

Elder Law: What It Means to You and Your Future

Until just a few years ago, the legal needs of the “elderly” weren’t significantly different from the needs of the general population, and “elder law” was an obscure niche legal practice.

But thanks to medical advances, preventive health measures and increased information on nutrition and exercise, an unprecedented number of Americans are living longer, healthier lives. For many, however, the extended aging process does require adjustments in living arrangements, and thought needs to be given to developing plans should the ability to live independently become a challenge.

The Pennsylvania Bar Association currently has more than 800 members in its Elder Law Section. These attorneys provide legal counsel and assistance to those looking to the future, those for whom the elder years are rapidly approaching, and those currently dealing with the struggles and unique complications of “old age.”

An elder law attorney deals with long-term care planning, end-of-life issues, housing assistance and options, elder abuse, neglect and exploitation, age discrimination in employment, veterans’ benefits, services of the Area Agencies on Aging, the legal rights of residents of nursing facilities, and federal and state legislation affecting the elderly.

Many potential clients ask, “When should we consider meeting with an elder law attorney?” Consider the following:

- Do you and your loved ones have a power of attorney? This document can ensure the proper handling of financial and healthcare decisions should you or a loved one become unable to do so independently. The terms of such a document should be customized to delegate either limited or broad authority to family members or trusted friends and professionals. If necessary, in the absence of a power of attorney, an elder law attorney can assist a family in pursuing guardianship in the state Orphans’ Court.
- Do you suspect financial abuse? If there is reason to believe that someone has misappropriated an elderly person’s money, legal action can be initiated to force the return of funds.

- Are you or a loved one considering a move? Elder law attorneys regularly review contracts from in-home care agencies, assisted living facilities, nursing homes, and continuing care retirement communities because they are familiar with the unique issues associated with these contracts.
- How can assets be protected? Elder law attorneys have a working knowledge of the very complex federal and state Medicaid laws that govern access to benefits for long-term care. There are differences in the laws of eligibility for single and married individuals. There is some asset protection available for a married senior who lives at home while a spouse lives in a nursing home. There are some circumstances in which assets can be transferred to others without causing adverse effects on Medicaid applications. Elderly law attorneys can explain the options.
- Can family members be compensated for providing care? Family members often lose income-producing employment to care for a loved one living in his or her own home. Elder law attorneys can explain when these caregivers may be compensated.

Elder law attorneys also are concerned about current and future legislation impacting the elderly. Members of the Pennsylvania Bar Association Elder Law Section aggressively track the numerous pending bills could that affect seniors. They talk regularly with state lawmakers and with representatives of the Department of Public Welfare to ensure that the interests of the elderly are protected.

Robert Gerhard III is a past chair of the Pennsylvania Bar Association Elder Law Section. The association is currently offering a free brochure, "How a Lawyer Can Help You," with information about the smart use of legal services. The brochure is available at www.pabar.org and by calling 1-888-799-4557.