to one of your children to hold.

Funeral Plans: Make a set of copies, give one set to your loved one, and keep a set in your files at home.

Health insurance cards, credit cards, list of important phone numbers: Again, make copies of all, keep originals in your wallet, and keep set of copies in your files, and perhaps give another set to your loved ones.

Basic estate planning documents: You should keep your original Health Care Proxy, Power of Attorney and Last Will and Testament in a safe place. Let your agents/representatives named on these documents know where you keep the originals and give them a set of copies. Do not ever write on any of these documents, and never unstaple the Will. You need to review these documents regularly to make sure there are no changes you want to make, or if any circumstances in your family change- (births, deaths, family members' illness or disability) to make sure your documents accurately represent your intentions for the changed circumstances.

In conclusion, while none of us want to be overrun with papers, it is important to have certain papers in your possession, particularly in an emergency situation. You should tell your trusted loved ones where your important papers are, and where applicable give them a set of copies. Some people take the extra step and keep a "go bag" ready with insurance papers, deeds, credit and debit cards, financial information, health insurance information, and estate planning documents as well.

Happy shredding!

Nancy J. Brady is a partner in the law firm Brady & Bader LLP Attorneys at Law. The attorneys can be reached at 1-718-945-7777. The office is open by appointment and we are taking all steps necessary in light of the pandemic to maintain a safe environment.



(/)

ALSO ON ROCKAWAYTIMES

<p>Celebrate National Pizza Week With ...</p> <p>a year ago • 1 comment</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>Floyd Bennett Field Closed</p> <p>9 months ago • 2 comments</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>FULL SWEDE AHEAD</p> <p>9 months ago • 1 comment</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>Rockaway Among Fi</p> <p>10 months ago</p> <p>Sign up via our free email subscription service to receive notifications ...</p>
--	---	--	--

0 Comments Rockawaytimes Disqus' Privacy Policy Login

Recommend Tweet Share Sort by Best

Start the discussion

BLOG COMMENTS POWERED BY DISQUS (<http://disqus.com>)

<p>PREVIOUS ARTICLE</p> <p>Khaleel Anderson Leads Assembly Race (/index.php/columns/6725-khaleel-anderson-leads-assembly-race)</p>	<p>NEXT ARTICLE</p> <p>RISE Working And Seeking Some Help (/index.php/columns/6723-rise-working-and-seeking-some-help)</p>
---	---

Sign up via our free email subscription service to receive notifications when new information is available.

Name

E-mail



MOST READ

LATEST NEWS



NEWS (/INDEX.PHP/COLUMNS) JAN 12 2017

130 Kids Receive Free Bikes (/index.php/columns/1924-130-kids-receive-free-bikes)



NEWS (/INDEX.PHP/COLUMNS) AUG 03 2017

Fun Times at the Graybeards Family Fun Run (/index.php/columns/2710-fun-times-at-the-graybeards-family-fun-run)



NEWS (/INDEX.PHP/COLUMNS) JUN 16 2016

Playoffs In Full Swing (/index.php/columns/1005-playoffs-in-full-swing)



NEWS (/INDEX.PHP/COLUMNS) MAY 11 2017

SPOTTED: Globetrotting! (/index.php/columns/2370-spotted-globetrotting)

NEWS (/INDEX.PHP/COLUMNS) SEP 22 2016

St.Camillus / St. Virgilius Basketball Registration (/index.php/columns/1471-sa)

(/) YOU ARE HERE:

COLUMNS (/INDEX.PHP/COLUMNS)



Try out now for your chance to become an NYC lifeguard!

Qualifying tests begin in January.

FIND OUT HOW!



(<https://www.nycgovparks.org/opportunities/jobs/lifeguards>)

NY Estate Planning and Elder Law

NANCY J. BRADY, RN, ESQ. / 18 JUNE 2020

NEWS (/INDEX.PHP/COLUMNS)



PREVIOUS ARTICLE

Protections for Jamaica Bay Await Cuomo's
 Decision (</index.php/columns/6604-protections-for-jamaica-bay-await-cuomo-s-decision>)

NEXT ARTICLE

Wrestle Talk (</index.php/columns/6602-wrestle-talk>)

~~The NY Medicaid program is about to undergo the most significant changes to the program since~~
(1) 2006. Medicaid is the program in New York that, for the elderly, blind and disabled, provides benefits for programs not covered by Medicare. These benefits finance care for full benefits, in a nursing facility, or in the community with home care services. Home care services under the Medicaid program will provide up to seven days a week, 24 hours a day home attendant services for those elderly, blind or disabled New Yorkers who meet the financial eligibility criteria. Without private long-term care insurance benefits, or without Medicaid benefits, the costs of inpatient nursing home care can be in excess of \$15,000 per month in NYC and the five boroughs, and the cost of 24-hour home care can be over \$10,000 per month. It is easy to see how a prolonged illness can deplete one's hard earned savings.


During the COVID-19 pandemic, the Governor, with the NYS Legislature, made significant changes to New York's Medicaid eligibility criteria making it much more difficult for New Yorkers to be eligible for Medicaid benefits to finance the care they need. This will have the most significant impact on the elderly in New York who require home attendant services.

SUMMARY OF CURRENT ELIGIBILITY REQUIREMENTS:

To be eligible to apply for full benefits for nursing home care, as well as for community benefits for home care services, an individual is eligible to apply for coverage if her financial assets total no more than \$15,750. Beyond that asset limit of \$15,750, eligibility criteria for the full benefits program and the community benefits program differ, as follows.

For full nursing home coverage, in addition to the asset limit of \$15,750, there is the requirement for a five year financial audit of all accounts owned by the applicant (even if jointly owned) and explanations for all transfers in and out of the accounts must be documented and proved that the transfers were not gifts, or transfers for no return (fair market value) compensation (this is often referred to as the LOOKBACK period). If there were such gifts or transfers (known as uncompensated transfers), there will be a period of time that the individual is ineligible to apply for Medicaid to finance nursing home coverage for a certain period of time, determined by the value of the uncompensated transfer and to whom the transfer was made. In addition to the asset audit, some or all the applicant's income may be payable to the facility, in addition to the payment the facility receives from Medicaid.

For community Medicaid with home care services the asset limit is the same, the applicant can have no more than \$15,750 when she applies for community Medicaid. Unlike full nursing home coverage, there is NO LOOKBACK or requirement to provide five years' worth of financial documentation. What this means is that UNDER THE CURRENT GUIDELINES, an individual requiring home attendant

 sets out of her name (to a trust or otherwise) any given month, to below
apply for community Medicaid for home care services the very next month.

(1) As for income, the individual receiving community Medicaid benefits has the option to preserve income to be used for household expenses without having to pay any towards her care, unlike the nursing home Medicaid applicant.

WHAT WILL CHANGE ON OCTOBER 1 (or very shortly thereafter):

The new changes will affect the community Medicaid program. Home care services under the community Medicaid program provide home attendant services for up to 24 hours a day, seven days a week, as stated previously. This results in many of our disabled seniors being able to remain at home with these services and avoid having to be placed in a facility away from family, and as we have unfortunately experienced recently, exposed to illnesses they might otherwise not have been exposed to by receiving care at home.

As detailed above, there is currently no lookback at financials and no penalty for asset transfers for community Medicaid eligibility. What the law will change is that now in order to be eligible to apply for community Medicaid, there will be a 30 month (2 ½ year) lookback at all financial transactions, with a penalty period applied based on the value of the transfers within the 30 months.

WHAT YOU SHOULD BE DOING NOW:

These changes will affect those who are in the need of some services now or will be in the near and distant future. If you are of an age that you can anticipate needing some assistance, you should visit an elder law attorney for a consultation to see what options might be available to you to protect your assets.

There are limited options for transferring assets without having to wait the full 30 months for benefits, depending on your family circumstances, and marital status. Once the new regulations begin – in a few short months, we, as elder law attorneys, are familiar with planning available to preserve about half or more of your assets for immediate eligibility.

You need to have your estate planning documents in place and updated regularly. If you become disabled, you may need to have someone assist you – without a Power of Attorney your loved ones would need to initiate a court proceeding to obtain Guardianship to help you obtain benefits to finance your care.

The best plan to preserve most or all your assets, is to have plans in place ahead of the effective date of the changes to the regulations. We anticipate that there will be many applications filed before the effective date, and advise that if you are planning to apply, to do so as soon as possible.



informational purposes. For specific legal advice you should consult privately with an attorney. Ms. Brady is a partner at the firm Brady & Bader LLP, she can be reached at 1-718-945-

(7777).

By Nancy J. Brady, RN, Esq.

ALSO ON ROCKAWAYTIMES

<p>Rockaway Native Among First East ...</p> <p>10 months ago • 2 comments</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>First Drowning Death of the Season Starts ...</p> <p>8 months ago • 1 comment</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>Floyd Bennett Field Closed</p> <p>9 months ago • 2 comments</p> <p>Sign up via our free email subscription service to receive notifications ...</p>	<p>Callie's is Business</p> <p>10 months ago</p> <p>Sign up via our free email subscription service to receive notifications ...</p>
--	---	---	---

0 Comments Rockawaytimes Disqus' Privacy Policy Login

Recommend Tweet Share Sort by Best

Start the discussion

BLOG COMMENTS POWERED BY DISQUS (<http://disqus.com>)

<p>PREVIOUS ARTICLE</p> <p>Protections for Jamaica Bay Await Cuomo's Decision (/index.php/columns/6604-protections-for-jamaica-bay-await-cuomo-s-decision)</p>	<p>NEXT ARTICLE</p> <p>Wrestle Talk (/index.php/columns/6602-wrestle-talk)</p>
---	---

Sign up via our free email subscription service to receive notifications when new information is available.

Name _____



(/)

SUBSCRIBE

MOST READ

LATEST NEWS



NEWS (/INDEX.PHP/COLUMNS) JAN 12 2017

130 Kids Receive Free Bikes (/index.php/columns/1924-130-kids-receive-free-bikes)



NEWS (/INDEX.PHP/COLUMNS) AUG 03 2017

Fun Times at the Graybeards Family Fun Run (/index.php/columns/2710-fun-times-at-the-graybeards-family-fun-run)



NEWS (/INDEX.PHP/COLUMNS) JUN 16 2016

Playoffs In Full Swing (/index.php/columns/1005-playoffs-in-full-swing)



NEWS (/INDEX.PHP/COLUMNS) MAY 11 2017

SPOTTED: Globetrotting! (/index.php/columns/2370-spotted-globetrotting)

NEWS (/INDEX.PHP/COLUMNS) SEP 22 2016

St.Camillus / St. Virgilius Basketball Registration (/index.php/columns/1471-sa)