



## WHAT DOES AN ESTATE PLANNING AND ELDER LAW ATTORNEY DO?

**The main difference is that elder law is focused on preserving your assets during your lifetime, while estate planning concentrates on what happens to your assets after you die.**

Elder law planning is concerned with ensuring that seniors live long, healthy, and financially secure lives. It usually involves anticipating future medical needs, including long-term care. Elder law attorneys can help you develop a plan to pay for future care while preserving some of your assets for yourself and your family. They can also aid you with qualifying for Medicaid or other benefits to pay for long-term care.

While elder law is focused on older adults, estate planning is for everyone of all ages. Estate planning is a proactive task that is all about preparing for the inevitable – death. Estate planning attorneys help you decide what will happen to your assets after you die. A proper estate plan sets up the who, what, and when of what happens to a client's property after death.

- 1. Health and Personal Care Planning**, including giving advice regarding, and preparing, advance medical directives (medical powers of attorney, living wills, and health care declarations) and counseling older persons, individuals with supplemental/special needs, attorneys-in-fact, and families about life care, medical and life-sustaining choices, and related personal life choices.
- 2. Pre-Mortem Legal Planning**, including giving advice and preparing documents regarding wills, trusts, durable general or financial powers of attorney, real estate, gifting, and the financial and income, estate and gift tax implications of any proposed action.
- 3. Fiduciary Representation**, including seeking the appointment of, giving advice to, representing, or serving as executor, personal representative, attorney-in-fact, trustee, guardian, conservator, representative payee, or other formal or informal fiduciary.
- 4. Legal Capacity Counseling**, including advising how capacity is determined and the level of capacity required for various legal activities, and representing those who are or may be the subject of guardianship/conservatorship proceedings or other protective arrangements.
- 5. Public Benefits Advice**, including planning for and assisting in obtaining Medicaid, Medicare, Social Security benefits, Supplemental Security Income, Veterans benefits and housing and food programs.
- 6. Special Needs Counseling**, including the planning, drafting and administration of special/supplemental needs trusts, housing, employment, education and related issues.
- 7. Advice on Insurance Matters**, including analyzing and explaining the types of insurance available, such as health, life, long term care, home care, COBRA, medigap, long term disability, dread disease, prescription coverage, and burial/funeral policies.
- 8. Resident Rights Advocacy**, including advising patients and residents of hospitals, nursing facilities, continuing care retirement communities, assisted living facilities, adult care facilities, and those cared for in their homes of their rights and appropriate remedies in matters such as admission, transfer and discharge policies, quality of care, and related issues.
- 9. Housing Counseling**, including reviewing the alternatives available and their financing such as: renovation loan programs, life care contracts, home equity conversion, reverse and other mortgage options.
- 10. Employment and Retirement Advice**, including pensions, retiree health benefits, unemployment benefits, and other benefits.
- 11. Counseling with regard to Age and/or Disability Discrimination** in employment, housing and related areas.
- 12. Litigation and Administrative Advocacy** in connection with any of the above matters, including will contests, contested capacity issues, elder abuse (including financial or consumer fraud), fiduciary administration, public benefits, nursing home torts, and discrimination.
- 13. Probate and Estate Administration** to oversee the court-supervised legal process through which a decedent's assets are collected, his or her debts are paid and then the remaining assets are distributed to the decedent's heirs or beneficiaries.

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