

## RESEARCH ARTICLES

## Life Care Planning and the Risk Connection

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<https://doi.org/10.70385/001c.128043>

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Journal of Life Care PlanningVol. 23, Issue 1, 2025

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As the role of a life care planner involves assessing and evaluating future healthcare needs, the ability to identify, evaluate, and mitigate risks is crucial in ensuring that accurate and individualized life care plans are developed while minimizing potential evaluatee harm. As the field continues to evolve, the integration of life care planning and risk mitigation is more essential than ever. This article on the intersection of life care planning and risk management is intended to provide an overview of life care planning principles and standards of practice along with risk mitigation strategies and tools to incorporate into practice.

Risk mitigation in life care planning and the life care plan itself involves identifying potential risks and implementing strategies to manage those risks. By proactively assessing risks, the life care planner can help ensure that an evaluatee receives the appropriate support while minimizing risks. Whether you are a vocational rehabilitation expert, a case manager, or a certified life care planner, and applying strong risk management strategies can significantly improve outcomes and safeguard against unforeseen issues.

Risk mitigation appears in life care planning literature, specifically in the International Commission on Health Care Certification (ICHCC) Candidate Handbook, and, therefore, deserves attention. Specifically, Factor 9 – Data Collection, Subfactor 2 – resource allocation b. 206 “*Apply risk management knowledge as it relates to life care planning*” is of particular interest regarding the intersection of life care planning and risk mitigation.

### Bias Blind Spots and Increased Risk

Defining bias is a good place to start. According to [Dictionary.com](https://www.dictionary.com) (2024), bias is “a particular tendency, trend, inclination, feeling or opinion, especially one that is preconceived or unreasoned.” Psychology Today (online, paragraph 1) defines bias as “a tendency, inclination, or prejudice toward or against something or someone”, adding that such cognitive shortcuts can lead to prejudgments and discriminatory practices. As life care planners, bias towards an evaluatee may cause inconsistencies in life care planning practices or process which can result in an incomplete or substandard life care plan.

Begin with an evaluation of your own perceptions, or lack of perception, to help identify potential unconscious bias. Biases, or our own blind spots, can stifle our ability to evaluate risk, because risk evaluation requires reflecting on the possibility of our own mistakes. Bias can stem from past experiences and may lead to a preference for a routine or familiar approach. Relying on

a “past experience” approach or routine tendencies can increase the risk that an important assessment factor, need, or cost may be overlooked or missed entirely.

Recognizing our blind spots takes practice; moreover, failing to do so can harm both the evaluatee and our professional reputation. First, acknowledge that we all have unconscious biases. Second, conduct a self-assessment before each evaluatee assessment to make fewer assumptions in the process. Third, try an if/then approach to address bias. The intent under this approach is to identify the situation you are trying to change (blind spots or biases) and guide you toward a response that does not include the bias or habit. “If X happens, then I will do Y.” The if-then approach spells out what you should do in each situation while not depending on your past approach or experience (Halvorson, 2011). The goal is to adhere to the life care planner Standards of Practice using an if-then approach. For example, instead of saying to yourself, “I need to make sure I have all the data and information I need for a complete life care plan which is submitted on time” phrase it this way – “If I follow my standardized approach to collecting information and I use my checklist, then I will have all the data and information I need for the life care plan due this Friday”.

A book by Amy Herman (2016), titled *Visual Intelligence: Sharpen Your Perception, Change Your Life* is an excellent tool to help combat self-bias blind spots. Visual intelligence is defined as “the ability to see what’s there that others don’t, to see what’s not there that should be, to see the positives and the negatives, the opportunity, the invention, the upside, the warning signs, the quickest way, the way out, the win” (Herman, 2016, p. 5). An additional resource by Ms. Herman on this topic is her May 26, 2016, talk at Google, which can be accessed at [https://www.youtube.com/watch?v=4v\\_tn4nyjwE](https://www.youtube.com/watch?v=4v_tn4nyjwE).

### Identifying Risk

Through the self-assessment process, unconscious biases have been exposed. The next step in the process is to identify potential risks in the life care planning process.

#### Documentation review

Look at the measurables and ensure accuracy in the life care plan. For example, ensure current costs from reliable sources for the most recent year available are used in the life care plan. Additionally, if a Geographic Adjustment Factor (GAF) is provided in the source cost document, ensure that the cost for the service is multiplied by the appropriate GAF before including the adjusted cost in the life care plan. Obtain the most current available copies of employment, medical, behavioral health and other records. Awareness of manual process errors, such as copying costs from one table to another in the documentation and cost projection portions of the life care plan, can decrease the risk of mistakes or transposition of numbers.

## Projection review

Examine projections made in the life care plan by routinely incorporating self-validation or validation with a colleague when reviewing costs, frequency, and duration of future care recommended in the care plan. For example, have one colleague review the narrative portion of the life care plan while the other colleague reviews the tables to identify any discrepancies or gaps. Then once the costs for the future care are summarized or totaled, look for any outliers in the totals or amounts that appear too large or too small. Reassess that bias assumptions have not been included in the life care plan. For example, do not assume an evaluatee has literacy at the level needed to understand HIPAA or other written forms or assessment tools used during the evaluatee interview; conversely, do not assume that just because a person does not speak fluent English, they are not capable of understanding those documents.

## Scope of practice/license and standards of practice

Guidance in mitigating risks in life care planning can be found in life care planning standards of practice. Life care planning guiding documents can provide a framework for mitigating risks. (Mauk, 2019) notes that life care planning is a transdisciplinary practice. As such, all life care planners have a primary discipline and when working as life care planners or in their primary discipline, they should stay within their scope of practice. Information about the various scopes of practice in life care planning can be found in the *Journal of Life Care Planning* Vol. 17(1), which includes information about the scopes of practice for occupational therapists, physical therapists, physician physiatrists, psychologists, registered nurses, rehabilitation counselors, and speech-language pathologists.

Additionally, Life Care Planning Standards of Performance further delineate practice competencies. Consistent with Standard 2, the life care planner practices within scope of practice. For information on licensure, one may search state licensing board websites for information on various professionally licensed occupations performed. Many licensing boards post advisory opinions related to particular tasks or skills. If there is still uncertainty as to whether a skill or task is appropriate under a professional license, reach out to the licensing board for feedback. Consistent with Life Care Planning Standard of Practice number 7, the life care planner is encouraged to collaborate with recommending provider(s). Consistent with Life Care Planning Standard of Practice number 6, the life care planner is encouraged to objectively evaluate the evaluatee's diagnosis and prognosis, surgeries, and other future treatment. Similarly, objectively assess and plan for the evaluatee's ability to return to work post injury or illness. Consistent with Life Care Planning Standard of Practice number 4, the life care planner is encouraged to use reliable and current sources to factor in costs for each recommendation. One such source may be the most current life expectancy tables, including adjusted expectancy tables for those with specific disabilities, as appropriate.

Consistent with Life Care Planning Standard of Practice number 3, the life care planner is encouraged to conduct an assessment of the evaluatee. In some situations, interviews may be necessary with a significant other or family member to obtain their perspective of the injury or illness on the evaluatee and the family. Depending upon the length of time from submission of the initial life care plan to deposition or trial, follow-up interviews may be necessary for life care plan updates. Consistent with Standard number 3 it is recommended that the life care planner documents sources where access to information was denied, for example, to an evaluatee interview or provider consultation.

Consistent with Life Care Planning Standard of Practice number 6, the life care planner is encouraged to use applicable and validated assessment tools. The evaluatee can be encouraged to independently complete the tools with little to no assistance, based on the evaluatee's injury or illness. Identify if there are gaps in care or services and include recommendations for vocational rehabilitation, case management or similar services, as needed.

### **Mitigating Risk**

Finally, a few pointers on mitigating or decreasing risks in the life care plan. The Harvard Business Review addressed risks in three categories: Preventable risks, strategy risks, and external risks (Kaplan & Mikes, 2012). Below is an explanation of each risk, accompanied by a life care plan example.

#### **Preventable risks**

Preventable risks are risks that arise from within the life care planning organization. For example, consistently performing conflict checks before taking on a new life care planning evaluatee to ensure the interests of a past or current evaluatee do not conflict with the new potential evaluatee. Ensure appropriate onboarding documents are signed and received such as a retainer agreement, HIPAA release, and consent to discuss care with other care providers. Double check the cost tables with a team member to identify mistakes. Re-review the medical record summary, the assessment tools, and recommendations. To further mitigate risk, clearly document in the life care plan documents, medical records, or people you did not have access to in case you are asked about gaps in the plan. Also make it part of your regular practice to ask the treating or recommending provider whether the evaluatee's life expectancy will be shortened due to the nature of the disability or injury and document the decrease, if any, in the report. Since preventable risks are the risks the life care planner has the most control over, the goal here is to virtually eliminate preventable risks from your practice.

#### **Strategic risks**

Strategic risks can threaten the life care planning organization's ability to deliver expected outcomes, which can harm the organization's reputation. These risks generally affect the life care planning company but can also negatively impact the evaluatee. Strategic risk mitigation includes staying within the scope of licensure, collaborating with appropriate recommenders, and

avoiding excessive workload that could lead to missed deadlines. However, strategic risks can also have a bearing on the evaluatee, such as a *Daubert* challenge resulting in exclusion of the life care planner as an expert witness. Similarly, if a life care planner's testimony is successfully challenged under *Daubert*, law firms may not want to retain that expert for life care plans in the future. The goal here is to reduce the likelihood of the potential strategic risks which can have a negative impact on both the evaluatee (important testimony is excluded) and the life care planner's company (loss of income).

### External risks

External risks arise externally from outside the company. These risks typically impact the company and include reputational risks (such as incomplete care plans or care plans with cost calculation mistakes). Referral sources will share company names and individual life care planner's names for those life care planners they believe did a good job. The goal here is to reduce company and reputational risk which can impact referrals. One way to decrease external risk is to ensure all confidential information and records are uploaded into a secure platform.

### Risk tools

To mitigate preventable risks, create a tool or checklist to ensure all aspects of the future care were addressed in the life care plan. Barros-Bailey (2020) provided guidance on development of a checklist process in the *Journal of Life Care Planning*, which includes information about plan reporting guidelines and content analysis. Additionally, a life care planner sample checklist tool is attached for reference.

### Risk Connection

At first glance, life care planning and risk management may seem unrelated. However, unconscious bias can influence the life care planning process, leading to unfair or inaccurate plans that may unintentionally harm the evaluatee. Identifying risks involves thorough documentation review, accurate costing, and comprehensive collaboration. Mitigating these risks requires attention to detail, collaboration with professionals, and adherence to scopes of practice. By adopting effective practices and tools, life care planners can successfully mitigate risks and improve the accuracy of their assessments.

Submitted: November 12, 2024 CDT. Accepted: November 13, 2024 CDT. Published: January 13, 2025 CDT.



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## LIFE CARE PLANNER – SAMPLE CHECKLIST

### PLAN DUE DATE \_\_\_\_\_

☐ **GOAL:** Submit finalized life care plan 1 week prior to care plan due date, if possible

#### Review Case Assignment

- ☐ Review case documents and medical records regarding evaluatee's injuries
- ☐ Complete medical records review and create chart summary

#### Intake Appointment

- ☐ Intake Folder - Preparing for Interview
  - HIPAA release form
  - Note pad or interview form
  - Psych Screens (ALL: PHQ9, GAD7. INJURY DEPENDENT: Pain & Itch, SWAP)
  - Pediatric (Scared Child & Scared Parent form)
  - Physician Recommendations (recs) Form
- ☐ Confirm appointment date, time and location the day before

#### Uploading Documents

- ☐ After Evaluatee intake appointment completed, upload to project or case folder:
  - HIPAA release form
  - Interview notes or form
  - Screening tools
  - Physician recommendation (recs)
  - Collaborating provider approval letters for forms

**Follow up contacts/calls (date, name, phone #, email): (i.e. treating provider, family)**

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**Post Submission of the life care plan to the retaining attorney or firm**

- Request deposition transcripts of LCP, Physicians, Behavioral Health, Economist, Evaluatee, & Family Members
- Upload into project or case folder