

Elder Law Advisor



October 2011

What Does it Mean for a Wisconsin Power of Attorney for Health Care to be "Activated?"

By: Attorney Mark D. Munson, CELA

A Wisconsin power of attorney for health care document is valid when executed as long as it is signed in the presence of two independent and disinterested witnesses. Typically, however, a Wisconsin power of attorney for health care is "activated" when two licensed physicians, or one licensed physician and one licensed psychologist, conclude that you are no longer able to make your own health care decisions after personally examining you. After your Wisconsin power of attorney for health care has been "activated," your health care agent will then be able to make health care decisions on your behalf. Although not typical, an individual can draft a Wisconsin power of attorney for health care so that the health care agent's authority to act is immediate, but the agent's authority will be secondary if the principal (i.e., the individual who made the Wisconsin power of attorney for health care) is still able to make his or her own health care decisions.

If I Apply for Medical Assistance or Family Care Benefits, How Much Life Insurance Can I Have?

By: Attorney Mark D. Munson, CELA

A single individual can only have \$1,500 in face value of life insurance in order to qualify for medical assistance or Family Care benefits. If a single individual has more than one life insurance policy, the face value from all of the policies must be added together and the total cannot exceed \$1,500. It is important not to confuse face value with cash value or death benefit. Face value is the value stated on the face of the policy. In some cases, the accumulated cash value of a life insurance policy may be greater than the face value. This eligibility rule only applies to whole life insurance policies or policies that have a cash value. If a life insurance policy is a term policy without any cash value, the policy is disregarded and the face value can be any amount.

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Learn more about Ruder Ware's Elder Law Group by following this [link](#).

Save the Date:

Protect Your Assets: Medical Assistance & Long-term Care Planning Seminar

Eau Claire: November 17, 2011 @ The Florian Gardens

Wausau: November 16, 2011 @ Holiday Inn & Suites

Visit www.ruderware.com for details.

Around the State

Mark Munson was recently elected to serve on the board of directors for the National Academy of Elder Law Attorney's Wisconsin Chapter.

Jane Lokken represented Ruder Ware at the Heritage Assisted Living Senior Health & Resource Fair. Ruder Ware sponsored a booth at the event where vendors provided resources about a variety of health topics including elder law, Medicare questions, home care, assisted living, and long-term care options.

The Wisconsin Pooled & Community Trusts, also known as WisPACT, provide for the special needs of persons with disabilities without endangering their eligibility for public benefits or placement on waiting lists. Recently, WisPACT asked **Mark Munson** to serve on a statewide committee regarding the payment of inherited retirement benefits to the trust.

About the Author

Attorney Mark Munson, CELA



Licensed to practice law in Wisconsin, Illinois and South Dakota, Mark Munson principally advises clients in the areas of elder law, public benefits (including special needs trusts), estate and trust planning, and taxation. Mark regularly advises clients in the areas of asset protection and medical assistance eligibility. Mark also assists clients with probate and estate administration, trust administration and guardianship.

Mark is a Certified Elder Law Attorney (CELA) by the National Elder Law Foundation, the only organization accredited by the American Bar Association for the certification of elder law attorneys in the United States. In order to become a CELA, Mark was required to have sufficient experience in various practice areas with the field of elder law, pass an all-day comprehensive examination that tests various issues and disciplines within elder law, and receive the recommendation of other elder law attorneys in Wisconsin and the United States.

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Services offered by Ruder Ware include:

- Nursing home and long-term care planning
- Asset protection
- Gifting and divestment planning
- Medicare and Medicaid benefits
- Social Security benefits
- Insurance analysis (including long-term care insurance)
- Residential housing and other living options
- Planning for individuals with special needs
- Tax planning
- Durable powers of attorney for property and finances
- Health care powers of attorney
- Wills
- Trusts
- Marital property agreements
- Real estate
- Guardianship
- Conservatorship
- Veterans' benefits