

How to Select an Elder Law Attorney

Why an elder law attorney?

Hiring any attorney is a difficult decision, but elder law in particular is a complicated field. Beyond simple estate planning, an good elder law attorney will advise clients on a range of long-term care planning issues, taking into considering emotional and other non-legal issues. Estate planning -- taking care of what happens to your assets after death -- is just one facet. The other is taking care of your assets, needs, and physical care before that event, and elder law attorneys help you plan for illness, disability, or incapacity. As people live longer and longer lives, their extended care will become more and more of the planning focus.

Just as you would seek out a certain type of physician for open-heart surgery, you should seek out an attorney who has focused his or her career in the limited practice area of elder law for your long-term physical care and financial planning needs. A good elder law attorney offers far more than an attorney who does not focus on this particular area of the law, and you should expect far more from him or her.

An experienced, well-qualified elder law attorney has the background to recognize problems that you aren't even aware of, such as the consequences of powers of attorney and potential conflicts between different family members. The purpose of careful planning is to ensure your desires are carried out even when you can't speak for yourself, and you want to be certain that your attorney can evaluate all the consequences of your written word, especially consequences you do not anticipate.

For example, many people feel very strongly about not "ending up in a nursing home," and their first inclination is to prohibit a nursing home stay. A blanket prohibition, however, eliminates the ability of caregivers to use rehabilitative nursing home care absent additional legal costs and court proceedings to get permission from a judge to do so. An experienced elder law attorney will help his or her client avoid such pitfalls. For example, an out-and-out prohibition on nursing home stays – dreaded by many – may prevent the one who holds a medical power of attorney from authorizing a short-term, rehabilitative stay. Getting the necessary authorization would mean additional legal fees and time, all avoidable by using an experienced elder law attorney who can spot trouble before it starts.

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Experience – More than just legal

Once you decide to select an elder law attorney, you should be certain to find one with the breadth and depth of experience to recognize the myriad of legal and personal issues that can arise during the representation. Often, grown children will seek out counsel on behalf of their parents, and it is important to select an attorney who understands the complications that can occur.

According to the National Academy of Elder Law Attorneys (NAELA), established in 1988, you should find out how long an attorney has been in practice, and what percentage of the practice is devoted to elder law. As the establishment date of NAELA indicates, the concept of planning for long-term care, rather than simply the disposition of assets after death, is relatively new. Many estate planning attorneys have simply added “elder law” to their business cards. Beyond wills and trusts, you should know that the elder law attorney you select has a wide range of planning experience. We have been practicing elder law – solely elder law – for more than 13 years, almost as long as it has been a recognized field.

...But not too much

As much as you want to hire an attorney with a range of experience, be wary of elder law attorneys who offer too many services. For example, an attorney who also sells long-term care insurance might not have your interests alone in mind when promoting a policy. The selling of ancillary products could create conflicts between your attorneys’ financial interests and you. Rosenkranz and Gilhool is proud to offer quality legal services and will be happy to direct you to other sources for additional products.

Crisis “planning”

Unfortunately, as you read this you might be dealing with a crisis situation, rather than carefully planning for the future. A lack of planning frequently results in a guardianship proceeding, and it is particularly important to select an attorney who has navigated the rules of guardianship previously and who knows how to take the fear and confusion out of the process. Whether you are a concerned family member seeking a guardian, or an elder person who does not feel ready for a guardianship, a good elder law attorney can guide you through the system. We have not only the legal experience, but the compassion and understanding to guide you through the process as smoothly as possible.

Current and complete information

Experience is important, but so is staying current in this ever-changing field. Be certain to ask when the attorney last attending a continuing education course specifically on elder law. Ask if the attorney regularly gives presentations or provides other types of outreach services. Every opportunity to be in front of people and answer their questions is an opportunity for growth, and a good attorney will be certain to take advantage of these opportunities. We sponsored a radio show for two years straight and learned a tremendous amount from our callers’ questions. We regularly attend and lecture at continuing legal education classes on elder law on a local, state, and national level, and we speak in front of a variety of groups, educating them and at the same time learning about the latest needs and trends in the field.

One way to tell if a law firm stays current is by taking a look at how they use technology. If they don’t care enough to keep their practice updated, will they care enough learn about the latest legislation and case law? Even if you prefer letters and phone calls, at least inquire if they have a website and if they use the Internet for research. It’s one of the best tools for getting the latest

elder law information, and in a field that changes almost daily, it is critical for your planning documents.

Please call us with your questions. We would welcome the opportunity to help you with your planning needs.