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The Unintended Consequences of Marriage from a Healthcare Perspective

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Beware of Second Marriage Nuptials even with a Prenuptial Agreement - Courtesy of guest blogger Steven A. Loeb, Esq.

Marriage is defined as [a]n act of marrying or the rite by which the married status is effected; especially the wedding ceremony and attendant festivities or formalities; or an intimate or close union ("marriage." Merriam-Webster Online Dictionary. 2009.) However, what a dictionary will not tell you is the fundamental concepts of a marriage and the resulting law governing a spouse's obligation to support his/her husband or wife. Many of our clients are involved in second, third, or even fourth marriages today. One of the governing laws regarding marriage which most individuals are unaware of is commonly referred to as "the law of necessities." This law, although well recognized and enforced in New Jersey, is rarely (or never) considered by an individual in the decision process of whether to get married. Basically, the law of necessities doctrine pertains to a spouse's obligation to support the "necessities" of the other spouse during the course of their marriage.

While in many circumstances pertaining to a second marriage situation, entering into a pre-nuptial agreement is a beneficial idea to preserve the assets for the intended beneficiaries of each spouse following their death. However, in many states, the pre-nuptial agreement, while one of its intended purposes is to maintain that the debts of each spouse remain with said spouse, the intended judgment can be clouded when medical emergencies occur. Under New Jersey law, a hospital has the unfettered right to pursue an action against either spouse for most medical procedures, regardless of what your prenuptial agreement says.

In New Jersey, a spouse has a duty to provide for the "necessities" of the other spouse so long as the husband and wife are living together. Under New Jersey law, most courts would hold a spouse responsible for their other spouses medical bills provided they were living together during the period when the medical bills were assumed.

A recommendation is prior to entering into any marriage situation, an overview of one's financial assets must be reviewed and a discussion pertaining to asset protection, estate planning, Medicaid planning, and the pitfalls to be prevented from a creditor protection standpoint must be addressed.

In Jersey Shore Medical Center – Fitkin Hospital v. Estate of Baum, 84 N.J. 137 (1980), the New Jersey Supreme Court held that both spouses are liable for the necessary expenses incurred by either spouse in the course of the marriage. The court felt both parties were responsible for each other's necessary expenses incurred during the marriage. The financial resources of both spouses



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must be made available to pay the creditor providing the necessary services to either spouse. It must be noted, however, that any creditor must first seek satisfaction from the income and property of the spouse who incurred the debt. If those resources are insufficient, then, and only then, can the creditor seek the income and property from the other spouse.

In a similarly important case entitled National Account Systems, Inc. v. Mercado, 196 N.J. Super. 133 (App. Div. 1984), the Appellate Division of the State of New Jersey held that a wife is not liable for the hospital bills of her husband since they were separated for four years. The Marriage was simply not viable and the couple was not a financial unit at the time of the husband's hospitalization. The court reasoned that it was not reasonable for the hospital to assume that a wife's assets would be available for the payment of its bills.

Hospital and medical services rendered to a spouse are regarded as "necessities". If a couple intends to get married and does in fact live together when medical bills are incurred, then the obligation rests upon the surviving spouse to ensure that these bills were caused by the decedent's spouse's last illness. As a general matter, one should be aware that entering into a marriage even with a pre-nuptial agreement has specific issues that both parties should research prior to saying "I do".

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