



## **FAQs: What Is Elder Law?**

### *What Do Elder Law Attorneys Do?*

Many attorneys who offer estate planning (wills and trusts) also practice what is known as “elder law.” Elder law is a practice of law defined by the client - representation of older people (elders) and sometimes including family members. Elder law has developed from a relative niche practice when it was first recognized as such about thirty years ago – to more of a general practice area. As a practice area it is defined by the client served, and arose from the large number of elders in the population, along with the legal developments flowing from advances in health care and unprecedented longevity. The durable power of attorney for health care is probably the most recognized symbol of the rise of the number of elders in our population. Our society will continue to grapple with many longevity and bioethics issues, and quality of life questions will loom larger as baby boomers age and the number of elders rises.

### *How Is Elder Law Different From Estate Planning?*

Perhaps one of the biggest factors distinguishing elder law attorneys is the holistic approach to their clients’ legal problems that many elder law practitioners share. This is based on their ability to listen, counsel and shape a solution to particular challenges. Some of the issues facing them and their families that may include:

- Wills and Durable Powers of Attorney;
- Estate and Tax Planning;
- Elder Abuse and Financial Exploitation;

*This overview is intended for educational purposes only and may not be considered legal advice.*



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- Age and Disability Discrimination in Housing;
- Marriage, Common Law Marriage and Divorce;
- Advance Directives (living will);
- Guardianship and Conservatorship probate litigation;
- Capacity Issues in a variety of contexts;
- Probate Estate Administration;
- Medicare and Medicaid planning.

Elder law attorneys are generally expected to bring more than their legal expertise to the attorney-client relationship. It is a people-driven practice, and to properly serve their clients' interests, elder law attorneys must know how to counsel older people, understand the aging process, and be aware of the intersection of many health decisions with legal implications. This often requires the attorney to: be familiar with and able to work with the network of supportive and professional services and providers for the elder population; be able to deal effectively with the ethical issues which may arise in the course of representing elders and/or family members in different contexts; be familiar with the mental capacity and cognitive decline issues some elders face and the planning challenges these present; and the ability to make home and health care facility visits when necessary.

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