

Do you need an elder law attorney?

By Linda T. Cammuso

With people living longer and the healthcare and financial worlds growing more complicated, it is likely that you or a loved one will someday find yourself in need of an elder law attorney. Like many labels, the term “elder law” is often times used without a proper grasp of its meaning. If you’re not sure what an elder law attorney does, chances are you can’t say whether you need one.



Legal Briefs

Traditionally, legal planning for the older population consisted of people going to see their local attorney to draw up a will, and perhaps a health care proxy and durable power of attorney. These documents would then sit in a drawer until

they were needed — i.e., until disability or death. Over time, estate planning evolved to incorporate probate avoidance, estate tax and income tax planning and asset protection for heirs and beneficiaries.

While traditional estate planning is critically important, today’s complex society demands a more specialized set of tools for the challenges seniors and their families face in managing their healthcare, finances and legal planning. Elder law takes the estate planning discipline to the next level by incorporating healthcare and quality of life concerns into the planning arena.

While the practice of elder law encompasses a broad spectrum of issues, most elder law attorneys assist clients and their families in the following situations:

- Preparing legal documents for estate planning including wills, trusts, durable powers of attorney, health care proxies, HIPAA releases and living wills.

- Navigating the various federal, state and local programs and options available to fund the cost of care at home, in assisted living or in a nursing home.

- Applying for benefits such as Medicaid (called “MassHealth” in Massachusetts) at the community or nursing home level.

- Obtaining a guardianship or conservatorship over a loved one who can no longer make his or her own financial or medical decisions.

- Making recommendations to other advisors and advocates for related needs including healthcare advocacy and financial and tax planning.

Consider the common scenario of John and Jane. They updated their wills when their first grandchild was born. They also set up a living trust for probate avoidance and estate tax planning.

Twenty years later, Jane has dementia and John is finding it difficult to keep up with her care needs. John would like to keep Jane at home longer with commu-

nity services but is not sure which program is best, or whether their finances or insurance would position them to qualify for any benefits.

The kids want to help, but they live out of state and don’t know where to begin in looking for information.

We all know someone going through a difficult transition as they age — whether it’s your in-laws, parents, neighbors or yourself. The good news is you do not need to go it alone. There are wonderful resources available, and starting with an experienced elder law attorney can be a great first step.

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