

# PHILADELPHIA ESTATE PLANNING COUNCIL

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## President's Message

Douglas S. Simon, MD

As we approach the halfway mark of the 2015-2016 year it is an appropriate time to reflect on what we have accomplished and what is to come in the second half of the year. Plans for the celebration of our 75th continuous year of operation are well underway. The Social Committee is hard at work finalizing plans for the February 20th Gala under the guidance of John Hook and Kevin Manning. As always the spirit of volunteerism and contribution is evident in their efforts and their dedicated committee members to make this a memorable evening for all. Please mark your calendars and plan to join your fellow council members for what promises to be an unforgettable time. Sponsorship opportunities still remain for your organization to play a significant role in this marquis event.

Once again I had the privilege of attending the annual meeting of the National Association of Estate Planners and Councils with my fellow officer, Huldah Robertson. We attended sessions with other large councils from around the country to exchange ideas and compare best practices. While each council has distinct business models and unique practices, it is reassuring to see that many of our programs and innovations continue to have great success and other councils recognize this. We also found new ideas to potentially implement going forward. These meetings were followed by two full days of some of the best known speakers on current ideas in trust and estate practice. We heard many speakers who have presented to our council in years past as well as newer speakers who we hope to invite to Philadelphia in the coming years.

We have made progress in many areas during the first half of this year that we hope will lead our organization in new directions for many years. The Technology Committee, led by Regan Greco and Eric Hildenbrand, has been hard at work designing and implementing a new website. This will be introduced early in 2016. We will have the ability to provide

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## Long-term Care Planning & Insurance for High Net-Worth Clients

William R. Borton

*"I hope I die before I get old." – My Generation – The Who, 1965*

Most of the boomers were just coming of age when Pete Townsend wrote My Generation. Now, 50 years later, most of us are still alive and will probably live for another 20, 30 or perhaps 40 years. We are living longer, but not necessarily better. While advances in medical technology and pharmaceuticals are keeping us alive longer, lifestyle-related chronic health conditions are taking their toll. Many are too busy living in the sandwich generation<sup>1</sup> to focus on planning for the future.

For most boomers, the burning question is "Will I have enough?" For many living beyond their means, saving too little or mortgaging their retirement to pay for college expenses, the answer is probably "no." Even for those who have amassed well over a million dollars, concerns about long-term care costs create real uncertainty.

I witnessed both my parents experience the downward spiral brought on by dementia. The burden of sustaining

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## Coming Events

### Luncheon Programs

The Union League  
140 South Broad Street  
Philadelphia, PA 19102  
www.unionleague.org

11:45 – 12:00 p.m. Registration  
12:00 – 12:30 p.m. Lunch  
12:30 – 1:45 p.m. Program

#### Dates:

Tuesday, January 19, 2016  
Tuesday, February 16, 2016  
Tuesday, March 15, 2016

### 75th Anniversary Gala

Saturday, February 20, 2016  
6:00 – 10:00 p.m.  
The Logan Philadelphia  
1 Logan Square  
Philadelphia, PA 19103

### Annual Meeting, Seminar & Reception

Thursday, May 5, 2016  
3:00 – 3:30 p.m. Registration  
3:30 – 6:00 p.m. Program  
6:00 – 8:00 p.m. Reception &  
Access to the Mütter Museum  
College of Physicians  
19 South 22nd Street  
Philadelphia, PA 19103

### Annual Golf & Tennis Outing

Monday, May 23, 2016

#### Golf Outing:

Whitemarsh Valley Country Club  
815 Thomas Road  
Lafayette Hill, PA 19444  
12:30 p.m. Tee Time

#### Tennis Outing:

Philadelphia Cricket Club/St. Martin's Clubhouse  
415 W. Willow Grove Avenue  
Philadelphia, PA 19118  
2:30 p.m. Round Robin

Please register at [www.philaepc.org](http://www.philaepc.org).

## President's Message continued

podcasts for education and many new interactive features. We aspire to a state of the art experience that will provide educational and networking benefits to all of our members. Please feel free to submit any suggestions to the committee for consideration.

Our initial Outreach Program for the community was held in the fall. The committee, led by Andrew Haas and Phil Jodz, put together a tremendous program of educational presentations for the general public. Close to 100 of our members participated in all phases of the process including planning and creating the content as well as the logistics of putting on an event of this scale. The feedback from attendees was universally positive and they expressed great appreciation to have access to such excellent resources from our membership. The program was the brain child of our immediate past President, Rebecca Rosenberger-Smolten, who deserves special credit for her vision and determination in creating this event. We expect to continue to provide educational events for the community at large going forward in various different venues.

We look forward to the second half of the year with great anticipation. The year kicks off with our January luncheon program on the nineteenth with a presentation by Don Trone entitled "The Ethotic Leader". Don Trone is the founder and CEO of 3ethos, which conducts original research and training on LeaderMetrics, a new body of research and book by the same title that looks at using evidence based analysis to determine the effectiveness of a leader who is serving in a critical decision making role. Our Ethics committee specifically chose him for his deep expertise in not only the field of ethics but particularly as it relates to the financial industry. He has testified before Congress and been a driving force on the issues surrounding fiduciary responsibility for advisors. This is followed in February with Michael Amoia speaking on Annuities and Insurance. He is a well known speaker in the insurance world and presents regularly to industry groups on estate planning and insurance issues. Our final luncheon presentation on March will have Paul Brahim speaking on the very hot topic of "Defining Fiduciary Excellence: From Trust Law to ERISA". As many of you are aware the Department of Labor has proposed implementing regulations for board members, trustees, consultants, lawyers, and even family members that define them as fiduciaries. The responsibilities that come with these positions can seem ill defined at times and need clarification. Many of our clients and even some of us individually, will find this information timely and useful.

Our Annual Meeting will be held on May 5th this year and address end of life issues from multiple vantage points. We

will have an all star panel of experts discussing multiple points of view on the last two years of life. Charlie Sabatino is the Director of the ABA Commission on Law and Aging where, since 1984, he has been responsible for research, development, consultation, and education in areas of guardianship, health law, long term care, capacity issues, surrogate decision making, and legal services for the elderly, including professional ethics. Dr. C. William Hanson is the Chief Medical Information Officer at the Hospital of The University of Pennsylvania. He is a Professor of Anesthesiology and Critical Care and is in charge of the Surgical/Critical Care Units. Having had the privilege of being a trainee under Dr. Hanson, I can personally attest to the depth of his intellectual capacity and rigor. He is an outstanding and thoughtful clinician who has written extensively on multiple medically related subjects and is intimately involved with end of life decision making issues. Dr. Hanson's previous lunchtime presentation is well remembered by the attendees for his compelling and thoughtful insights into the bedside and legal issues at the end of life. Joining Dr. Hanson is his colleague Dr. David Casarett. He is a Professor of Medicine at The Hospital of the University of Pennsylvania where he is head of Palliative Care at The Perlman School of Medicine. His clinical work focuses on the care of dying patients, and his scholarship addresses the ethical challenges of informed consent for research and clinical care in patients near the end of life and other vulnerable groups. Dr. Casarett is a frequent guest on national talk shows and is extensively published in these areas. Richard Schwartz from Pepper Hamilton will be moderating the panel along with myself. We look forward to a vibrant and informative discussion in the appropriate setting of the Mutter Museum.



## Long-term Care continued

their lives was huge—emotional, physical, psychological and financial. Then in 2011, a close friend asked me to assist him in obtaining reliable long-term care insurance, a type of insurance with which I was only somewhat familiar. I agreed to explore the available options for the 74 year-old retired executive in earnest.

My research revealed stark realities about how many Americans spend their final days. I discovered there is a “huge hole” in the health care plan of nearly every American. A lifetime of working and saving can easily disappear in a matter of months. Living longer, for millions of Americans, may be one of the greatest crises facing our society today.

I am an independent life and health producer specializing in long-term care planning and insurance for high net-worth clients. In my practice, I rely on the existing and evolving array of insurance products currently available to design creative risk transfer solutions for my clients. The industry volatility over the last several years has presented me with both challenges and opportunities. Sales of new long-term care insurance policies were plummeting, as reluctant consumers now had compelling reasons not to buy.

### A Shifting Advisor’s Perspective

For decades, the majority of expert advisors to the wealth management industry have been saying that long-term care insurance is not right for wealthy clients, mainly because they can afford to self-insure. Therefore, many advisers have been known to tell clients with \$2 million to \$3 million or more of invested assets that they don’t need to worry about developing a strategy to fund a long-term health care risk because they have more than enough money to cover it on their own.

This advice has been changing. As fiduciaries, many advisers are probing this assumption a little further to see if it is really prudent. They are beginning to realize a sound plan for their client’s retirement includes a long-term care strategy that addresses two critical components.

- To assess the financial impact a long-term health care event may have on the individual’s retirement portfolio.
- To evaluate the emotional impact the event would have on family or friends.

Because they are not comfortable talking about the second component, many advisers focus solely on the first issue. The impact on the caregivers cannot be overlooked in long-term care planning.

### Creative Solutions, an example of a Diversified Risk Management Portfolio

Advisors and their clients are beginning to understand that transferring a portion of their long-term care risk to an insurance company makes good sense. They understand the leverage, tax advantages, instant liquidity and professional care coordination that insurance affords them.

What they don’t understand is paying a large premium every year for the rest of their lives for a product they hope they never need and that the insurance company can unilaterally increase.

What clients really want is a policy that:

1. Has no elimination period
2. Provides a combination of indemnity and reimbursement benefits
3. Has guaranteed benefits whether care is needed, or not
4. Has guaranteed premiums that can be flexible
5. Keeps pace with inflation

That one policy, unfortunately, does not exist. For most clients what provides the most effective solution is not one policy. In fact, a combination of policies provides the richest benefits that will cover a broader range of possible claim scenarios. “Diversified risk management portfolios” are individually tailored to the needs and preferences of each client. In this example, we show a couple with four different policies.

Let’s take a couple in their late 50s, both reasonably healthy non-smokers, with \$5MM liquid assets. You can design **two identical traditional LTCI policies** underwritten by a carrier that offers an option to receive a portion of the monthly benefit in cash.

- \$5,000 monthly LTC benefit
- 24 month benefit period
- Waiver of elimination period for home health care
- Shared benefits rider
- 3 percent compound inflation rider

The lifetime premium is reasonable because the benefits aren’t rich. The use-it-or-lose-it objection is blunted with a shared benefits rider because of the high probability one spouse will need care. Concerns about rate increases are minimized by the relatively low premium and agreement that interest rates will likely rise, permitting the carrier to earn more on invested premiums.

For him, you might design a **hybrid Universal Life policy**, with accelerated death benefit LTC rider. You may also use a Guaranteed Universal Life (GUL), Index Universal Life (IUL) or current assumption contract, depending on the couple’s

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## Long-term Care continued

budget, overall objectives and preferences. The design may have a single premium, a limited pay or lifetime premiums and the following features:

- \$500,000 death benefit and LTC benefit pool
- 4 percent acceleration
- \$20,000 monthly LTC benefit
- 25 month benefit period
- No inflation

Because probabilities suggest that he is likely to need care and die before her, and because the length of time he may need care is two years+/-, this approach provides him with the maximum leverage and her with the maximum residual death benefit if he needs care and a \$500,000 addition to her LTC pool of dollars, if he dies without needing care. Because there is no inflation protection with hybrid policies, the LTC benefit is grossed up to offset inflation.

Alternatively, a similar policy with a chronic illness rider may be presented if indemnity is preferred and there are no concerns about permanency or the discounting of the death benefit.

For her, you could design a **single premium life-linked policy**, which may have no elimination period, or a 90 day elimination period only for facility care. A return of premium rider is typically included. The policy also includes the following features:

- \$180,000 death benefit
- \$540,000 initial LTC benefit pool
- \$7,500 monthly LTC benefit
- Two year base acceleration benefit, with four year LTC extension of benefits rider
- 3 percent compound inflation

With her typically outliving him, having no natural caregiver and a significantly greater life expectancy, a six year benefit period is appropriate. There is a sufficient death benefit payable if she never needs care and a small residual one if she does. Inflation protection is included.

Clients and advisors like the flexibility and limited exposure to rate increases. He feels good about protecting her and not forcing other family members to have to step in. She feels confident that she will be able to care for him and will be provided for after he is gone.

There are as many variations on the theme as there are clients, with ages, health histories, state approvals, sources of premiums and client preferences all helping to dictate the solution design.

### Product Innovation

In order to gain a better understanding of the challenges and opportunities faced by the actuarial community, I spoke with Douglas Burkle, ASA, MAAA, Life & Linked Benefits Design Leader at Genworth. Doug has been a leader in the linked and hybrid product space for the last 21 years, first at Lincoln Financial where he designed and priced the MoneyGuard product line and now at Genworth, where he designed and priced Genworth's Total Living Coverage (TLC).

When I asked Doug why it seems carriers are more comfortable pricing linked benefit products and hybrids than traditional LTC insurance, he said his company, and perhaps two others he knows of, are equally comfortable pricing both types of products. They understand the dynamics of linked benefit products and are able to administer them because they have so many years of experience administering LTC claims.

"A carrier that wants to get into the business via a hybrid product, that's acceleration-only, has a choice to make. If they don't have the claims experience and systems capabilities, they will tend to want to administer as an indemnity because it's a lot easier, and go with a chronic illness product. They may also lack agents who have gone through the required CE and have the licenses necessary to sell a LTC reimbursement product."

I then asked Doug what trends he sees in the industry and with his competitors. He said with linked benefit products the trend is toward flexible premiums because there are a limited number of people who can afford a single premium product. I pointed out, that even considering the time value of money, the leading carrier selling a flexible premium linked benefit policy seems to be charging an excessive premium for that flexibility. Doug suggested as the rest of the market catches up, the competition will cause carriers to decrease their flexible premiums so they are more in line with their single premium, thus benefiting the consumer.

In addition, he said "there has been a big ramp up over the last couple years of hybrid products (chronic illness and qualified long-term care acceleration only). If you look at the entire industry portfolio of linked and hybrid, or what we call combination marketplace, from 2008 through 2014 there has been around a 33 percent compound annual growth rate of new premium sales."

"Another area that is being looked at is the annuity-linked product market. As carriers anticipate a better interest rate environment, and there is more room within the interest crediting rate, then you can afford the long-term care rider charges. So, that's a market with growth potential once interest rates go up a little." When I expressed interest in a

## Long-term Care continued

fixed index annuity with a LTC rider, Doug said because of the higher potential crediting rate, we may see movement there first.

When I brought up how chronic illness riders are making it easier to sell permanent life insurance, Doug pointed out that there has been a lot of debate about the chronic illness products that use an actuarial discount method, where policy owners may not exercise the acceleration option because the discount might be too large and they may just wait for the death benefit to be paid in full. At least two carriers he knows of, state in their marketing materials that the age the client goes on claim, is approximately the percentage of the death benefit the client will receive. For example, if the client goes on claim at age 80, they would receive 80% of the death benefit. Doug believes carriers will begin to offer the option of an extra premium charge in return for a dollar-for-dollar payout when the insured becomes chronically ill. This will allow the policy owner to know the LTC benefit pool they are paying for.

I brought up that the industry is now promoting products with more limited benefits in response to consumer push back that LTCI is unaffordable. Doug said he expects we will continue to see cheaper products being rolled out to get the price tag down. He also said he thinks there will be a lot of innovation, with carriers tweaking all aspects of the traditional products. Some will be successful, and some not, and it will take several years to sort things out.

In my experience, carriers that fully underwrite life-linked policies offer the policy owner significantly more LTC leverage than those who rely only on simplified underwriting (telephone interview and prescription drug check). I asked Doug about this and he explained that with full underwriting, you get a better risk profile and can produce 20 percent to 25 percent more leverage than with simplified underwriting. My preference is for managing my clients' expectations and taking the time to go through full underwriting to get maximum LTC leverage. I understand from conversations with some of my colleagues that many agents prefer simplified underwriting because they get faster policy issue and commission payment.

When I asked Doug about the future, he stated he thinks that most agents still think there is a strong future for traditional LTC insurance because it still affords the most leverage in the case of a long-term care event, but you do have the main objections (use-it-or-lose-it, non-guaranteed premiums) and they are both answered by a linked benefit product.

To bring our conversation to a close, I circled back to my target market, high net-worth clients. Doug said many high-net worth individuals understand the concepts of leverage

and risk management. While they may have the ability to self-insure, they may lack liquidity. In addition, many are in the position they are in because of a fiscally conservative lifestyle. They purchase long-term care insurance policy because it allows them to practice what they have been taught to do throughout their lives: minimize risk, work with experts and avoid selling assets below their value.

The LTC insurance industry should consider creating products that offer more guarantees and more flexibility. Things like more carriers offering linked products with the option to get better leverage through full underwriting, more hybrids with true LTC riders, chronic illness riders that offer full acceleration and traditional LTC insurance that is non-cancellable. While this is only a small sampling of ideas, this should give you something to think about. Our combined mission is critical. Time is of the essence.

*William R. Borton, CLU, RHU, REBC, is managing principal of W.R. Borton & Associates LLC in Marlton, N.J. He can be reached at bill@wrborton.com.*

*1 <http://www.usatoday.com/story/news/nation/2015/05/21/pew-aging-family-support-america-germany-italy/27578831/>*

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## Reflections of Our PEPC's 75th Anniversary

As the largest and one of the oldest estate planning council in the country, the PEPC has a deep and rich history. One of the Council's long-standing members is David Watson. David recently shared his memory of attending the PEPC's 50th Anniversary celebration at the "new" Ritz Carlton Hotel at Liberty Place. The 50th Anniversary celebration was an expansion of our Annual Meeting. It was held on May 9, 1991. Dr. Almarin Philips, a Wharton professor, addressed "The Banking Crisis". After dinner we were inspired and entertained by Dr. Tony Campolo. We had fewer than 500 members, drawn almost entirely from attorneys, trust officers, CPAs and CLUs. Today our membership consists of more than 800 individuals representing professions that have become integral to the estate planning process."

To expand on David's memory and to commemorate the 75th anniversary, we asked several of our long standing members to reflect upon and share their thoughts on how they view our PEPC today.

Thomas M. Forrest, CPA, AEP - President & CEO,  
U.S. Trust Company of Delaware

Melinda G. Rath, Esq. - Managing Director,  
Glenmede Trust Company, N.A.

David Watson, CLU, ChFC, AEP  
Phoenix Life Insurance Company (Retired)

Albert Gibbons, CLU, ChFC, AEP - President,  
AEG Financial Services

Scott S. Small, J.D. - Senior Vice President,  
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Alan Mittelman, Esq. - Partner, Spector Gaden & Rosen, P.C.

Lawrence S. Chane, Esq. - Partner, Blank Rome LLP

Michael Bonventure, CPA, CFP -  
Principal, Morris J. Cohen & Co., P.C.

Andrew Wilusz, ASA, Director of Mergers & Acquisitions, Value  
Management Inc.

### **(1) What changes have you seen (good or bad) in the organization over the past years that you have been a member of the PEPC?**

The 1986 PEPC golf outing had no more than 15 -20 golfers max. When I was on the board in 1996 for the second time, I started the PEPC golf outing and we sold out with over 120 golfers signed up. I made the brochure on my home computer. This continues to be a sold out event every year to date. This is just one of the many social/fun/joint organization events that we started in the late nineties and have expanded



2005 Annual Meeting: Melinda Rath with the cardboard and the real Dave Watson



1997 Holiday Party: Chris Gleeson, Holly Gleeson Schrock and Richard Ledwith



2009 Bowling Party: Sam Freeman, Mark Eskin, Andrew Wilusz and Andrew Black

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## Reflections continued

into today with many networking events. The overall quality of the programs has always been good, but the improvement to attract nationally recognized speakers has been a plus. -

**Tom Forrest**

The "good" is that I see a balance of new young professionals getting involved and starting to take the reins with more seasoned members (like me). The "bad" is that we may not have been successful at balancing our intentions to be welcoming and open to the many disciplines that affect "estate planning" while trying to keep the core membership and mission at a high level... **Melinda G. Rath**

In the 27 or so years that I've been a member the biggest change has been the size of the membership. Seems as though we have more attendees at our luncheon meetings than we had in the late '80s. That growth was enabled, in part, by our inclusivity. As the estate planning profession evolved, we evolved with it. We broke from the traditional four discipline structure of attorneys, trust officers, CPAs, and life insurance professionals to reflect the changing makeup of the estate planning team, enabling our core group to interact with appraisers, educators, investment advisors, charitable organizations, and others who were becoming key members of the estate planning team. Heightened continuing education requirements for most of our disciplines also facilitated our growth. As our membership grew, our ability to attract (and compensate) higher profile national speakers grew as well, which attracted even more members. Also, the Social Committee evolved from a sparsely attended golf outing in the early days to eventually providing alternatives to our members including ballet at the Kimmel Center, Phillies games, holiday parties, drop in parties, wine-tasting dinners, etc. Today, the golf outing typically sells out. We engaged more of our membership by providing networking opportunities to fellow estate planning professionals that they couldn't have achieved without the council. **David Watson**

Perhaps, the more things change the more they stay the same. Let me comment on the two most important "constants" over the last 20 years. First, the PEPC has been blessed with outstanding leadership (our process of bringing future leaders onto the Board and then through the chairs and leading important committees has been a resounding success and great process); and Second, we have always been fortunate to have enthusiastic member involvement in events, committees, and providing new energy and ideas. The future looks as bright as the past, and I think that is a remarkable achievement. **Albert E. Gibbons**

I have been a member of the PEPC for roughly 16 years. The most remarkable feature of the Council during this time has



2006 Annual Meeting: PEPC Officers, Michael Bonventure, Scott Small and David Watson pay a tribute to Melinda Rath



1998: In honor of the President's Meritorious Award being renamed the Mordecai Gerson Meritorious Service Award, Mordy Gerson received a replica of the award at the PEPC February Luncheon.



March 2009 Luncheon: Mordecai Gerson Meritorious Service Award recipients: Bottom: June Neff (2008), Madeline Janowski (2004), Mimi Stauffer (2006), Steve Frishberg (2003), David Watson (2000), Vince Mitchell (2002), Cliff Schlesinger (1998); Top: Howard Silverman (2009), Tom Forrest (2001) and Andrew Wilusz (2005)

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## Reflections continued

been its constant and steady reliability with respect to the value it provides to its membership. The Council's mission is to its members and the Board of Directors has never lost sight of that mission. As a result, the Council has retained its pre-eminent place among the regional estate planning councils around the nation despite a lot of change in the industries and job families represented by Council membership. As for changes by the Council, the networking opportunities supplied by the Council have grown in number and the improvements to the Council's website have been particularly notable and welcome. **Scott S. Small**

I think we have become a great networking organization. The PEPC is an open organization and nearly anyone can become a committee chair or board member if they have the initiative. I think that this fact contributes to our vibrancy.

**Alan Mittelman**

PEPC is and continues to be an exceptional organization that essentially runs itself through the selfless and dedicated efforts of its committed committee members. The governance of PEPC is such that it fosters the constant injection of "new blood" in its leadership ranks. This has allowed PEPC to evolve over its 75 years, bringing new ideas into the mix. **Lawrence S. Chane**

The PEPC was an outstanding organization from the day I joined and I am embarrassed to say that I am not sure how long ago that was. The Leadership of the organization has always been strong. Although the leadership of the organization was strong the breadth of its leaders was narrow. Meaning many of the same people served on the Board for long periods of time. During the past 5 – 8 years the organization has been able to cultivate new and younger leaders. The next step I see is to meld the old and the new together. The second area of change I have seen is in the membership itself. At the time I joined the Council, I perceived the organization to be a very technical attorney centric organization. Today the PEPC has grown to a truly multi-disciplinary organization still centered around estate planning. **Michael A. Bonventure**

Over the last 20+ years, I've seen the Council grow to become the largest and arguably the best in the nation. While its events had always been very professional, it has impressed me how the Council has elevated its game by bringing in national caliber speakers to present on current and relevant topics. I've also seen the composition of its membership change, moving from more lawyers and accountants in the past to a wider array of estate planning-related professionals in the present.

**Andrew Wilusz**



*November 2009 Luncheon: Distinguished Estate Planner Award Recipients: Jeb Bell (2007), Robert Freedman (1999), Frank Mirabello (2009), John Lombard, Jr. (2002), Gene Gillin (2006), Paul Heintz (1996) and Al Gibbons (2005)*



*1999 Annual Meeting: Madeline Janowski passes the gavel to 1999-2000 PEPC President, Cliff Schlesinger*



*2005 Holiday Party: Melinda Rath, Joe Koplin, David Watson and Michael Bonventure*

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# BESSEMER TRUST IS PROUD TO SUPPORT THE PHILADELPHIA ESTATE PLANNING COUNCIL.

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## Reflections continued

### (2) How has the industry changed over the past 20 years?

20 years ago, many estate planning councils only permitted the 4 main disciplines as members (Trust Officers, Accountants, Attorneys and Insurance Professionals). As we entered the 21st century, more professionals realized that one person cannot be everything to everyone so many estate planning councils started/created the “5th category” of their memberships, such as Investment Advisors, Financial Planning Professionals, Auction houses and appraisers to name a few. This has impacted the “team” approach to estate planning and shows how important it is to bring in professionals who are specialists who work in a collaborate fashion to meet the clients goals! I presented to over 30 estate planning councils around the country over the last 20 years and PEPC by far has the most diverse group of members in the country. **Tom Forrest**

I think that the paperwork (real or virtual) to document decisions has mushroomed, in an effort to be “more transparent”. There are now multiple layers of oversight and documentation needed... no longer just meeting notes in the file after a conversation... **Melinda G. Rath**

OMG. How about the abolishment of the estate tax effective 2010? The consolidation of law firms and banking institutions? Changes in charitable deductions and business expense accounts? Globalization? **David Watson**

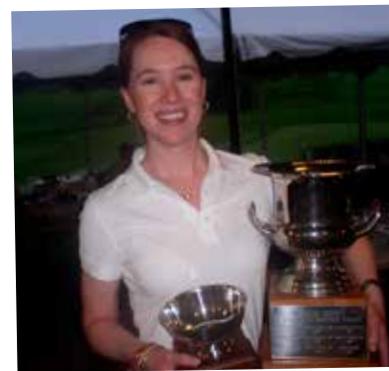
Obviously, the tax laws have had a major impact on estate planning practices. Techniques have changed, solo and boutique estate planning models have emerged and become more practical in the marketplace. I believe there has been a “power-shift” to institutions where there is a concentration of ultra-high net worth clients (e.g. those having \$25 million+) where sophisticated estate planning strategies are still relevant and justify higher fees. I also believe that we will witness the increasing importance of “collaborative models” as the world becomes more complicated and our clients demand expertise in all areas of their planning. **Albert E. Gibbons**

The industry is getting older (lawyers). Not as many new attorneys going into estate planning. Same seems to be true for life insurance. **Alan Mittelman**

The major changes in the industry were the 2008 recession and the 2012 increase in the federal estate tax exemption. This has resulted in less attorneys and life insurance professionals and more financial service professionals involved in the estate planning process. I suspect that this is reflected in the composition of PEPC’s members over the last 5-7 years. **Lawrence S. Chane**



2011 Golf & Tennis Outing: Vince Mitchell and Mary LeFever



2011 Golf & Tennis Outing: Huldah Robertson receives the 2011 Mordecai Gerson Meritorious Service Award



November 2012 Luncheon: Mark Eskin and Rebecca Rosenberger Smolen with the 2012 Men of Vision Recipients John Terrill, Martin Heckscher and L. Pierre Teillon, Jr.

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## Reflections continued

20 years ago, it seemed as though the trend was moving to one stop shopping, or many different estate planning-related services offered by the same firm (also known as multi-disciplinary practices or “MDPs”). However, this trend was derailed by concerns over conflicts of interest (real or perceived.) Also, it seemed as though there were many more estate lawyers back then. Over the years, many estate attorneys essentially stopped practicing law and migrated to wealth management and wealth planning firms. Additionally, with the changes to the estate tax laws in the first decade of the new millennium, while planning for estate taxes is not gone, income tax planning has become more prevalent in recent years. **Andrew Wilusz**

### 3) What has been, or is the most challenging aspect of being an advisor to your clients?

I think dealing with the family dynamics is the most challenging aspect ...especially as you incorporate a team approach to the issues...as that adds multiple advisors with different skill sets, expertise and rules of conduct, as well as, differing motivations and definitions of success. **Melinda G. Rath**

One of my favorite quotes is by Samuel Johnson, “Integrity without knowledge is weak and useless. Knowledge without integrity is dangerous and dreadful.” Clients should demand that their advisors know what they are supposed to know (knowledge) and always, always act in their (the clients) best interest (integrity). When clients don’t understand the ramifications of dealing with advisors or teams that are conflicted, they are always at a disadvantage. Surprisingly, many smart, sophisticated clients don’t ask the most important questions. **Albert E. Gibbons**

Avoiding trends and sticking to basics. Refocusing business to clients needs as tax planning diminishes in importance. **Alan Mittelman**

The most challenging aspect of being an advisor is getting clients to execute a plan that will benefit them. Most of my clients like very simple ideas. Basically techniques that can be explained in one sentence. **Michael A. Bonventure**

It is always challenging helping clients understand the IRS!  
**Andrew Wilusz**

### (4) How has being a member of the PEPC helped you in your profession?

I have developed beneficial relationships within the membership of the PEPC. For example, when I come across clients/prospects that live outside of Delaware, I often rely on



February 2013 Luncheon: Mark Blaskey presents Robert Weinberg with the 2012 Distinguished Estate Planner Award



2014 Annual Meeting: Mark Eskin with PEPC Administrator Denise Downing



2014 Tennis Outing: Tennis players

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## Reflections continued

my PEPC colleagues to assist with the case. I have also used my PEPC contacts to find qualified employees to staff my firm. I am hiring 4 more professionals next year and will certainly seek applicants from the PEPC members! **Tom Forrest**

Many years ago, I was brought into a meeting in a prestigious law firm with a colleague and his very important client. I represented my side of the estate planning team for my colleague, while his competitor faced us on the other side of the table. When the attorney came in, we recognized each other from our work on the council. He grinned broadly and said "Holy s\*\*\*, I see they brought in the big guns". Our competitor knew he was essentially finished. That attorney was a former president of the PEPC, and I had had the pleasure of serving on his BOD. The trust we had developed over the years enabled us to reach a very agreeable outcome on the case - one that, most importantly, benefited the client.

**David Watson**

I am a much better advisor today because of my involvement in the PEPC. I've met and had the chance to work with some of the most outstanding professionals. I've learned technical things, but more important, values and ethics. My most significant formative experience in the PEPC was with the Ethics Committee chaired first by Brad Rainer, and then by Andrew Wilusz. **Albert E. Gibbons**

Membership in PEPC introduced me to scores of professionals I otherwise would not have met in a more "traditional" Council or in the probate/trust sections of the local and state Bar Associations. Interacting with those professionals, and attending the substantive programming, has helped me gain a better understanding of our dynamic estate planning field of practice. **Scott S. Small**

The PEPC has raised my profile in the estate planning community in Philadelphia and has given me opportunities to write and speak to the chapter. **Alan Mittelman**

I realized early on that passive membership would not help to advance my career. This led to my active involvement in the organization by serving on various committees and in various capacities over many years. This "active" membership led to meaningful interactions and working relationships with many other members practicing in all disciplines within the local estate planning community, which was an important aspect of making a name for myself and my firm. **Lawrence S. Chane**

The council has allowed me to build a network of professionals in the estate planning area that I consider to be one of strongest assets. The leadership skills I have learned from many of my peers and mentors have taught me a code



2015 Volunteer Event



2015 Golf & Tennis Outing: Melinda Rath, David Watson and Michael Bonventure

of conduct that I believe have allowed me to succeed in my profession. **Michael A. Bonventure**

Education: I am better prepared to serve my clients by learning about the services offered by other professionals that might help my clients achieve their estate planning goals. It has helped me to see the big picture for clients and to get in front of the key issues that might impact their planning. Relationships: I've developed key relationships that enabled me to become a true member of estate planning teams. These same relationships have led to much work over the years. **Andrew Wilusz**

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## Reflections continued

### 5) Why do you continue to be a member of the PEPC?

It is the best networking organization around. You get to meet and discuss business related issues with members, competitors, partners etc. and derive solutions to complex planning issues. I've been a member for 30 years next year and I will continue. **Tom Forrest**

In retirement I continue to be a member because of the educational programs, but also because of the friends and contacts made over the years. **David Watson**

I continue to be a member of the PEPC, because I have formed so many tremendous relationships, and also because there is still so much to learn. **Albert E. Gibbons**

By maintaining my PEPC membership, I remain informed and up-to-date on matters impacting my daily professional life. I also meet and build alliances with new members every year, contacts that have proven mutually beneficial in the past and that may prove fruitful in the future. **Scott S. Small**

I think that a vibrant estate planning council is important to the community and good for my practice. Education opportunities are excellent. **Alan Mittelman**

I continue to be a member of PEPC to continue my relationships and to take advantage of educational topics that I feel will be helpful to my practice. **Lawrence S. Chane**

The main reason I continue to be a member of the organization is because I love the organization and the people who are a part of the organization. For the most part, the people who are truly involved in the organization are there because they believe in the purpose of the organization and not any accolades they may attain from being in a leadership role. There has also been a collaborative effort to make the Council the best it can be and that atmosphere is very appealing to me. **Michael A. Bonventure**

For the same reasons I joined originally: to learn, to experience, and to network. **Andrew Wilusz**

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## Reflections continued

### 6) How has the organization shaped your career?

I always felt that PEPC was a resource for me... a place where I could add to my knowledge base while networking with others specialists they may have a different perspective. Sometimes I partnered with these professionals on matters and sometimes I just "picked-their brain." I never felt judged... just good-hearted smart people willing to share their time and talents when approached for help or guidance. *Melinda G. Rath*

Although difficult to describe in this abbreviated format, the PEPC has proved to be the foundation of my unique business model and my career. *Albert E. Gibbons*

The Council has contributed greatly to my career. I am a more well-rounded estate planning professional due to what I have learned both formally and informally before, at and after Council meetings. I am grateful to the Council and have never

for one instant regretted donating a great deal of my personal time and effort to the Council and its Committees! *Scott S. Small*

The prestige of being on the board and then serving as an office and President of the PEPC has been meaningful for my career. *Alan Mittelman*

I believe my interactions with PEPC members for the last 20+ years has fostered a higher level of professionalism in me. I've learned not only to lead but sometimes to follow. I've realized that a good organization is only as good as its people, and that professionals can do more for their clients acting in concert than independently. I've also become more confident in my interactions with professionals, clients, and regulatory agencies. Lastly, the PEPC helped me to develop an expansive network of professionals who I respect, and who in turn respect me (or at least I hope they do!) *Andrew Wilusz*

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# How Have Tax Rates Changed In 75 Years?

Michael Mallick, CLU®

“Kids today have it so easy...” Many of us have heard this from our more senior compatriots on many fronts. On the 75th anniversary of the Philadelphia Estate Planning Council, it is interesting to compare tax rates today vs. those in 1940. Per the data below, one could make a strong argument that our estate and income tax rates are more reasonable than they were in 1940. Here are some general trends (adjusted for inflation):

- Federal estate tax exemption has increased 8x
- The top federal estate tax rate and income tax rates are nearly cut in half
- The average face amount of in-force life insurance policies has increased 5x

Michael Mallick, CLU® is a Principal at Valley Forge Financial Group, specializing in business succession, estate planning, and life insurance consulting.

	1940 (nominal dollars)	1940 (inflation adjusted)	2015
<b>Federal Estate Tax</b>			
Exemption	\$40,000	\$678,103	\$5,430,000
Top Rate	70%		40%
Top Bracket	\$50,000,000	\$847,628,571	\$1,000,000
<b>Income Tax</b>			
Top Rate	81.1% <sup>(1)</sup>		39.6%
Top Bracket	\$5,000,000	\$84,762,857	\$464,851
<b>Life Insurance</b>			
Policies In Force	163,000,000		275,000,000
Face Amount	\$151.8 billion	\$2.0 trillion	\$19.6 trillion*
Face Amount per capita	\$1,085	\$14,343	\$61,927*
Average Face Amount	\$931	\$12,311	\$71,273
			* 2013 figures

<sup>(1)</sup> For 1940, tax rates include “defense tax,” computed as 10% of the total “regular” tax, but limited to 10% statutory “net income” in excess of the total regular tax.



## Can Robo-Advisors Replace Financial Advisors?

Victor S. Levy, J.D., LL.M., CPA, CLU, CFP® and Stephen Gottlieb

Imagine a lunch meeting in a lovely center city restaurant. You sit down, place your napkin on your lap, and then take a sip of cool water. You smile as the waiter greets you and hands over the menu, then asks you if you care to order a drink. Seated across from you is another human being, your client, with whom you are about to have a discussion about financial planning, account performance and new ideas.

Over lunch, it gets emotional, as financial planning can be like that. People think about the past and plan for the future, hence it conjures up powerful feelings. Your client reaches for a napkin and wipes away a tear. You are there as a resource, another person, a human to hold a hand or look into another's eye and say, "It's okay, I am here for you. My job as your advisor is to be here for you and to let you know that we will get through this together."

Lunch ends, you shake hands, smile again, and leave the restaurant. Another end to a successful client review meeting.

Can an online experience replace this kind of interaction when it comes to wealth management?

Over the last several years, there has been much discussion about this question among government agencies, select mutual funds, registered investment advisors, and 401k providers who have drawn focus to the deleterious effect that investment management expenses have upon investment returns. For example, Vanguard investments on their website has a fee calculator that allows you in real time to insert a fee percentage to demonstrate what that means in dollars over time. With a 1.2% fee and an 8% rate of return on a \$10,000 investment, \$17,659 of collective return is eroded over 25 years.

High fees and loss of return is creating a slow and steady movement toward lower cost investing. A commoditization which is threatening traditional, more expensive models of investing. In 2014, the Wall Street Journal reported that Vanguard Group reached an unprecedented \$3 trillion of assets under management for the first time, making it the largest mutual fund company in the world with enormous, unprecedented inflows of capital.

Economist Joseph Shumpeter coined the phrase "creative destruction" to describe the "process of industrial mutation that incessantly revolutionizes the economic structure from within, incessantly destroying the old one, incessantly creating

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## Robo-Advisors *continued*

a new one.” The old structure giving way to the new is a fundamental concept in capitalism and it is being carried out repeatedly today in an age of microchip technology. For example, online retailers like Amazon threaten to destroy traditional retail stores, email has destroyed postal delivery, and digital music has destroyed CDs and cassettes. Now, the wave of creative destruction has its sights set on the wealth management industry by focusing upon the cost of it.

The Boston Consulting Group estimated in 2014 that there was a record \$74 trillion of global assets under management. The wealth management industry when taken on the whole is enormous. It is unlike the brokerage industry where buyers and sellers are simply matched together to execute trades in the market, but rather wealth managers are more like financial life coaches. They bring together assets under management and connect them to people’s lives, helping them make sense of what their assets mean while seeking to maximize returns and minimize risk.

Wealth management has always been about more than just investing assets. Rather, it is holistic, comprehensive financial planning. It’s about the emotional aspects, not just what you have or what you saved in fees, but the bigger questions like

what’s it all about? Why are you doing this, building savings, and to what end? Where will it all go when you die?

A wealth management advisor knows that being there for clients is essential. Typically, the work of managing assets is billed through asset management fees assessed as a small percentage of the portfolio assets. This fee is what keeps wealth managers employed, it keeps them engaged in the process, and it moves the entire industry. The performance of the assets is netted out with the fee and good wealth managers try to maintain performance above benchmarks – they demonstrate that their decisions and services justify their fees charged. As the cost of asset management is pressured, the value of the advisor is therefore under scrutiny. This is an economic recipe which creates an opportunity for a newer, more efficient way of doing things.

Wealth management industry say hello to the “Robo-Advisor.”

Robo-advising is an online wealth management service that provides automated algorithm based portfolio management advice without human interaction. It’s deliverable is really not different than a low cost mutual fund or target date

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## Robo-Advisors *continued*

fund, but it has snazzy marketing that conjures up images of Amazon, Expedia, and any other online resource you can think of that has creatively destroyed an industry. Essentially, their services 'advise' (algorithm assembled allocation) based on a questionnaire that determines your risk preference and automatically allocates your assets and manages your portfolio for you in an online, user friendly, web-based system.

Historically, wealth managers or financial advisors were the province of high net worth individuals, but robo-advising is aiming to unlock this once limited service to provide it to all people regardless of their wealth. By definition, robo-advice eschews the human interaction and goes right to the resource, the investment account. The Robo wants the steak not the sizzle.

It began recently, in 2010, when Jon Stein launched Betterment Inc., the first robo-advising platform. Following Betterment in 2011 was Wealthfront, an extremely similar service. Since the start of these two online advisors, there has been a massive response from the wealth management industry. Charles Schwab has recently released their robo-advising platform named Schwab Intelligent Portfolios and many other firms are either in development or are not too far behind.

Although it may seem that most would be skeptical of an automated allocation of their personal assets, the usage depicts an opposite trend. When Betterment Inc. was launched in 2010, it took the company one year to collect \$10 million under management and now currently it has 85,000 clients and they manage \$2.2 billion in assets. Wealthfront presently has \$2.3 billion in assets under management with 30,000 clients and Schwab Intelligent Portfolios, which launched in May 2015, has \$1.5 billion under management.

Consulting firm A.T. Kearny projects that by 2020 the robo-advisor market will grow 68% and will manage around \$2.2 trillion. Although these numbers seem large, in the context of the industry robo-advisors only manage presently around 0.5% of all American investments and are predicted to control 5.6% in the next five years.

So what's the appeal?

Unlike traditional advisors, robo-advisors attract clients who are mass affluent (\$100,000- \$1 million in assets), mass un-affluent (\$100,000 or less), want an online user-friendly interface, and most importantly, that it reaches the elusive electronic generation - the guys and gals that are attached to their cell phones, AKA the "Millennials." The main marketing focus of robo-advising firms is the tech savvy millennial who may not have enough assets for a traditional human

advisor, but needs a higher level of financial assistance. The technological aspect of these services coupled with fees ranging from free to 0.5% are extremely attractive to the young investor. Of Wealthfront's 30,000 clients, 90% are under the age of 50 and 60% of that chunk are under 30.

Another reason robo-advisors are attracting clients is the changing attitudes of the typical wealth management consumer. Clients are looking for more control and involvement in their investments. Instead of the advisor doing all the work, the client wants a hands on approach in managing their funds that gives the ability to personally track their portfolio. Clients are also becoming more digitally proficient and want their information through a technological medium. According to a BCG study, 75% of wealth management clients want more of a digital experience than what they are currently being offered. Overall, the changing client of the traditional wealth advisor is evolving to fit the modern adaptation of an automated advisor.

The bottom line is that robo-advisors offer a hands on way for any investor to easily create a portfolio and oversee their investments for a very low fee. But, at the present time that's about all they do. Although some online platforms offer tax loss harvesting and basic college savings tools, robo-advisors are really only capable of managing your investment portfolio based on a short risk questionnaire.

In the context of wealth management, which is focused upon the whole financial picture of a client, robo-advisors cannot, and will likely not ever be able to compete with human beings. All roads to salvation lead back to human interaction and the unconscious mind. Speaking coach and author, Nick Morgan, wrote recently in *Forbes* that the reason for our need as human beings for human interaction begins in the brain. "The unconscious mind can process something like 11 million bits of information per second...while our paltry conscious minds, those little thinking machines we're so proud of, can only handle like 40 bps."<sup>1</sup> The place where human emotion lives is in the unconscious mind which is where Morgan notes is where decisions and feelings are processed. At this time, it is simply inaccessible by computer or telephone communication, it can only be accessed in the face to face meeting, human to human.

A quality, human advisor should provide truly tailored and holistic financial planning for their clients that assesses a client's personality, their short term goals, long term goals, their wants, their dreams and their needs. A personalized advisor has the capabilities to be the voice of reason to their clients informing them to stay in the market during a

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## Robo-Advisors *continued*

down year and can offer compassion to them during times of financial hardship. No computer program can replace the comfort of an actual advisor.

Most importantly, a wealth advisor has the ability to provide or find a whole host of other services for their clients.

Investing is only one piece of the puzzle when it comes to wealth management. An advisor may offer services such as tax planning, retirement planning, insurance, estate planning, business planning, debt management, and other helpful services that can provide further management to their client.

Perhaps, rather than be threatened by these computerized forces, wealth managers should be advised to focus on how robo-advising can be a positive force. Looking at this from a client's perspective, the concept of robo-advice will lead to a greater awareness of the services that a wealth management advisor provides. The push should, in the least, provide a metric to gauge the value of an advisor's capabilities and services offering. If the asset management piece is worth x with robotic advice, then the other services are worth y.

Another benefit from the client's perspective is that robo-advising creates more options in the market place. Being able to choose the best option for your needs gives better control over how assets should be managed. Perhaps the asset management is handled inexpensively and the holistic services are broken out separately. This creates a freedom of choice for consumers.

The rise of robo-advisors can also be beneficial to the traditional advisor as well. Given the robo-advisor success, this may have actually opened a once untapped market for wealth management advisors to reach a younger audience. Some wealth managers are beginning to work with the robo-advisor platform and enhance it with live, human services.

By expanding the market, more clients will be exposed to not just online financial guidance, but it will likely lead to other services. The rise of these online applications can also benefit the traditional advisors by streamlining their operations. By embracing this movement to lower cost investing, it is a shift, probably not creative destruction, but more like creative evolution. There is a trend line emerging as advisors can offer their services in new ways. By implementing different forms of technology into business practices, wealth management advisors can deliver advice more efficiently.

The online medical advice business may provide a glimpse into the future of the role of the robo-advisor. A few years ago, there was a fear that the "robo-physician" could replace medical doctors. Websites like WebMD sprang up and provided easy to use information open to all for no charge

and available 24 hours a day. What consumers came to learn is that when they are curious about their health, the first place they often looked for advice was online, but when they have a real health concern, a portal could not replace a human doctor.

For some customers of wealth management, there is an appeal to automated advice which has led to the rise of robo-advising. But for many, like WebMD, robo-advice provides resources and possibly services but this alone will not create an end to human advice.

The robo-advisor programs such as Betterment, Wealthfront, and Schwab are growing and becoming more visible. Their rise should be welcomed by wealth management professionals, not viewed as a threat. There is a place for low cost investing models and these type of accounts can most certainly be used in a way to better improve the wealth management experience. Ultimately, they enhance the work of the human financial advisor.

The American philosopher John Searle argued in 1980 that digital computers won't ever be conscious and it is consciousness that is in the pure and secluded domain of humanity. Computers can be intelligent, no doubt, but without consciousness they will lack qualities of human beings.<sup>2</sup> It was also said by the futurist, Dan Sullivan, in his famous book the 21st Century Agent, that humans have an advantage over computers – that no matter how powerful computers become they cannot replace a human relationship.

Take heart, wealth managers, you and robo-advisors should be here together for many more years to come. Now, consider a call to your client and make a lunch date.

*Victor is Managing Director of Financial Planning for Levy Wealth Management Group in Philadelphia. He has recently completed a book called The Story of the Kitchen Table Financial Plan which is scheduled to be published in early 2016.*

*Stephen is a sophomore at the University of Wisconsin. He is double majoring in finance and economics and hopes to pursue a career in the banking industry.*

*1 Why Communicate Face to Face? Why Not Exist Virtually?, Nick Morgan, Forbes Online, Nov 12, 2015.*

*2 John Searle, www.wikipedia.com*

# A Look At Filial Responsibility In Pennsylvania And New Jersey

Janene B. Reilly and Barbara E. Little

The laws surrounding filial support are complicated, but they are not new. Filial support laws were derived from England's 16th century "Poor Laws." At one time, as many as 45 U.S. states had statutes obligating an adult child to care for his or her parents. Some states repealed their filial support laws after Medicaid took a greater role in providing assistance to elderly parents without means. Other states did not repeal, and, currently, 29 states, including Pennsylvania, New Jersey, and Puerto Rico have filial responsibility laws on their books. In most states, these laws are rarely enforced. However, there is one notable exception – Pennsylvania.

Pennsylvania Act 43 of 2005 resurrected the old filial support laws that made adult children financially responsible for payment of their parents' long term medical costs. Act 43 became a part of Pennsylvania's Domestic Relations Law in 23 Pa. Cons. Stat. Chapter 46, entitled "Support of the Indigent." Unfortunately, Act 43 does not specifically define "indigent" and, as such, there is no true definition of the term. Prior case law may assist in identifying facts and circumstances under which one may be considered "indigent." Arguably, however, any situation where all or a portion of an individual's care costs are not being paid (for any number of reasons) could make a family member open to a claim for filial support.

In past Pennsylvania decisions, fraudulent conduct was a necessary finding before a child would be charged with a parent's care. However, in 2012, the Pennsylvania Superior Court in *Health Care & Retirement Corporation of America vs. Pittas*, 46 A.3d 719 (Pa.Super 2012), upheld a lower court ruling that allowed a nursing home to obtain payment from the son of Maryann Pittas for her nearly \$93,000 nursing home bill after she fled the country without paying her bill. Maryann Pittas had applied for Medicaid but had left the country before there was a decision on her application. The nursing home then sued her adult son, John Pittas, for payment. Unlike previous rulings, the Superior Court made no finding that John had engaged in any fraudulent transfer to divert or hide his mother's assets.

Things took an interesting turn when, in 2014, the Hamilton Law Group pursued Peg and Bob Mohn of Northampton County for their deceased son's unpaid medical bills. Sure enough, 23 Pa. Cons. Stat. § 4603(a)(1) does include a provision for "reverse" filial responsibility for debts of children.

However, in May 2015, the Attorney General sued the Hamilton Law Group, and its president, James A. Havassy, claiming their debt collection practices violated the Unfair Trade Practices and Consumer Protection Law and the Fair Credit Extension Uniformity Act.

According to the complaint, the Commonwealth's filial responsibility law was cited in attempts to collect medical debts from family members, but the Attorney General notes that the law only applies in situations where public funds have been spent, and does not apply to regular debt collections. Additionally, 23 Pa. Cons. Stat. § 4603(a)(2) provides that in order to establish a responsibility to provide financial assistance for an individual, (i) the debtor must be indigent and (ii) the person targeted for payment must have the ability to pay.

Contrary to Pennsylvania, during the last 50 years there has not been any case law in New Jersey which seeks to enforce the state's filial responsibility law. The New Jersey Statute, N.J.S.A. §§ 44:1-139, 44:4-100, imposes the determination of whether a relative is "chargeable by law for [a poor indigent person's] support" on the municipal director of welfare and the county welfare board. Contrary to Pennsylvania, the New Jersey law provides a definition of a "poor" or "indigent" person as one "who is unable to maintain himself or those dependent upon him." However, the statutes are similar and the concept of "reverse" filial responsibility does exist in New Jersey, but is limited to children under the age of 55.

In addition to the public right of claim by the municipal director of welfare and county welfare boards, there is a private right of action in New Jersey. The existence of a public right of action is contrary to the original statute and early case law in which the statute was applicable once an individual applied for and was found eligible to receive public assistance. However, in 1931, in *Glassman v. Essex County Juvenile Court*, the New Jersey Supreme Court compelled three adult sons to contribute to their father's support and stated that the statute, as revised, permitted a private cause of action. This concept was similarly applied in *Monmouth County Welfare Board v. Coward*, where the New Jersey Superior Court held a son liable for one-third of his mother's welfare allowance. In each of these cases, the state was relieved of its financial duty, as opposed to a private institute receiving funds for the care of an individual. Accordingly, the court in *Pavlick v. Terenski* found that not only may the individual himself or herself bring an action for support, but "two residents of the municipality or county" where the individual resides may bring an action. Thus, while not done to date, a residential facility through two

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## Filial Responsibility *continued*

of its employees domiciled in the same municipality or county could conceivably bring suit against a relative chargeable for funds expended on behalf of the indigent person.

In conclusion, with the ever-increasing costs of long-term care, the dawning of a new era of imposing responsibility for parents' debt on their children may well be on the horizon. With the current implementation of the Pennsylvania law and the potential breadth of the New Jersey statute, nursing homes and other health care providers now appear to have an incentive to utilize the court system to compel children to either help a parent financially or be at risk for covering the cost of the parent's care. As such, adult children should be vigilant about the contracts their parents enter into and how they themselves may be affected.

*Barbara E. Little devotes her practice to all aspects of estate planning (including gifting through trusts or protecting benefits through supplemental needs trusts), estate and trust administration, estate controversies, business succession planning, nonprofits and family foundations. Ms. Little helps clients plan for their future, protect their assets, and achieve tax savings toward the ultimate goal of creating a peace of mind and their legacy. Ms. Little is licensed to practice in Pennsylvania and New Jersey.*

*Janene B. Reilly assists clients in estate planning and estate and trust administration. She has experience drafting wills, durable powers of attorney, advanced health directives, living wills, revocable and irrevocable trusts, special needs and supplemental benefits trusts. Ms. Reilly also implements estate and gift plans in order to minimize or eliminate federal estate tax for high net worth individuals. Ms. Reilly is licensed to practice in Pennsylvania.*



*Michael Bonventure, Al Gibbons, Vince Mitchell and Doug Simon recognize Alan Mittelman for a recent hole in one at Sunnybrook Country Club.*

## Ethics Committee Matrix To Be Revisited

*Glenn Henkel and Skip Massingill, Co-Chairs*

In 1998 and again, in 2007, the Council Ethics committee compiled a "Matrix" that summarized ethical codes for the various disciplines that make up our industry. The "Ethics Matrix 2007" centered on the Code of Ethical Conduct rules for wealth managers and estate planners under various disciplines for "Five Cs." The "Five Cs" addressed were Confidentiality, Conflicts of Interest, Competence, Compliance and Compensation. The Ethics Matrix was published in the May 2007 issue of "Trust and Estate" magazine.

In a recent Ethics committee discussion, it seemed that a sixth "C" – Communication – should also be considered in the new world of digital presence. The PEPC Ethics Matrix is a living document and is worth being revisited to see both whether any changes to the existing codes should be updated, as well as to incorporate "communication" in a technological world. At that meeting, consideration was given to the changing standards for communication, both from the perspective of greater access to changing mechanisms for communication (email, text, tweet, facebook), as well as changing views based upon generational differences in the way generations view communication under various technological means.

The Ethics Matrix will be posted to the new PEPC website when it goes live. The committee is requesting all PEPC members think about how the ethical codes for their discipline have changed since the matrix was previously compiled. Please respond to the committee and let us know if your profession has changed any of the existing rules. More importantly, let us know if your profession has addressed "ethics in technology" and more specifically, in "communication" among members of the planning team and also, in communication with clients. Does the view of this subject vary by age of the planner? Are younger members in the "Facebook generation" less concerned about their digital presence than older members? We live in an aging society and thus, these pressing issues will only become more prevalent as time progresses.

The issue of the Matrix came up because many issues can arise in the world of ethical "communication." A suggestion was made that many people and institutions are more interested in "operational" ethics than "aspirational" ethics in their communication. For example, when representing the multiple generations of a family, does an institution need to protect their operational rules because of ethical concerns about cross generational disclosures. Does a named

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## Revisited *continued*

institution or scrivener continue to merely represent the original Testator? Can and should a family mission statement be prepared to outline how a trust should be operated and how distributions should be made or to encourage a more open dialogue and better understanding of the dialogue could be protected and enhanced.

In sum, the ethics committee needs your help. Please look at the Ethics Matrix 2007 and let us know your thoughts on the above!

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## NAEPC® Notes

*M. Eileen Dougherty, CTFA, CFP®, AEP®, ChFC®*

The National Association of Estate Planners & Councils (NAEPC®) held their 52nd conference from November 18 to November 20, 2015 at the Omni Amelia Island Plantation in Amelia Island, FL. This conference is open to all members of our council (that means you!) as we are all members of NAEPC®. PEPC leaders Doug Simon and Huldah Robertson were in attendance for all three days, including the first day known as Council Leadership Day. This is a unique opportunity for our executive members, who have the responsibility of leading the largest Estate Planning Council in the USA (yes, Philly is still #1!) to meet with similar leaders of councils and to compare notes, gather new ideas and see what is working for other councils across the country. On Council Leadership Day we also held the annual Election of Officers to the Board of Directors and to the Executive Committee of NAEPC®. The new Executive Committee, effective 12/1/15, is as follows;

Jordon Rosen, CPA, MST, AEP®

Immediate Past President

Larry Lehman, JD, AEP®

President

Paul Viren, CLU®, ChFC®, AEP®

President-Elect

M. Eileen Dougherty, CTFA, CFP®, AEP®, ChFC®

Treasurer

S. Mark Alton, CFP®, ChFC®, CLU®, CAP®, CPWA®

Secretary

An additional officer was elected to the Board of Directors and all information is available on the website.

The second and third days of the conference included continuing education presentations made by nationally renowned speakers. Steve R. Akers, JD, conducted a

special AEP® only session, the fifth session of its kind at the conference, which featured a less structured, more open dialogue format that was very well received by the audience.

The Awards Presentation was held on day three, led by the inductions into the NAEPC Hall of Fame®, of each party as Accredited Estate Planner® (Distinguished). You may recall that in 2013, this honor was bestowed on our own PEPC Past-President Al Gibbons and was awarded in 2005 to our very own Tom Forrest!

This year the awards were presented to the following deserving group;

Turney P. Berry, JD, AEP® (Distinguished)

Gerry W. Beyer, JD, LL.M., JSD, AEP® (Distinguished)

John DeBruyn, JD, LL.M., AEP® (Distinguished)

Michael W. Halloran, CFP®, CLU®, ChFC®, AEP® (Distinguished)

Michael D. Mulligan, JD, AEP® (Distinguished)

Please consider joining us November 16-18, 2016 when the conference will be held in Phoenix/Scottsdale.

To learn more about the many benefits available to you as a member of NAEPC® or to learn more about the AEP® Designation visit [www.NAEPC.org](http://www.NAEPC.org) or speak with Eileen Dougherty.

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## November Luncheon Program

*Sponsored by:*



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**BESSEMER**  
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*Scott Lillis (sponsor), Doug Simon (President), Steve Akers (speaker) and Kira Rosoff (sponsor)*

## Welcome Back Party

The annual Welcome Back Party was held on October 1st at the Racquet Club of Philadelphia. Members and prospective members enjoyed a networking cocktail reception while learning about the Council's working committees. PEPC members approved for membership between September 1, 2014 and August 31, 2015 were invited to attend at no charge. Thank you to PURE Insurance for sponsoring this event!



*Frank Marcucci, Jordan Yuter and Thomas Gudowicz*



*President Doug Simon and Mary LeFever*



*Jason Zwiebel, Director Adam Sherman, Patricia McCabe and John Presta*



*Stuart Katz, Karen Buck and President Doug Simon*



*Sonya Aronowitz, Amy Parenti and Christopher Borden*



*Adrienne Hart, Andrea Brockman, Director Eileen Dougherty, Amber Slattery and Jeannine Webber*

## Annual Holiday Celebration

The 2015 Holiday Celebration was held at the beautiful Union Trust venue located on Chestnut Street. Over 100 attendees enjoyed an open bar, food stations and hors d'oeuvres. Monetary donations were collected on behalf of the Children's Hospital of Philadelphia's Reach Out and Read program.



*Robert West, Past President Al Gibbons and Steven Mignogna*



*Past President Rebecca Rosenberger Smolen and Jeannette Leighton*



*Past Presidents Betsy Joyce and Alan Mittelman with Alan Brecher*



*Jordan Rosenblatt, Kaitlin Wilusz, Christopher Borden and Tim Zeigler*



*Sharon Greenberg and Peggy Robus*



*Jeannette Leighton, Mary LeFever and Laura Weiner*

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## Holiday Celebration *continued*



*Directors Rachel Gross and Scott Isdaner*



*Past President David Watson with Mary LeFever and Marc Klebanoff*



*Michael Schiff, Amy Parenti, Director Eileen Dougherty and Jordon Rosen*



*Director Kevin Manning with Vice President Huldah Robertson and Treasurer Richard Schwartz*



*Director Michael Paul, Past President Andrew Wilusz and Director Anthony Weiss*



*James Revels, Lisa McAllister and Matthew Lakofsky from Citrin Cooperman, a 2015-2016 PEPC Platinum Sponsor*



## Welcome New Members

Michael S. Angelos  
Alicia Berenson  
John T. Boxer  
Michael Curran  
Ryan A. DePaul  
Barbara M. Gilbert  
Rachel W. Glavis, Esq.  
Briele N. Haas  
Michael A. Howard  
Leena Ketkar  
Dawn MacDonald  
Melissa L. Matricardi  
Jenna R. Millman  
Michael J. Molder  
Susan O'Donnell  
Rebecca A. O'Neill  
Lisa Pettinati  
Tom Pritchard  
Ken Pugh  
Marilyn C. Sanborne  
Brandy Scheydt  
William Schultz  
Clemence Scouten  
Brian Sullivan  
Kris Szalc  
Noel Turner  
Angela Whitfield

Goldman Sachs & Co.  
Cozen O'Connor  
Metropolitan Wealth Management, LLC  
Goldman Sachs Trust Company  
Bernstein  
Janney Montgomery Scott  
Alexander & Pelli, LLC  
Kulzer & DiPadova  
Morgan Stanley  
Stradley Ronan Stevens & Young, LLP  
Wilmington Trust  
Haverford Trust Company  
Ballard Spahr LLP  
AILA Limited  
Wilmington Trust  
Attorney  
Intervention Associates  
Glenmede Trust Company, N.A.  
Student  
Ballard Spahr LLP  
Glenmede Trust Company, N.A.  
Wells Fargo Advisors  
Philanthropy and Legacy Projects  
Glenmede Trust Company, N.A.  
Glenmede Trust Company, N.A.  
Retired  
BNY Mellon

## Mark Your Calendar

2015-2016 Luncheon Programs – 11:45 – 1:45 p.m.  
All luncheon programs are held at The Union League,  
140 South Broad Street, Philadelphia.

Register at [www.philaepc.org](http://www.philaepc.org)



### Tuesday, January 19, 2016

Topic: *The Ethotic Leader*

Speaker: Don Trone, GFS

3Ethos

Mystic, CT

Co-Sponsors: BAIRD and Kulzer & DiPadova, P.A.

### Tuesday, February 16, 2016

Topic: *Top 5 Items Sophisticated Estate Planners Should Know About Life Insurance, But Most Likely Don't*

Speaker: Michael Amoia, JD, LLM (Tax), CFP, CLU, ChFC

Crump Life Insurance Services

Bethesda, MD

Sponsor: PNC

### Tuesday, March 15, 2016

Topic: *Defining Fiduciary Excellence: From Trust Law to ERISA*

Speaker: Paul J. Brahim, CFP®, AIFA®

BPU Investment Management, Inc.

Pittsburgh, PA

Sponsor: The Law Offices of Peter L. Klenk & Associates

## Philadelphia Estate Planning Council

# 75TH ANNIVERSARY GALA



Saturday, February 20, 2016 • 6:00 - 10:00 p.m.

The Logan  
1 Logan Square  
Philadelphia, PA 19103

On Saturday, February 20, 2016 the Philadelphia Estate Planning Council will celebrate our 75th Anniversary with a gala at Philadelphia's newest luxury hotel, the Logan. The gala will feature a one-hour cocktail reception, three-course gourmet dinner followed by dancing with a live band. Over 200 people are expected to come and celebrate this milestone anniversary!

