

The Law Office of
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*Estate, Trust, Tax and
Long Term Care Planning*



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SPECIAL REPORT - What is Elder Law? -

An Elder Law lawyer provides legal services to seniors and the elderly in a variety of forms. Age does not necessarily limit the types of advice needed. The spectrum of legal issues facing seniors is broad and the complexity great. The elderly have issues requiring an understanding of wills, trusts and estate administration, as well as contract law, real estate, public benefits, conservatorships, guardianships, taxes, agency law and financial exploitation.

Prospective clients usually want to visit an elder law lawyer for one of five reasons:

1. Concerns about advance directives. An advance directive refers to a direction given in advance of a person's wishes should they not be able to make either medical or financial decisions on their own. These usually take the form of a medical power of attorney, living will or financial power of attorney.
2. Concern about passing assets upon their death to their heirs and the avoidance of probate. Many want to discuss the use of a trust or a will; joint tenancy or tenants in common, beneficiary designations on insurance policies or annuities or perhaps payable or transfer on death accounts. Many seniors feel probate is a horrific process they do not wish their heirs to go through. In truth it is actually a reasonable process. It is also helpful to heirs as it allows for the elimination of creditor debt so the estate can pass to the heirs without fear of a creditor arising on the scene after the assets have been distributed.
3. Fear about the cost of long term care. Many seniors are afraid long term care will vanquish their estate and leave little to pass to their heirs— usually their children or a surviving spouse. These prospective clients want to know about the use of long term care insurance, how one might qualify for such insurance and the applicability to such insurance to protect their estate. Others wish to visit about the use of government assistance in a program such as Medicaid or Medicare.
4. Worries about issues regarding financial exploitation. Many try to protect themselves from themselves, while others try to protect a relative's assets from being "taken" by individuals willing to use aggressive tactics to steal the assets of the elderly individual. In these cases clients want to avoid becoming exploited and often must rely on the court system and a guardianship or conservatorship to protect themselves.
5. Concerns about taxes. Taxes come in all sizes and shapes but most are concerned with estate taxes and the basis adjustment of their estate upon their estate to enable their heirs to avoid paying income taxes when the estate assets are sold after their death.