

You Need A Certified Elder Law Attorney

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Over the years, I have heard a lot of reasons why families put off meeting with an elder law attorney. Unfortunately, some reasons are based on misinformation. In this article, I would like to dispel some of these falsehoods that keep families from having a conversation with an elder law attorney. How many of these have you heard?

I don't need an elder law attorney because...

1. I am a veteran and the VA will take care of me.

Many veterans mistakenly believe that long-term care at a VA long-term care facility is free. While veterans with service-connected disabilities are eligible for free residential care at some VA facilities, the majority of veterans whose long-term care needs are not related to a service-connected disability that has been recognized by the VA are not eligible for this care.

Benefits are available for qualifying Veterans with non-service-connected disabilities and their spouses to use to cover unreimbursed medical expenses at home or in a facility through the VA Pension Program. While the law surrounding this program recently changed substantially in October 2018 with the implementation of a three-year look-back period, an elder law attorney can help untangle the complicated web that is the VA Pension Program.

2. I will never leave my home.

If your goal is to remain in your home, your elder law attorney's job is to help you protect your resources and obtain the benefits necessary to make that happen. Elder law attorneys are knowledgeable about existing public benefit programs that can make it possible to bring caregivers to your home or, if you'd like to get out for the day, transport you to managed care adult day programs and return you to your home at night.

Twenty-four hour a day care in the community by a professional care team can have a price tag in the neighborhood of \$25 per hour and this hefty price tag makes home care the most expensive care option in many instances. An elder law attorney can help you to mitigate some of the costs involved with public benefits planning, which is key for most people to achieve the goal of staying home.

3. I am more concerned for my child with Special Needs than myself.

Many folks are unaware that elder law attorneys are trained to assist clients of all ages who may have a disability. For parents with a child with special needs, there are many options available to protect your child through elder law planning, even if your child is an adult whose disability began after the age of 18.

With respect to children, proper planning often makes it possible to protect the lion's share of an estate for a child with a disability while simultaneously accessing public benefits for both the parents and the child. In other words, an elder law attorney can help you protect your child and yourself. Unfortunately, parents who fail to adequately plan for their child with a disability often leave an inheritance to the child that can catastrophically impact the child's ability to receive or maintain public benefits. Learning about Special Needs Trusts and other programs is critical for parents of children with special needs.

4. I am too young to work with an elder law attorney.

Many people don't realize that elder law attorneys also specialize in disability planning for individuals of all ages. If you are under age 60 and require care or anticipate that you will require care in the future, you could benefit from consulting with an elder law attorney to discuss public benefits, or planning to protect assets received in a settlement.

5. I don't have a family member I trust to help me.

An elder law attorney can give you guidance on choosing a person or organization you can trust to manage your affairs during incapacity or after your death. Establishing a well-designed fiduciary plan is particularly important when a client does not have any family members that they trust to assist them. Protecting ample assets to hire fiduciaries or appropriate nurse case managers is key. An elder law attorney can assist you with setting up this framework.

6. I vowed "for better or worse."

I am always saddened when I meet with a married client who has spent nearly their entire life savings to pay for their spouse in a nursing home, leaving them with very little to live on for the rest of their life in their home. Meeting with an elder law attorney in the early stages of an illness or, at the very least, upon admission to a skilled nursing facility can often protect hundreds of thousands of dollars to help ensure that a spouse in the community has sufficient funds to live, not just survive, after their loved one requires nursing home care.

7. I am overwhelmed by my family situation.

An elder law attorney can help you get out of the cycle of paralysis by analysis by giving you unique options to manage a possible inheritance left to your children and grandchildren in a variety of family situations, including blended families, rocky marriages, marriages challenged by financial insecurity, and family members with high-risk professions, special needs and drug addiction.

8. I'm not ready to share my financial information with my children.

Your interactions with an elder law attorney are fully confidential. If, at some point, you wish to share your financial information with your children, advance planning will make it significantly easier for you to clearly convey your wishes and desires and for your children to step into a fiduciary role.

9. My assets are protected because I removed my spouse as a joint owner and added my children as joint owners instead.

Time and time again, clients enter my office with a false sense of security that jointly titled

assets are exempt resources for Medical Assistance purposes, or that removing an ill spouse from an account somehow protects the account from being countable. Available assets are resources that are on the table for a spend-down for resource eligibility for public benefit programs that help cover the costs of long-term care. Exempt assets are resources that government agencies do not consider as part of the overall financial picture. With the exception of retirement accounts owned by the spouse not applying for benefits, a primary residence, one vehicle, and burial accounts, all assets owned by either spouse are considered available assets for public benefit purposes, regardless of the ownership designation. With only a few exceptions, unless a child contributed to an account, 100% of the value of jointly titled accounts are available assets for public benefit purposes.

10. I have long term care insurance.

In the modern long-term care insurance game, the majority of policies have payment terms of only two to five years. Also, without an inflation rider, an older policy may only cover a percentage of monthly care costs, as the cost of long-term care continues to rise. While long-term care insurance is a great weapon to have in your back pocket, insurance alone is generally not sufficient to cover the full-term of a chronic long-term illness. An elder law attorney can guide you on how to best use and when to initiate a claim for use of a long-term care insurance policy and how to use the policy in conjunction with public benefits planning to protect resources.

11. I have a Revocable Living Trust.

While there are many reasons to create and fund a revocable living trust, public benefit planning is not one of them. Assets owned by a revocable living trust are considered available assets for public benefit purposes. If you created a revocable living trust in the past and now have long-term care concerns, you should talk to an elder law attorney about amending or replacing the trust.

If you or someone you know are operating under any of these falsehoods, then it might be a good time to talk to a certified elder law attorney. A Certified Elder Law Attorney can review your unique situation to make sure you have accurate information and a solid wealth preservation plan to protect your family and your resources should you or a loved one ever require long-term care.