

10 Ways An Elder Law Attorney Can Help You



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From financial planning to finding housing, there's no shortage of responsibilities that older adults have to deal with. As time passes, these responsibilities tend to grow. For example, many older adults face major decisions, such as retirement planning, asset transfers and long-term care planning. Older adults also need to prepare for emergencies, as the risk of sudden medical issues increases with age.

Whether you're acting on your own behalf or helping a loved one, it's important to prepare fully. While planning ahead may not be the most fun chore, these choices can greatly affect an individual's well-being, including their health, happiness and safety. To help ensure their futures are secure, many older adults rely on the assistance of an elder care attorney. In this guide, we'll examine what these attorneys do, how they can help you and where you can find the right one for your needs.

What Is an Elder Care Attorney?

Elder care attorneys, also called elder law attorneys, support the unique needs of seniors by providing legal, financial and health-related expertise. More specifically, they specialize in the following areas:

- Appeals and claims

- Long-term care planning
- Elder abuse and fraud
- Asset preservation and transfers
- Retirement planning and benefits
- Grandparent visitation rights
- Health insurance
- Employment and housing discrimination

While elder law generally focuses on managing assets while a senior is living, many elder care attorneys are also experienced in wills and estate planning. Their ultimate purpose is to help seniors get their affairs in order so they're prepared for any challenges that may arise.

10 Ways an Elder Law Attorney Can Help Caregivers

Now that you know what elder law attorneys are, let's take a more in-depth look at the services they provide. Here are 10 ways in which these attorneys can help seniors and their families.

1) Applying for Senior Programs and Benefits

Many seniors are eligible for government benefits, such as the following:

- Medicaid
- Medicare
- Social Security
- Social Security Disability Insurance

It's common for older adults to experience challenges when submitting applications. For example, some seniors may be unsure whether they should apply for Medicaid (a joint state and federal program) or Medicare (a federal program). Others may incur penalties — Medicaid, for instance, may apply penalties to applicants who recently transferred assets. Finally, some seniors might be denied coverage they were expecting. For example, about half of adults over age 51 who apply for Social Security disability benefits are initially denied.

Because elder care attorneys are knowledgeable about federal and state laws, they can help navigate the complex benefit application process. This includes determining the best times to apply, helping fill out applications and ensuring seniors receive the benefits they qualify for.

2) Developing a Long-Term Care Plan

As adults age, their health needs often increase. Many elderly individuals will require more hands-on care, whether it's cognitive assistance for memory loss or physical care for mobility issues. For more advanced needs, seniors may turn to a professional health care facility. In 2022, 1.1 million older adults lived in nursing homes.

Of course, figuring out the best course of action isn't easy — especially when you don't always know what health services a senior will require in the future. A major role of elder care attorneys is to help seniors and their families devise a long-term care plan. This may include the following services:

- Applying for Medicare/Medicaid benefits
- Managing finances for assisted living, memory care or nursing home care
- Creating an emergency fund for unforeseen medical incidents

Oftentimes, seniors and their loved ones may have disagreements about long-term care. As objective voices, elder care attorneys can suggest the most beneficial strategy.

3) Setting up Estate Plans

From homes and vehicles to investments and savings, a senior's estate can be made up of many important assets. Through estate planning, seniors can help ensure these assets go to the people or organizations they care about. Major aspects of estate planning typically include:

- Creating instructions for long-term care and finances (in the event the senior becomes incapacitated)
- Transferring assets or business ownership
- Writing a will and trust
- Naming a guardian for minors in the senior's care

Elder care attorneys are not the same as estate planning attorneys, who specialize specifically in estates. However, they're still highly experienced in the field and can help seniors through the planning process, while also minimizing legal fees and taxes.

4) Protecting Seniors From Financial Abuse

Older adults are common targets of financial abuse. Family members, friends or neighbors might volunteer to help a senior with their finances, only to exploit them later. Every year, older adults lose an estimated \$2.6 to \$36.5 billion dollars due to fraud and financial abuse.

This type of abuse can happen anywhere, including in nursing homes. And, in many cases, it isn't easy to catch. Many abusers perform subtle acts, such as persuading an elderly person to transfer their bank account ownership.

As advocates for older adults, elder care attorneys can help protect them from financial abuse. Not only do they carefully analyze financial affairs to ensure everything is in order, but they also report any possible criminal activity. Additionally, they can identify potentially abusive scenarios to help prevent them from occurring in the first place.

5) Navigating Grandparent Visitation Rights

Many older adults love spending time with their grandchildren. Unfortunately, difficult family situations can interfere with these relationships. A grandparent may lose their right to participate in a grandchild's life for the following reasons:

- Divorce
- Disagreements
- Death of a parent

While parents may try to prevent a grandparent from interacting with their grandchild, many states have laws protecting visitation rights. Exercising these rights may require completing some paperwork — for example, in New York, older adults must file petitions for visitation.

Whether you're trying to understand visitation rights or complete the required paperwork, elder care attorneys can help. Most attorneys are familiar with the laws of their state, enabling them to provide advice that best benefits both the senior and their grandchildren.

6) Selecting a Power of Attorney

From long-term care plans to asset transfers, older adults must make numerous financial and medical decisions. As time progresses, an adult may reach a point where they're no longer able to make these decisions on their own. Oftentimes, this is due to a condition causing memory

loss, such as Alzheimer's. In 2020, about 5.8 million Americans were living with Alzheimer's disease, and it's estimated that number will nearly triple to 14 million people by 2060.

If a senior is incapable of making decisions on their own, they'll need to rely on a power of attorney. Put simply, this is a trusted individual who handles medical and financial affairs on behalf of the senior. An elder care lawyer can work with families to help select a qualified power of attorney who will act in the senior's best interests.

7) Protecting Against Employment Discrimination

While some adults may choose to retire as they get older, others might continue to work. In some cases, this is voluntary — a senior might enjoy their work or want to stay mentally stimulated. In other cases, working may be necessary due to limited finances. No matter the reason for employment, seniors often face discrimination in the workplace.

Over 60% of adults over the age of 50 claim that older adults are discriminated against in the workforce. Forms of discrimination can include the following:

- Rejecting applications based on age
- Treating older employees poorly so they want to quit
- Assuming an older employee can't complete a task

The Age Discrimination in Employment Act prohibits employers from treating workers differently due to age. An elder care attorney can help seniors and their families understand their rights and — if necessary — submit a complaint to the U.S. Equal Employment Opportunity Commission (EEOC).

8) Protecting Against Housing Discrimination

In addition to protecting against employment discrimination, elder care attorneys can help older adults who are unfairly denied housing. The Fair Housing Act prohibits discrimination in both the private and public housing markets. While age isn't one of the protected factors, many states have their own laws against age discrimination.

Oftentimes, age discrimination in housing is subtle. A landlord might not directly mention age, but they may include provisions that are connected to age-related concerns. For example, they might demand that a buyer prove they can live independently. If age discrimination is involved, an elder care attorney can help families contact their state housing commission and file an official complaint.

9) Transferring Assets

If a senior requires consistent medical care, they might move into an assisted living or nursing facility while their spouse remains at home. Before moving, the senior may want to transfer their assets to their spouse. This is usually done for one of the following reasons:

- To ensure the spouse is financially supported
- To qualify for Medicaid

Applicants must meet an asset limit to qualify for Medicaid. When reviewing applications, Medicaid will usually examine the applicant's finances to ensure they didn't recently transfer assets to achieve eligibility. Generally, they'll look back about 5 years. However, there are exemptions for transferring assets to a spouse.

To make sure you're not breaking any rules, it's helpful to consult an elder care attorney. By assisting with asset transfers and Medicaid applications, these professionals can help ensure the

senior and their family are taken care of.

10) Exercising Nursing Home Rights

As mentioned earlier, elder care attorneys help older adults arrange their finances for long-term care. However, the support doesn't stop there — they also help make sure seniors are receiving the care they're entitled to. Under federal law, nursing home residents have the right to:

- Medical care, activities and social services
- Privacy and personal property
- Respectful treatment (including no abuse, neglect or discrimination)
- File complaints or leave the nursing home
- Access to visitors, including any legal representatives

Ultimately, seniors have the right to proper health care and safety while living in a nursing home. Part of an elder care attorney's job is to ensure these rights aren't violated. If they are, the attorney can help families file a complaint.

How To Choose an Elder Law Attorney: Step-by-Step Instructions

Whether you're trying to develop a long-term care plan or transfer assets, it's important to work with an experienced, qualified elder law attorney. There are many ways to determine an attorney's efficiency, from reading reviews to researching their certifications. Here are a few top strategies for finding the right attorney:

1. **Get a referral:** An excellent way to find an attorney is to get a referral from a friend or a family member. When someone you know and trust recommends a lawyer they've used, it indicates they were happy with the overall service. If you don't know anyone who has hired an elder care attorney, you can ask people who work in relevant fields. For example, lawyers and financial professionals often work with elder law attorneys.
2. **Consult the National Academy of Elder Law Attorneys (NAELA):** If you don't have any referrals or would rather search for your own attorney, NAELA is a helpful resource. In essence, it's an organization specifically for elder and special needs law attorneys. It offers an attorney directory resource that lets you look up credible lawyers near your address.
3. **Conduct research:** Before hiring an attorney, you should always do some research to ensure they're credible and meet your standards. You can check credentials by looking up the attorney's name on the State Bar Association site for your state. This will tell you if they're licensed to practice and whether they've violated any professional conduct rules. In addition, it's a good idea to look for client reviews online or on the attorney's website.
4. **Schedule a consultation:** No matter how much online research you do, it's difficult to decide on a lawyer until you meet them in person. If you're interested in hiring someone, see if you can schedule a brief consultation — some lawyers may charge a fee, while others offer them for free. During this meeting, you can ask questions about your specific situation and get a better idea of the lawyer's work style.

Ultimately, you want an attorney who's knowledgeable, experienced and has the best interests of you or your loved one at heart.