

Why an Elder Law Attorney?

By Barbara W. Reynolds, Esq.

Have you retired recently or are you thinking about retiring soon? Do you have parents or grandparents who may need help in getting their affairs in order? The legal needs of the retired are as diverse and complex as the retired population itself. What works for one person may be inadequate or just plain wrong for someone else. So where do you turn for help in navigating the maze of living options, health care decisions, financing long-term care, estate planning and the many other issues that occur in life as we age?

Some of the sources for advice are senior centers, municipal agents, government agencies, lawyers, physicians, clergy and friends. An experienced Elder Law attorney, however, may be the best place to start. An experienced Elder Law attorney is different from the other resources because your attorney is *your* advocate, someone retained by you to guide you in assessing your goals and needs and to recommend options which will best achieve your aims.

An experienced Elder law attorney will take a “holistic” approach when working with you, knowing that issues such as housing, care, insurance, finances and legal documents are interrelated. You may seek the advice of an attorney for what you perceive to be just one problem, yet seldom do the issues facing older people occur in isolation. An experienced Elder Law attorney realizes this and must be versed in knowing all of the options available and how one decision impacts other choices.

It is important to look at the impact of each alternative from a variety of perspectives and develop a plan for meeting your primary goals and objectives. What matters most to you? What are the specific facts of your life situation? What alternatives are available to you to achieve your goals? The answers to questions such as these determine the course of action to recommend to you.

Powers of Attorney and Living Wills are not “fill-in-the-blank forms” if done properly by an experienced Elder Law attorney. The Elder Law attorney will discuss with you the importance of tailoring such documents to be certain that the document will be effective when it is needed to achieve your goals. An attorney’s guidance not only in explaining the effects of the document but also in assisting you in choosing the best agent may mean the difference between a Power of Attorney which works for you in a crisis or one which is worthless or abused.

Preparing Wills and Trusts, Powers of Attorney and Living Wills are but one part of Elder Law. An experienced Elder Law attorney assists you in planning for long-term care needs, whether at home, in an assisted-living facility or in a nursing home. Helping you locate the appropriate type of care, as well as planning for private and public resources to finance the cost, are also part of the holistic approach.

How do I find an experienced Elder Law attorney? A good place to start is to ask family and friends who have used the services of an Elder Law attorney. Other

sources include social workers and/or directors in nursing homes, counselors at senior centers, financial planners, physicians and hospital discharge planners, caregivers and other providers of services to the elderly.

Another valuable source is the National Academy of Elder Law Attorneys (NAELA) at www.naela.org. NAELA is a professional association of attorneys whose primary focus is providing quality legal services to the elderly. But membership in NAELA alone does not assure you of the requisite experience or knowledge you want in an Elder Law attorney. An attorney who is a Certified Elder Law Attorney (CELA) must meet certain educational, testing and experience requirements. Attorneys who achieve this certification are dedicated to counseling on all of the issues facing seniors, having gone through a lengthy application, examination and peer review process. Although this certification is not recognized by all state bar organizations (including Connecticut), it is approved by the American Bar Association, meeting its strict standards for recognition

What should you look for in an Elder Law attorney? In Connecticut, any attorney may call himself or herself an “Elder Law” attorney. It is especially important, therefore, to verify the experience of the attorney. How long has he/she been working with the elderly and incapacitated? What percentage of the attorney’s practice is Medicaid applications? Wills? Conservatorships? What does the attorney typically work on? What training has he/she received? Does the attorney keep current on changes in the law by attending seminars, reading

journals and being active in the Elder Law community? What professional associations does the attorney belong to and how active is he/she in that association? Is the attorney certified?

When faced with major life changes such as moving into a nursing home, planning for possible incapacity or adjusting to living without a spouse, you should also look beyond the experience of the attorney. Are you comfortable with the attorney? Do you understand what the attorney is telling you? To best serve you, an Elder Law attorney has to be able to communicate with you. A rapport should be established at the first meeting. If you feel intimidated or unable to ask questions, your ability to get quality legal service is hindered. If this happens, it might be best to go elsewhere.

The Elder Law attorney should be a resource beyond the preparation of documents. Does the attorney have any knowledge of various resources in the area? Has he/she been to any of the nursing homes, assisted living facilities, etc.? What does he/she know about the various government agencies that you may have to deal with? An attorney with the CELA designation must be familiar with professional and non-professional resources and services publicly and privately available to meet the needs of the older person.

If you are looking for a resource to assist you in dealing with issues of the elderly or disabled, an experienced Elder Law attorney is a natural place to start. Focused on serving the needs of seniors, the disabled and their families, often times available for home visits, an experienced Elder Law attorney has developed a

wealth of information specifically designed to meet the unique legal and non-legal needs of the aging population.

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