

5 MYTHS About Elder Law

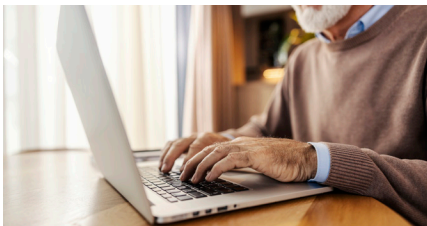
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And How an Elder Law Attorney Can Help You

As the number of older adults and people with disabilities grows, so does their need for long-term care and estate planning. Elder law attorneys are uniquely equipped to help clients navigate complex issues so they can prepare for the future and focus on what matters most — living life to the fullest.

Myth #1

Estate paperwork is easy — I can just fill out forms online.



Fact

The law is constantly changing, and books or materials on the internet are not always up to date. While there are online and pre-printed forms readily available for wills, powers of attorney, living trusts, and other documents, they may not be valid in your state or may not meet your specific needs. Completing these forms properly can be difficult, and mistakes cannot be corrected once you become incapacitated or die.

Elder law and estate planning attorneys provide the important counseling that online forms are unable to, allowing you to avoid unintended harmful consequences to loved ones, unanticipated taxes, or court intervention to fix errors discovered later.

Myth #2

Elder law attorneys can only help me with trusts and wills.



Fact

While elder law attorneys provide important guidance on wills, trusts, and other estate-planning documents, that is only a small part of what they do. Elder law attorneys are well-versed in the broad range of issues that affect older adults and people with disabilities. They can advise you on health and personal care planning; payment options for long-term care services, such as long-term care insurance policies, Medicaid eligibility, access to Medicare and veterans benefits, and self-funding long-term care; housing issues; employment and retirement advice; resident rights advocacy; special needs counseling for a loved one with disabilities; and more.

In addition, elder law attorneys are specially trained to handle legal issues affecting older adults, including abuse, neglect, and exploitation. They can help prevent further abuse, recover stolen assets, or secure damages for harm caused by an abuser. Some states offer special court proceedings or enhanced damages for victims of elder abuse, neglect, or exploitation. Consulting an experienced elder law attorney can provide victims with the legal support and advocacy they need during these difficult situations.

Myth #3

Medicare will cover the cost of my long-term care.



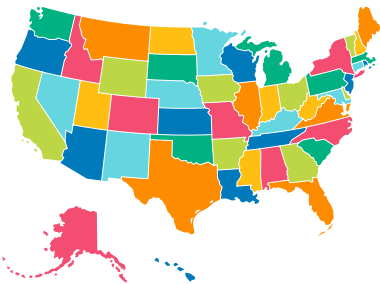
Fact

Many people mistakenly believe that Medicare and supplemental health insurance policies will cover the cost of long-term care. These plans provide benefits to help pay for short-term health care — for example, hospital care, physician services, and short-term rehabilitation.

While Medicaid does assist with the cost of long-term care, it is a needs-based program — a form of public assistance — and relying solely on Medicaid to cover your care may limit the care options available to you. An elder law attorney can help you consider all payment options to determine which ones are viable for your specific situation. The purchase of long-term care insurance may give you the flexibility to choose the type of care you need in the setting you desire, but an elder law attorney can review the policy's terms with you and consider what level of coverage you may need.

Myth #4

Medicaid is the same across the country.



Fact

Both the federal government and states pay for Medicaid. Each state administers its Medicaid program independently, so while the fundamental eligibility criteria are consistent across the United States, there can be significant differences in the rules from state to state. Medicaid eligibility is primarily based on an individual's level of disability and assets and income. In cases where the applicant is married, the assets and income of both spouses are considered. Local Medicaid offices in each state make these determinations.

Elder law attorneys have extensive experience with the multiple layers of Medicaid law and can provide personalized advice to help you prepare for long-term care expenses while preserving assets. Early planning can provide significant benefits, including ensuring that a spouse at home retains enough income and assets for living expenses.

Myth #5

I've heard about guardianships in the news. They sound scary!

Fact

Okay, this isn't a myth! Guardianship and conservatorship can be scary, but they usually are not needed if a person has a valid health care directive and durable power of attorney in place. Celebrities such as Britney Spears and Wendy Williams have brought media attention to the issues of guardianship and conservatorship, but these are issues that people face every day. A guardianship is a legal process in which the court may appoint an individual to make personal decisions regarding health, medical treatment, and living arrangements on behalf of another person who is unable to do so due to age, mental incapacity, or disability. A conservator/guardian of the estate pertains specifically to the management of an individual's financial and contractual affairs. Although each individual case differs, there are due process protections in the legal process to ensure that the person actually needs such an appointment and that someone who is capable and trustworthy is appointed to act in the person's best interest.

Many elder law attorneys have substantial experience in seeking to establish, defend against, and administer guardianships and conservatorships, so they can help you understand your options and ensure that the rights of your loved ones are protected. They can also advise you on less-restrictive alternatives where appropriate.

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