

## Elder Law FAQs

1. What is elder law? Elder law is a practice area devoted to the needs of a particular type of client as opposed to a particular area of law. While not all elder law clients perceive themselves as elderly, many of them have similar needs. Elder law attorneys must be knowledgeable in many areas of the law, including guardianships, long-term care planning, advance health care directives, powers of attorney, estate planning, probate and trust administration, asset protection, special needs trusts and planning, and elder abuse. Elder law attorneys take a holistic approach to addressing clients' concerns by focusing on the problem to be solved and not one particular area of law.
2. Why might I need an elder law attorney? If you or a loved one is concerned about cost of long-term care and how you will pay for it, then you should speak to an elder law attorney. The elder law attorney will be able to explain to you the various methods of paying for long-term care, including the government benefit programs that are available and how to qualify for them. If you are concerned about planning for a time when you might not be able to make decisions on your own, then an elder law attorney can explain to you the various options that are available to you to make sure your wishes are carried out in the event you become incapacitated. These are just a couple of the many ways an elder law attorney can assist you. There are many more types of situations where an elder law attorney can be helpful. That is why it is so important for you to speak with one so that your individual concerns can be addressed.
3. How do I find an elder law attorney? Elder law as a legal practice area is still relatively new, having been around for approximately 25 years. Thus, in some areas of the United States, it might be a challenge to find a qualified elder law attorney. The American Bar Association has approved the National Elder Law Foundation as the only organization in the United States certifying elder law attorneys. There are currently over 400 certified elder law attorneys in 48 states. You may go to [www.nelf.org](http://www.nelf.org) to find a certified elder law attorney near you. You may also ask other professionals, friends or relatives for a referral to an elder law attorney. While not all elder law attorneys are certified, certification does not necessarily mean that a particular elder law attorney is more qualified than one who is not certified. It is simply one more factor for you to take into account when selecting an attorney who best meets your needs.
4. If I need long-term care, what are my options? Long-term care can be delivered at home, in assisted living or in a nursing home, depending on the level of care needed. There are also continuing care retirement communities (CCRCs) which provide a continuum of care. At a CCRC, you are able to enter the community when you need a lower level of care and then move to a different part of the community as your care needs change. CCRCs are especially attractive to couples who may need differing levels of care at some point. Many CCRCs require a significant advance deposit prior to admission. An elder law attorney can review the admissions agreement for you to protect your and your family's interests.
5. Does Medicare cover the cost of long-term care? No. This is one of the most common misconceptions of seniors. Medicare covers short-term rehabilitation but does not cover

custodial care at home or in a nursing home. Medicare will cover acute illnesses such as heart surgery or strokes, but not chronic illnesses such as Alzheimer's disease or Parkinson's disease. If you meet strict requirements, you may receive up to 100 days of Medicare coverage for skilled nursing care in a nursing home; however, there are significant co-payments that will be due. Some people have Medigap insurance policies which cover these co-payments. If you need help with activities of daily living such as eating, bathing, toileting, or transferring in and out of bed, these are considered custodial needs and are not covered by Medicare.

6. What is long-term care insurance? Long-term care insurance is designed to cover the cost of long-term care if you need it in the future. In order to purchase a long-term care insurance policy you must go through the underwriting process of the insurance company. They want to make sure you are in good health and don't have certain pre-existing conditions prior to issuing the policy. Depending on the type of policy your purchase, you will be required to pay premiums for the rest of your life or for a certain period of years. In exchange for the payment of premiums, the insurance company will cover you, up to the policy limits, for the cost of your long-term care, if necessary. In light of the fact that Medicare does not cover long-term care, long-term care insurance should be considered as part of your overall estate planning.
7. How much does long-term care cost? Long-term care is expensive, whether delivered at home, in assisted living or nursing home. Costs vary by geographic region. In some of the major metropolitan areas of the United States, costs can exceed \$200,000 per year. These catastrophic costs can bankrupt most middle class families if they don't plan in advance. An elder law attorney can explain the various options available and help guide you through the long-term care maze so that your family does not go broke paying for long-term care.
8. How do I pay for long term care? Basically, there are four ways to pay for long-term care: (a) Private pay, which can cost more than \$200,000 per year in some areas, (b) Medicare, which only covers short-term rehabilitation for skilled nursing care and does not cover custodial, long-term care, (c) long-term care insurance, which must be purchased while you are healthy, and (d) Medicaid, which is the only government program that pays for long-term care. Medicaid was intended to be for people who are destitute. In fact, to qualify you have to meet strict income and asset guidelines. This presents middle class folks who have a loved one with a chronic illness with a Hobson's choice: impoverish yourself and your family, or engage in Medicaid planning. Once you have been diagnosed with a chronic illness such as Alzheimer's disease, Parkinson's disease, or some other illness for which modern medicine does not have a cure, you will not qualify for long-term care insurance and Medicare does not pay for your long-term care. Thus, you either pay out of your own pocket for long-term care or you work with an elder law attorney in an attempt to qualify for Medicaid.
9. When should I engage in elder law planning? The sooner, the better. We don't have a crystal ball so we never know when illness will strike. While many of us think of nursing home residents as people who are elderly, a significant number of people who need long-term care are middle age or younger. Thus, it is never too early to plan. Moreover, the government has imposed stringent rules penalizing transfers of your assets prior to entering a nursing home. You may be disqualified from receiving Medicaid if you have made asset transfers during the five-year look-

back period prior to applying for Medicaid. An elder law attorney can explain the Medicaid look-back and penalty period rules to you so that inappropriate, disqualifying transfers are not made.