

Elder Law 101

Presented by:

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What is Elder Law?

- ◆ Elder Law is an umbrella term for a variety of issues.
- ◆ Focuses on the needs of older adults (65+) and persons under the age of 65 with disabilities.
- ◆ Handles sensitive emotional and physical needs of clients.
- ◆ Advocating for the health, wellness, and safety of vulnerable adults.

Core Areas of Elder Law

- ◆ Long-Term Care Planning
- ◆ Public Benefits Advice
- ◆ Estate Planning
- ◆ Fiduciary Representation
- ◆ Legal Capacity Counseling
- ◆ Special Needs Planning

Long-Term Care Planning

- ◆ As we grow older, our health care needs change, as do our financial needs. Elder Law Attorneys ensure that clients have a plan in place to meet those changing needs.
- ◆ Puts plans in place to prevent client from losing their home or savings in the event they need significant long-term care in the future.
- ◆ Proactive Planning vs. Crisis Planning

Long-Term Care Planning

- ◆ Long term care costs are very high now, and constantly rising. Many of us may not be able to afford thousands of dollars a month for care.
- ◆ The government has programs that can help pay for long term care, but your home or other assets could be at risk.

Three major federal entitlement programs

- ◆ **Social Security**: Provides income for retirees, disabled workers, and survivors of deceased workers.
- ◆ **Medicare**: Health insurance for people covered by Social Security: retirees (age 65 and over) and disabled workers
- ◆ **Medicare**: Health insurance for low-income people.

Medicare vs. Medicaid

- ◆ Myth: **Medicaid** and **Medicare** will pay for it!
- ◆ **Medicare** does not pay for long-term care! Only covers medically necessary care for acute care, such as doctor visits, drugs, and hospital stays
- ◆ **Medicaid**: Payer of last resort for those who cannot afford care. Strict income and asset requirements.
- ◆ Even if you qualify, **Medicaid** only pays for skilled nursing care. Not independent or assisted living, memory care, etc.

VA Benefits

Wartime veterans or their surviving spouses may be eligible to receive cash benefits to help cover medical expenses.
(Aid & Attendance)

Estate Planning

- ◆ Advice on how assets should be managed in the event of disability or death.
- ◆ Wills & Trusts
- ◆ Probate & Trust Administration
- ◆ Everyone has an estate plan whether they know it or not!
- ◆ Beware of undue influence and other red flags!

Powers of Attorney

- ◆ Allows someone else (the agent) to step in and make decisions if the client is unable to.
- ◆ The client determines what decisions can be made on their behalf before there is a problem.
- ◆ Financial, Healthcare, HIPAA Release, and Living Will.
- ◆ Myth: “If I sign this, I’m giving away my power to make decisions!”
- ◆ Beware of undue influence and other red flags!

Fiduciary Representation

- ◆ A person who is invested with rights and powers to be exercised for the benefit of another person.
- ◆ Examples: Personal Representative of a Will, Power of Attorney, Trustees, Guardians, & Conservators.

Legal Capacity

- ◆ **Incapacity**: The inability of a person to manage their own care in the event of physical or mental incapacity.
- ◆ **Guardianship**: Healthcare
- ◆ **Conservatorship** – Money

Preserve dignity and quality of life!

Special Needs Planning

- ◆ Planning for and managing assets for a person with disabilities to ensure any benefits they receive are never in jeopardy.
- ◆ What happens when their primary caregiver becomes incapacitated or passes away?

Preserve dignity and quality of life!

Example: Harriet and Robert

Harriet and Robert are ages 75 and 77, respectively. Harriet will be having hip replacement surgery soon, and a friend suggested that they see an attorney to make sure they have appropriate powers of attorney in place, just in case Harriet has any complications during recovery, or if Robert should suddenly fall ill.

Example: Harriet and Robert

- ◆ After visiting with an elder law attorney, Harriet and Robert now have comprehensive powers of attorney for both health care and financial matters, as well as living wills.
- ◆ One step further - They are also putting a plan in place to protect their home and their hard-earned savings in the event either of them need long-term care in the future. This will ensure they do not lose their home or their savings to the rising costs of long-term care.

Other Areas of Elder Law

- ◆ Insurance Matters
- ◆ Resident Rights Advocacy
- ◆ Housing Counseling
- ◆ Employment & Retirement Advice
- ◆ Administrative Advocacy

Failing to Plan is Planning to Fail

- ◆ While we can't stop the aging process, with proper planning we can make it an easier transition for our clients and their loved ones.
- ◆ Proper care and a plan to pay for that care are vitally important for adults of all ages.



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No representation is made that the quality of the legal services to be performed is greater than the quality of legal services performed by other lawyers.**