

**Mary** Vandenack provides the transcript from Legal Visionaries podcast on Long Term Care Insurance.

## **TRANSCRIPT:**

**Mary:** On today's episode, my guest is Eryka Morehead. Eryka is the President and CEO of Collaborative Planning Group, Inc., an organization that she founded. Collaborative Planning consults with clients in regard to life, disability, and long-term care planning. Eryka joined me on a previous episode to discuss life insurance in estate planning generally. We're also planning some additional episodes, where we're going to discuss split-dollar and premium financing and using life insurance for buy-sell agreements. I asked Eryka to join me again today to discuss long-term care insurance and long-term care planning. Thanks for joining me today, Eryka.

**Eryka:** Thank you, Mary. I'm excited to be here. This is a topic that's very near and dear to my heart.

**Mary:** Well, you might know that we recently started a life care planning service at Vandenack Weaver Truhlsen, and so I've always thought it was important, but all of a sudden, when we're working on a regular basis with clients who are dealing with the long-term care issues, I would say I have a renewed passion about it, so I really appreciate you agreeing to talk about a topic that I think is extremely important, and I don't think all of the different types of options are actually that there's a high level of awareness because it's another area that's really evolved, but can we start just by explaining what long-term care is.

**Eryka:** Yes, and I think it's easier to start with first, talking about what it's not, which will then get us to what it is. So often, I hear people say, "I won't need long-term care. I'm never going to a nursing home." Long-term care is not a place. It's also not an event. It can be caused by an event, like a stroke or an aneurysm resulting in one needing long-term care, but in its purest form, long-term care, there's this natural progression of aging, this journey that we are all on, where over time, as we age, frailty sets in, and when we get to the point that we can no longer safely, independently get through our daily routine, that is long-term care.

**Mary:** So, I have a 90-year-old mother, and Cheri, that's in the room with us today, is also dealing with issues with parents, so you get a real understanding. I took my 90-year-old mom down to watch my niece play basketball just last night, and while we're sitting there at the game, so she got...It was difficult just for her to walk in, and she had an A-fib issue while we were there, and it was just funny because watching your own mom all of a sudden aging, then it really goes, "Okay, fortunately, I'm 30 some years behind her," but at the end of the day, you watch that and you say, "Wow, this really, at some point, no matter how healthy you eat, how much you work out, how much preventative care you do, I think you're exactly right. It's realistic we're going to age, if we're fortunate. I mean, the alternate scenario is that we don't, but let's talk about how long-term care insurance fits into that.

**Eryka:** Yeah. So there are two primary kind of fears we see set in as people age, and you've maybe even seen this with your mother, I've known. I've seen this with my own mother, but to understand long-term care and how it fits in, there's the financial and the more behavioral side. So, if we recognize that as we age, we no longer reason and rationalize the same way. Our brains are the wiring. It just works differently as we age, and there are these two very common

fears we find that clients have, or that people have, as they get to those more advanced ages in life. The first one is the fear of losing independence, right? No one wants to be told that they can no longer drive or that they have to move out of their home, so that's just a real fear. So, as we start noticing that frailty setting in, our very natural response is to almost want to hide it, not let those around us know that we're struggling or we're forgetting this, or we're falling, which then leads us to the second fear, and the second fear we commonly see is money, running out of money. Whether we work with clients that have hundreds of thousands or hundreds of millions, the fear is the same. Their burn rate's just a little bit different, right? So, with long-term care insurance, it's really there to help in some cases, financially, it's critical to the financial plan, but in other cases, it's there more to help provide access to options because those that love us and care about us are going to take care of us whether we want them to or not, and odds are we might not actually want the care at the time those around us are telling us we need the care.

**Mary:** So that's a really good explanation, and I can tell you again that I'm really witnessing that with my mom. First of all, you talk about the fear of the loss of independence, and my mom, for the last, I think since she was in her late 70's, was worrying about whether or not she could get her driver's license renewed, and she's been able to get it so far. The last time around, I could tell you that us kids were like, "Oh, no, I'm not sure she should be driving anymore," but at least she doesn't drive at night, but then, she started to have some additional eye issues where she's having a little macular degeneration. You're right about how they hide that at first. She doesn't want to tell us everything that's going on, doesn't really want to give up her independence is so important to her. I think that that's just a great factor. I also love the concept of...so I'm watching both of that with my mom, the fear of losing independence, "I don't want to give up driving," and I've actually ordered her some of the services that you can get to come pick you up and things like that, and then the fear of running out of money. You and I have actually worked on some cases, where I've said, "Eryka, why does this person, they just don't need long-term care, they're never going to run out of money?," but that fear exists regardless, and so that my mom, now that she is facing not being able to drive, has realized that perhaps she should move to somewhere where she can connect to other humans. So how do you work with that?

**Eryka:** Yeah. I think you hit the nail on the head right there with who should look at long-term care, right? Oftentimes, as advisors, we're very focused on the dollars and the cents. So we've got fancy software, and if the financial plan says they can sustain the extra amount of income they'd need to pull off the portfolio or pull off the plan every month to pay for the care, well, as advisors, often time, we come to the conclusion they don't need it, but when we flip over to the behavioral side or we look a little bit more at the tax efficiencies associated with using a long-term care policy, that can sometimes tell a different story. So, if we think of the fact that, we tell all of our clients, "Fast-forward, look at what your parents, look at what you've experienced with your parents or your grandparents, and recognize that as much as we all hate to admit this, we are going to be our parents someday." So what we're dealing with them is what it's going to be like for our kids or our significant others in dealing with us, and if we stop for a moment and reflect on that, if we say to someone, "Hey, I don't think you can do these things anymore, and so now, we want to start taking away some of your independence, and oh, by the way, we're also going to start taking extra money out of your IRA or selling off some of your securities, which is going to generate some tax so we can pay for this care that you don't even want. How does that sound?" Right? We're using one fear, and it's like tapping into the other one, which is just completely fueling an already tense conversation, versus if you have long-term care and you can sit back and reframe and say, "Hey, remember this insurance policy that we've had, kind of sitting on the shelf? Maybe it's paid up or maybe we're still making premium payments on it. If you just help come in three times a week, help out with some of these things, I get that

you don't need the help. Not saying that you do, but if you just let somebody and come in and help with these things, we can start. We can turn this policy on, and you can start receiving some income tax-free money from an insurance company." It's really fascinating, as people reason and rationalize and all that changes as we age, we really find a couple things to be constant. Everybody's okay getting money from an insurance company, and they're really okay if that money is tax-free, so then, they will just accept the help. So, it's all about the resources that your family and your loved ones are going to have, at that time, to care for you even if you're not being super open to the idea of care.

**Mary:** I have to say one of the interesting other factors when you talk about both of the aspects you've mentioned, it's like the fear of financial stuff, they're not only sometimes worried about running out of money for themselves, but they're also worried about not leaving anything for their children. I know we tell my mom, "Mom, we don't care. We're all fine, and it doesn't matter if you leave anything." The other thing that we run into is that they don't want to inconvenience their children, so sometimes we explain to them, "By taking care of this, you're helping us as well," so that it's not so much about them as a parent. The parent's always wanting to make sure the kids are okay, having their life and they're more amenable, but I do want to point out one thing you mentioned because I think sometimes not everybody's aware of it, and that's what long-term care can cover, and I know there's different types of policies, and you can elaborate on that, but the example you gave was having somebody come in a few days a week, which a lot of times, people do like to stay in their homes. Some. Some really social people like, "Let me go to someplace where I can walk down the hall and talk to people." Others really want to stay in their homes, and by having that in-home care, they're likely to be able to stay at home longer. So, can you just speak a little bit to the type of care that can be provided?

**Eryka:** Yeah, and I think to your point, typically, if both spouses are still alive, the first one is most likely to be able to remain at home to receive care, because you've got someone else there 24/7. It's the second spouse to require care after the first spouse has already passed, where you're more likely to see that transition to facility care, and part of that's due to cost because 24/7 care is really expensive, but part of that is driven by just social. If you're home by yourself all day every day, I don't know what daytime TV looks like these days, but I don't know if it's the best companion, so I think really, the order of who needs care first also tends to dictate where that care is provided. With long-term care insurance though, let's start quick with how you even qualify for benefits, because I've been asked before, "Oh, if I want to just move into independent living, then do I just turn my policy on?" Not exactly.

**Eryka:** So, in order to qualify or to trigger benefits, every carrier that wants to provide a tax-qualified, long-term care benefit has to use the same triggering definition. People are usually interested to know that it's the IRS that sets that definition. You have to use this definition in order for those benefits to be received income tax-free. So, the way that reads is it's got to be a condition that's designed to last more than 90 days, so these policies are not here for like a one-week procedure, and then you're going to be back up and going again, but you need assistance with two activities of daily living. So those are defined as bathing, dressing, toileting, transferring, which is essentially a fancy word for just being able to get yourself in and out of a chair or over to your bed, eating, incontinence. Now, showering, I get a lot of questions on that too, doesn't necessarily mean you need somebody to like sponge-bathe you, but even if you just need standby assistance because you're of trip hazard or you have balance issues. Having somebody nearby while you're bathing or while you're showering is enough to trigger those benefits. So those are the physical limitations that you need to have help with, or it's a cognitive impairment requiring substantial supervision to safely get through your daily routine, so if you

would potentially be coming out of your room in the morning and you forgot to put your pants on. That's not safe for you or anyone else in your environment. It's not things like, "Oh, I forgot where I parked last week." That's not quite enough to trigger under that cognitive impairment definition.

**Mary:** So being aware of what will qualify for a claim, but even back before that, you want to ask a question if you end up being involved in providing care for parents or a loved one generally, sometimes it's siblings, sometimes it's not always the parent, that happens to the case that I'm in right now, but it is knowing to ask the question, but even before that, making sure they have the long-term care insurance, and then starting to ask questions and so they can, that's a lot of information you just gave. For those of us, I always say I have people come into my office who are really smart, successful people, but they start dealing with the disabilities or the aging of the parents, it's really overwhelming. They might have busy careers, so some of those things that you've identified are triggers, they want to be aware that there is a policy, then, what will go ahead and trigger the benefits, and I think in some cases, I see them waiting too long.

**Eryka:** Yes, we frequently see that, and so as much as children can be asking their parents, "Do you have long-term care insurance?" They might not want to tell you because they're afraid you're going to take away their independence, right? Everybody's afraid their kids are going to put us in the home, but just communicating that at the time that they might need to use that policy, they might not even remember they have the policy, so as more you can open those lines of communications early on, so the kids are aware what the resources are. The other thing we find with families that have long-term care insurance, they tend to get help sooner. So, my mom was an early diagnosis of dementia and some balance issues, and so we went through the transition with her in her very early 60's from home to independent living, and then a couple years later, from independent living to assisted living. Because my family had long-term care insurance, we were able to transition her sooner to independent living than most families might. The important, especially when you're dealing with an Alzheimer's or dementia, is you have to be able to transition early enough that their brain is still able to adapt and learn new things. So, my mom has transitioned wonderfully. She kind of goes on autopilot on how to get to her room, downstairs to eat, she knows where her friends' rooms are, whereas if we would not have transitioned her a year ago and we would've tried to move her today, I do not think that today, she would've responded the same way and would've been way more likely to end up in full-on memory care. So, the goal is trying to get families help sooner so they can continue to experience the highest quality of life possible for the time that they have left. Oftentimes, families wait. They become very reactive, instead of proactive. They know they need to make changes, they know that there's a risk, but they wait for that event to happen, that slip and fall and break the hip, or whatever it might be that finally prompts them to have to do something. Unfortunately, with crisis planning, your options are limited. The first day we went to tour assisted living facilities, if we would've needed to move that day, the only facility that had availability is not where we would've chosen. Instead, we got on a list, and six months later...

**Mary:** Most facilities have waiting lists, right?

**Eryka:** Yeah.

**Mary:** Yes.

**Eryka:** They do, and so we were able to get on the list, and the first time her name came up, we weren't ready. We passed. The next time our name came up, we passed, but the third time, we were ready, but we were there, we were in line, we were already on a list.

**Mary:** So, I just want to reiterate something you said that I think is so important. So, a lot of times, we're leaving parents at home because we want to honor their desire to stay at home as long as possible, and I only started to...my mothers were currently shopping for a facility, and she made a deposit the other day, and part of that was influenced by, in our practice where we provide the life care planning services, we act as guardian, and I acted as guardian for this woman for several years, who passed away this past year, and it gave me a new appreciation for what you said about the best quality of life possible for whatever time you have left. At one point, I used to joke and say, "Hey, when I can't spin anymore..." I'm a, used to teach spin classes and love doing athletics, but when I can't do that anymore, then I hope that how I go is that I'll have a heart attack as I get off a spin bike, and then I'll be done, and my son, who recently lost his dad, said, "Mom, I hope you don't talk like that anymore." What I went through with this woman is, who at the end of her life, she was bedridden, she had to get help to go to the restroom, sometimes she could get it done, sometimes not, but her joy in life was eating, watching TV, and having visitors. Some others in her life said to me, "Mary, why don't you just let her go? That's no life," and I would talk with her openly about it. She says, "No, it is, and that's why I'm glad that you got me here." She was in skilled nursing at the time, because at least, I can enjoy those things, and when she could no longer enjoy those things, it was a different story, but it gave me an appreciation and the ability to say to my mom, "Mom, you're an extrovert. You like to be around people." "You don't like when your tours get canceled because of the snowstorm. If you're at a place where there's other people, if there's a snowstorm and you can't go out, and you walk down the hall and play cards." So, it's kind of looking at that, so I really like that point about the best quality of a life that you can possibly have, and then moving a little sooner sometimes rather than saying, and I think I even said it earlier, saying, and a lot of people do want to stay at home, but questioning the why of that is maybe appropriate. So, we're talking, we've talked a lot about the process and what it takes to actually be able to make a claim. If somebody thinks that they qualify for a claim, how do they go about doing that?

**Eryka:** Yes, so there's three parts to filing a claim. First, you're going to want to get contact the insurance company and get their form. So, the completion of that form is really just basic demographic information, your personal information, and a little bit about, "What are you dealing with? Is it a dementia? What is the issue, and how are you planning to have your care provided?" So that's kind of the formality. The second part then is going to be your plan of care. So, this might be a social worker at the geriatric physician's office. This could be somebody inside the home healthcare agency or someone at a facility. They would be able to help put together the plan of care, but these are things like, "Do they need somebody to come in in the morning and help them get dressed?" Right? "Can we do the buttons or the zippers on our clothing?" because that would trigger addressing ADL. That plan of care is going to be a very important part of the claim because that's going to outline what you need and who and how that care is going to be provided. The third part of the claim though, which is probably the most overlooked by families, and it ends up being the biggest hurdle and obstacle to getting a claim approved, is the medical records. So, when the insurance company gets the claim form and they get the plan of care, they need some documentation, that this is a valid, legitimate claim. It's fair. We ask for documentation for all sorts of things in our life. Well, getting back to what we talked about at the beginning, this fear of losing our independence. So, we find that oftentimes, as people age, they go to the doctor. The doctor says, "How are you doing? Just fine." They take their blood pressure; they listen to their heartbeat. It all looks great. Medical records

oftentimes don't accurately depict what a day in the life at home looks like. Sometimes it's the result of the physician we're using, and they're just not asking those questions, so as we work with family members that are aging, it becomes critically important that someone is physically not only going to the doctor's office and sitting in the waiting room, but physically going into the doctor appointment with them to make sure that, "Oh, they forgot to bring up the fact that they slipped and fell last week while trying to get out of the shower." Those types of things are critically important to have documented inside the medical records, and they are oftentimes very, very missed, so I encourage all families, before you file a claim, go to the doctor's office and just request the records. Look through them. My mom record had some other guys stuff actually mixed in there too. It's very, very fascinating going through, but I noticed some major gaps. She had all these specialists, but they weren't necessarily sharing the records the way our family thought that they were daily journals of just what's going on a day in the life at home, so keeping a journal for a couple weeks before you go into the physician's office so you can physically hand it to them and say, "Hey, make sure this is part of the record so that when the insurance company's looking through those records, they're getting a true, accurate picture of what their daily routine looks like and what the struggles really are."

**Mary:** I think that's another great point, again, to see who's going through this with my mom, and I have the same doctor. I got her to see my doctor, but so what I actually do is if I'm not going but things that happen between her appointments, I will provide her information for the file and ask her to talk to my mom about it. Sometimes my brother goes to the appointment, and he might not push her as hard as I do to tell everything to the doctor, so I think that's really important to get that. The other thing, I think that's so important about working on that ahead of time is that sometimes getting these things in place takes a while.

**Eryka:** It does.

**Mary:** If you need to have a neurological evaluation, getting in can take a long time, and so really starting to spot things sooner not only means you have better treatment, but get to the right place a little bit more quickly.

**Eryka:** Yes.

**Mary:** So, should everybody get long-term care, or who should have it?

**Eryka:** Well, I have it. So, from a financial aspect, which is one way to look at, there are people who absolutely have balance sheets that are not strong enough to support the additional withdrawal of funds that would be required every month to pay for care, and those cases are absolutely needs-based cases for having a long-term care discussion. Traditional long-term care insurance, which is kind of pure insurance protection, you pay a premium each year or maybe you pay it up over 10 years, but you're paying a premium to have that long-term care benefit, that type of coverage is still the only way that we can get state partnership protection. So for people who husband and wife and they want to make sure that we're not going to have a spousal impoverishment situation, that partnership protection essentially was the government's way of saying, "Medicaid is a huge payer of long-term care today services, and it was never designed to be," and so in order to kind of incentivize people to proactively plan for long-term care, you can purchase a state partnership-protected traditional long-term care policy, where every dollar that the insurance company pays out in claim for your benefit would protect an equal dollar of assets inside the estate from ever having to be spent down at the time of filing for Medicaid. So, in the more needs-based cases, that particular product, that state partnership

protection can be a really helpful tool. So, if we have clients who have super strong balance sheets, they're looking at long-term care as more of a tax efficient decision. So, take a business owner. Most of them didn't get their paying dollar for dollar as they went to build their business or their balance sheet. They use leverage. Well, with the asset-based long-term care products or the hybrid products available on the market today, you can carve out some of the dollars of your portfolio that you would likely use first anyways in the time of claim and leverage those up, so you may be able to get two, eight, 10 times leverage on those dollars and have those pay out on an income tax-free basis.

**Mary:** So, as I understand it, on the long-term care policies, we historically had sort of these guaranteed premiums, guarantees type of things, and I think that my understanding is those products were underpriced and people started living longer, so they have good data. So, the market really changed, and we have a lot of price increases, so just what happened in the market?

**Eryka:** Yes. So those traditional long-term care premiums, they're designed to be level, but they are not actually guaranteed. So, the insurance company can go to the State Department of Insurance and petition for a rate increase. So that has happened, and we've seen a history of rate increases. So, if we look back kind of to, "How did that happen? How did we get here?" there were three main variables that actuarially went into the pricing of long-term care policies that didn't quite play out the way they thought. So, number one, insurance companies in the '80s and '90s, as these policies really gained traction, they had to make an assumption that if they sold 100 policies, for example, how many of those people were going to keep their policies? So, let's say they assumed 90. Well, the 10 people that they thought would lapse or surrender their policies, that would provide funds for the other 90, and that would be 10 people whose claims they would never have to pay. Well, in actuality, 99 out of 100 policy holders have kept their long-term care insurance. The second variable was interest rates. So, if we go back to the '80s or '90s, we had incredibly strong interest rate environments. Was anyone back then forecasting, "Hey, we're going to have a decade in the future of essentially zero interest rate environment"? Maybe one or two people, but that wasn't the common practice, so what's happened is the pool of money the insurance carriers have brought in, has not earned as much as they originally calculated that it needed to. Third, a lot of those old policies had an unlimited benefit duration. So, some of the carrier's longest claims right now are 15, even 20 years, so it makes it very hard to actuarially calculate and quantify your risk if it's an unlimited benefit duration. So those three things kind of created the need for the rate increases that we have seen up to this point in time. Now, today's environment for the traditional long-term care policies, they're essentially assuming 99% of people are going to keep their policies, we're not going to earn very much interest on our portfolios, and they're fixing the duration. There's only a couple carriers left on the market where you could get that unlimited benefit duration, putting a lot more strength and confidence back in the pricing of these today, but if we have a client taking out a traditional long-term care policy, we tell them to make sure they plan for a rate increase at least once a decade, hopefully they'll be pleasantly surprised, but at least they won't be disappointed.

**Mary:** So we had the original long-term care, then we had the changes or the issues that you've mentioned, but so I'm understanding that some of the, what were considered sort of traditional long-term care products have stabilized a little bit to the sense that you aren't going to have this exorbitant price increase annually, but more occasionally, but there's also developed kind of as a result of all that, this hybrid product that you referred to. Can you just describe that briefly?

**Eryka:** Yeah. So, these hybrid products, you'll also hear them referred to as asset-based long-term care contracts or potentially a life insurance with a long-term care rider. These are fixed products that were essentially designed to kind of offset some of the risk of the traditional long-term care policies, so the premiums are fixed and guaranteed, and the benefits, in most instances, are guaranteed, or they'll at least have a contractual minimum guaranteed benefit. These contracts offer things like a death benefit that will return your premiums to you, so if you pass away and you never need long-term care, traditional long-term care, you may have paid premiums for 10, 20, 30 years and never received a benefit, kind of like your homeowner's insurance or your auto insurance, where with asset based long-term care, if you don't use the long-term care benefits, oftentimes your premium is returned to your beneficiaries in the form of that death benefit. These products provide that leverage that I previously mentioned maybe two times up to 10 times the dollars you put in, creating that tax-free pool available for your care.

**Mary:** So similarly, when we did a podcast on life insurance, there are different types of products for different types of situations. So, you don't necessarily want to go online and purchase one. You want to have an understanding, again, of what you're buying and what it's going to do, what your objectives are, what that's going to look like. Is that a fair ...

**Eryka:** Very fair, and long-term care too. Health plays a major role in this, one's ability to get long-term care insurance. We typically, with life insurance, we think of things like, "Oh, I had a cancer, or heart attack," or what have you. "Am I going to be able to get life insurance?" With long-term care insurance, they might not be concerned about those types of things. They're concerned about, "Did someone tell you need to have your knee replaced but you haven't had it done yet?" Well, you will be temporarily uninsurable until you have that knee replaced and your knee is back functioning without being an issue again, so whether or not we can get long-term care insurance plays into this as well.

**Mary:** So, I know we didn't get to everything today that we want to talk about on this topic because it's a fairly significant important topic, so we may want to return to this again in the future, but I do want to ask if you have any last thoughts for today's episode.

**Eryka:** I think we've covered the most important topics surrounding long-term care, and there's a whole bunch more we could definitely continue in another conversation.

**Mary:** Well, I really appreciate you being here today and appreciate your knowledge on this really important topic. As we reach the end of our episode, I want to thank our sponsors, Interactive Legal, Carson Private Client, and Foster Group. That's all for now. Thanks for listening to today's episode and stay tuned for our weekly releases.