

MCLE SELF-STUDY

© Stephen Joseph

LEAVING THE MILLION-DOLLAR ESTATE TO THE “HELP” MCLE SELF-STUDY

- 1 The law says that in order for a will to be valid, your client must have what?
 - (a) Common sense.
 - (b) Know your name.
 - (c) Testamentary capacity.
 - (d) None of the above.
- 2 According to Probate Code section 21380, when a client leaves a donative gift to a caregiver, it is presumed to be:
 - (a) The product of undue influence or fraud.
 - (b) Valid so long as the client has capacity.
 - (c) Valid as long as the caregiver was not present in the meeting.
 - (d) Invalid in all cases.
- 3 It is very uncommon for a client to include the caregiver in the will or trust. True False
- 4 What burden must the caregiver as beneficiary meet to show validity of a donative transfer?
 - (a) Beyond reasonable doubt.
 - (b) Preponderance of evidence.
 - (c) Clear and convincing evidence.
 - (d) Common sense.
- 5 The caregiver is different from other business relationships in that the caregiver:
 - (a) Spends extensive periods of time with the client.
 - (b) Tends to the client’s most sensitive needs.
 - (c) May have a tight bond with the client.
 - (d) All of the above.
- 6 A client is only subject to feeling pressure to leave the caregiver money if he or she is not paying for the caregiver services. True False
- 7 Which factor is not part of an evaluation in considering whether a gift to a caretaker is appropriate?
 - (a) The client’s history of current and prior estate plans.
 - (b) How much money the client has.
 - (c) The client’s relationship with children.
 - (d) The client’s capacity.
- 8 It is important to arrange a meeting with a client separate from the caregiver. True False
- 9 Probate Code section 21384 provides for an independent review by an attorney of the donative gift and ...
 - (a) Rebutts the presumption of fraud and undue influence.
 - (b) Serves no purpose.
 - (c) Eliminates any reasonable doubt.
 - (d) Is a free service.
- 10 Recording your client by video is never allowed. True False
- 11 There are social considerations and public policy factors to consider with the donative transfer including the following:
 - (a) Letting the children decide everything.
 - (b) Leaving our assets to whom we choose.
 - (c) The current presidential candidates’ platforms.
 - (d) Leaving everything to the dog.
- 12 To prevent the donative gift from being contested, the attorney will want to _____ that client is acting freely with no undue influence from his or her caregiver.
 - (a) Take a picture to show.
 - (b) Do nothing.
 - (c) Tell his or her spouse.
 - (d) Demonstrate in the documents.

continued ►

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MCLE Self-Study

Page 2

- 13 Probate Code section 21384 offers a partial solution to:
- (a) The presumption of fraud and undue influence by the caregiver.
 - (b) Waivers of bond.
 - (c) A mandatory accounting.
 - (d) The presumption that there is an attorney-client relationship.
- 14 A recording can be offered as evidence of:
- (a) Technological advances.
 - (b) That the caregiver was in the other room.
 - (c) To disprove incapacity and undue influence.
 - (d) A recording is never allowed.
- 15 If you feel that your client is being taken advantage of, and after a thorough discussion, the two of you cannot reach an agreement then:
- (a) It is best to refer them elsewhere.
 - (b) Tell the client that he or she is wrong and insist that the client do it your way.
 - (c) Write the estate plan however you want regardless of the client's wishes.
 - (d) Do what the client wants even if it's a product of undue influence.

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