

ELDER CARE

A GUIDE FOR
CAREGIVERS'
NAVIGATING ELDER
LAW DECISIONS



Disclosures

The following constitutes educational information and should not be regarded as personalized investment or legal advice. Rather, it is intended to illustrate general strategies families can take in making Elder Law decisions.



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Introduction

If you are reading this guide, you are most likely already caring for a senior parent, family member, or friend and helping to make important and at times difficult decisions for them. Our team has put together this guide to provide some general strategies and information to support you and your loved ones as you navigate these decisions. We want to remind you to also take care of yourself. It is important to take care of your own health and well-being so that you can make the best decisions possible for your loved ones. You have probably already had some hard conversations and no doubt there are some tough conversations coming up that you will need to have. There are a lot of resources available to help you. We generally recommend finding a support network. Some of the resource our clients have found helpful are:

- ◆ **AARP**
- ◆ **Oasis Senior Advisors**
- ◆ **Carely**
- ◆ **Caring Village**

As you move forward in this journey, you should also consider adding an Elder Law attorney to your support team to provide some guidance and expertise on topics such as applying for Medicaid, Medicare, or Veterans benefits. An Elder Law attorney can assist in setting up asset protection plans, a durable power of attorney or a living trust. This guide will cover each of those topics more in depth, but if you have any specific questions don't hesitate to reach out to a member of the **Golightly Law team**. We would be happy to answer any questions that you have.



Understanding the Role of an Elder Law Attorney

So what is an Elder Law attorney? An Elder Law attorney specializes in legal matters related to aging, long-term care, estate planning, and elder rights. They possess extensive knowledge of state and federal laws pertaining to Elder Law, including Medicaid, Medicare, guardianship, and elder abuse laws. Their primary objective is to safeguard the legal rights and financial interests of elderly clients and their families.

Below are some of the benefits an Elder Law attorney can help you and your loved one secure:

- ◆ **Medicaid Benefits:** Medicaid eligibility criteria vary by state and typically include factors such as income, assets, age, and medical condition. Medicaid has strict asset limits that applicants must meet in order to qualify for benefits. However, there are legal strategies available to help clients protect their assets while still qualifying for Medicaid. Medicaid planning involves structuring a client's finances and assets in a way that maximizes their chances of qualifying for benefits while minimizing the impact on their estate. This may involve reallocating assets, spending down excess resources, or restructuring income streams. An Elder Law attorney can assist clients in gathering the necessary documentation, such as financial statements, tax returns, and medical records, and completing the application accurately and thoroughly. This helps ensure a smooth and timely application process.
- ◆ **Medicare Benefits:** An Elder Law attorney can help you navigate the enrollment process and ensure that you enroll in Medicare at the right time to avoid any penalties or gaps if your Medicare claim is denied or if you disagree with a coverage decision. Medicare beneficiaries have certain rights and protections under the law, including the right to receive information about their coverage options, the right to appeal coverage decisions, and the right to privacy and confidentiality of their medical information. Unfortunately, Medicare fraud and abuse are prevalent issues

that can result in improper billing, overcharging, and even identity theft. An Elder Law attorney can help you identify and report instances of fraud and abuse, protect your rights as a Medicare beneficiary, and seek restitution if you have been a victim of fraud or abuse.

- ◆ **Asset Protection:** A trust can protect assets from being depleted by long-term care costs. By placing assets in a trust, you can be sure the assets are used for their intended purpose, such as providing for living expenses, safeguarding assets from creditors, and meeting Medicaid spend-down requirements.

Assessing Legal Needs and Planning Ahead

One of the fundamental roles of an Elder Law attorney is to assess the unique legal needs of caregivers and their loved ones. They help families understand the legal implications of various care options and devise comprehensive plans to address them. This may include drafting advance directives, such as living wills and healthcare proxies, to ensure the individual's wishes regarding medical treatment are honored.

An advance directive is a legal document that allows individuals to specify their preferences for medical treatment and designate a healthcare proxy to make decisions on their behalf if they become unable to communicate or make decisions due to illness or incapacity. It typically includes a living will, which outlines the individual's wishes regarding end-of-life care, and a healthcare power of attorney, which appoints a trusted person to make medical decisions on their behalf.





Navigating Long-Term Care Planning

Long-term care can impose significant financial burdens on families. Elder Law attorneys assist caregivers in navigating the complexities of long-term care planning, including eligibility for Medicaid and Veterans benefits. They provide guidance on asset protection strategies, such as trusts and annuities, to preserve assets while qualifying for government assistance programs.

Below is an overview of some of the long-term care Elder Law attorneys can assist with:

- ◆ **Veterans Benefits:** Veterans benefits encompass a range of programs, including disability compensation, pension benefits, healthcare services, and long term care benefits. The application process for veterans' benefits can be lengthy and complex, involving extensive paperwork and documentation. An Elder Law attorney can guide you through the application process, ensuring that all required forms are completed accurately, and all necessary documentation is submitted on time. If a veteran's benefits claim is denied, the appeals process can be challenging to navigate. An Elder Law attorney can assist with appealing denied claims, gathering additional evidence, and representing the individual's interests throughout the appeals process.
- ◆ **Long Term Care and Hybrid Life Insurance Policies:** Life insurance proceeds can help cover living expenses, mortgage payments, debt obligations, and other financial needs. Life insurance can also be used to cover end of life expenses too. The Elder Law attorney that is a part of your team can help you find a professional that specializes in life insurance.

Managing Estate Planning and Probate

Estate planning is another critical aspect of Elder Law that requires careful consideration. Elder Law attorneys work with caregivers to create comprehensive estate plans that address asset distribution, tax implications, and the establishment of guardianship arrangements, if necessary. They also assist in drafting wills, trusts, and powers of attorney to safeguard the individual's wishes and protect their estate from legal challenges.



Advocating for Elder Rights

Elder Law attorneys serve as advocates for elder rights, protecting vulnerable individuals from exploitation, neglect, and abuse. They are well-versed in elder abuse laws and can take legal action against perpetrators to seek justice for their clients. Additionally, Elder Law attorneys may assist in navigating complex legal issues related to nursing home placement, ensuring that the individual's rights are respected, and their quality of life is upheld.



Providing Legal Support and Peace of Mind

Perhaps most importantly, Elder Law attorneys offer caregivers much needed legal support and peace of mind throughout the caregiving journey. They serve as trusted advisors, providing guidance, reassurance, and practical solutions to address legal challenges as they arise. By partnering with an Elder Law attorney, caregivers can focus on providing care and support to their loved ones, knowing that their legal concerns are in capable hands.





Next Steps

Navigating legal and financial matters can be overwhelming for caregivers. However, with the assistance of an experienced Elder Law attorney, caregivers can confidently navigate the complexities of Elder Law while ensuring the well-being and dignity of their loved ones.

We hope that this guide helps answer some of your questions about Elder Law and gives you the peace of mind that there are professionals who are able to support you and your loved ones.

If you are interested in having a conversation about Elder Law for yourself or a loved one please email scott@golightlylaw.com, or visit our website at www.golightlylaw.com.