

WHAT TO LOOK FOR IN AN ELDER LAW ATTORNEY:

One who is certified by the National Elder Law Foundation Board Of Certification. The National Elder Law Foundation was founded by the Board of Directors of The National Academy of Elder Law Attorneys (NAELA) in 1993. It is a non-profit organization, dedicated to the development and improvement of the professional competence of lawyers in the area of elder law, and which is working to have the specialty recognized by judicial authorities and the organized bar in the United States.

The National Elder Law Foundation created the Board of Certification to implement and administer a system to certify elder law attorneys. The board of certification (board) and its committees are made up of persons working in the elder law field as private attorneys, in the public sector, and as professors teaching elder law and related fields in law schools. Not all of its members are attorneys, and not all of its members are members of NAELA. The American Bar Association's House of Delegates approved the National Elder Law Foundation as the certifying entity for specialization in elder law in February 1995.

What Does ABA Accreditation Mean?

ABA accreditation signifies that a certifying organization's program has been reviewed by the ABA and found to meet the Standards for Accreditation of Specialty Certification Programs for Lawyers.

The accreditation standards were developed to provide both lawyers and clients with a way to identify those certification programs that employ adequate methods and criteria to reliably recognize experienced legal specialists.

To be an ABA accredited and certified Elder Law Attorney, the attorney must:

Provide evidence of substantial involvement in the specialty area.

Provide references from lawyers and judges.

Pass a written examination covering the substantive and procedural law in the specialty area.

Demonstrate completion of at least 36 hours of continuing legal education courses in the specialty area in the three-year period proceeding the lawyer's application for certification.

Be admitted to practice in one or more states and be a members in good standing; and

Be re-certified at least every five years and be subject to revocation of certification if they fail to meet program requirements.

THE THREE BIGGEST ISSUES FACING OLDER AMERICANS:

1. Choosing a quality and affordable long-term care facility. An excellent resource for comparing the nursing homes in your community can be found on the world wide web at the Medicare website. That website has a “Nursing Home Compare” search function which provides information regarding the number of staff, the number of medical staff, the number of reported health deficiencies, etc., for all of the nursing homes in a given geographic area.

Another excellent resource can be found on the Consumer Reports website. It has a “Nursing Home Quality Monitor” which shows the top 10 and bottom 10 nursing homes in the state, in addition to other relevant information.

Of course, the most important factor in choosing a long term care facility is how the individual “feels” about the facility. If possible, arrange to visit the prospective facilities, and ask questions of the staff and residents.

2. Preparing for retirement. Most retirees want a level of living after retirement similar to that they experienced before retirement. And while many expenses stay roughly the same in retirement, some expenses decrease after retirement, while others increase.

Expenses that may decrease:

- Work-related costs — commuting, parking, lunches, professional dues or subscriptions, business clothing, dry cleaning
- Income taxes
- Home maintenance costs for tasks you will now do yourself instead of hiring done

Expenses that may increase:

- Recreational and social activities
- Travel
- Health insurance
- Health care and prescriptions

Estimating your annual expenses in retirement is the first step in ensuring that you are financially prepared. A financial/investment adviser can help you take steps to make sure you are saving at a rate that will allow you to meet your desired expenses. These steps include adjusting for inflation and calculating how much you will need to save or invest now to reach your retirement goal.

3. Raising the visibility of older people and their health care needs. As a population, older adults are nearly invisible except to their families. Their health care needs don’t elicit the same concern as do the health care needs of children and they are often portrayed in the media as “geezers” or worse still, “greedy geezers.” Ageism in all its forms remains alive and well in our society.

Older Americans need the health professionals that care for older people to: 1) advocate for better geriatric training and practice in schools of medicine, nursing, and social work among

their peers; 2) serve on and influence curriculum committees; and 3) develop productive relationships with deans, development offices and local community, state and national leaders

THE THREE BIGGEST ISSUES FACING FAMILY CARETAKERS:

Sometimes senior citizens are able to live normal lives and care for themselves, but as most people age, they need care takers at some point.

In America today, more than 35 million people are over the age of 65, and the life expectancy age is now 76.9 years. It is estimated that at least 22 million homes have at least one person who is acting in the capacity of an elder caretaker. The caretaker is usually a family member working in an unpaid capacity. As the life expectancy age has risen, care of the elderly has become a serious issue. More and more people are spending more time caring for an elderly relative in their own home.

1. Managing the stress of being a caretaker. Taking care of the elderly is not easy, and it can be emotionally, mentally and physically draining. Long buried emotional issues can re-surface. Caretaking for the elderly can be difficult and depressing. Watching your loved one die is not easy.

Often, the caretaker needs support in his or her role as the primary caretaker of an elderly family member. Sometimes this support can be provided by other family members and/or religious institutions. However, in some cases, the caretaker may require professional counseling or support group therapy. An alternative to professional counseling and support group therapy can be found through on-line communities such as www.caringinfo.org, which offers advice on planning and preparing to be a caretaker.

Many people work full time jobs and still spend a large portion of their time caring for an elderly relative. Research has shown that a large number of work hours are lost each year due to caretakers looking after elderly relatives.

It is important to maintain a healthy balance between caregiving and the caretaker's personal needs.

2. Healthcare decision making. The person providing elder care often has a vast array of decisions to make. Some of these decisions can be very sensitive in nature. They may include medical decisions such as choosing doctors. They may also be concerned with whether it would be more appropriate for the elder care to be provided in a long term care facility.

We strongly recommend that the caretaker confirms whether or not the elderly family member has an advance medical directive and a healthcare power of attorney. If the elderly family member does not have these documents in place, the caretaker may be at a great disadvantage in ensuring that medical care is provided in the manner expected by the elderly person and the family. And once the elderly person declines mentally, he or she may lack

the capacity to execute these documents. Again, it is very important to the decision making process that the caretaker has an advance medical directive and a healthcare power of attorney in place.

3. Financial decision making:

In addition to an advance medical directive and a healthcare power of attorney, the elderly family member needs to grant a durable, or financial, power of attorney to the caretaker. The durable power of attorney allows the caretaker to manage the family member's financial affairs, and to make financial decisions on behalf of the family member, such as making investments and liquidating assets. The durable power of attorney also gives the caretaker access to the family member's bank accounts and other sources of funds, and allows the caretaker to pay bills, etc., on behalf of the family member.

HOW LOUISIANA COMPARES TO OTHER STATES RELATIVE TO LONG-TERM CARE

Louisiana is moving toward less reliance on nursing homes and greater reliance on home and community-based services.

Long term care for the elderly and disabled is big business in Louisiana. In 2003, over a quarter of the \$1.2 billion in Medicaid spending in the state went for such services. The pattern of distribution of these funds has long been a source of contention among policy makers, health experts, providers and clients.

In Louisiana today, approximately 80% of Long-Term Care funds goes to institutional care and only about 20% is spent on home and community-based services. Nationally, most states spend closer to 2/3 of allocated funds for nursing homes, while fully 1/3 goes to home care.

Governor Blanco's 2004 Health Care Reform Act was designed to bring Louisiana in line with other states, encouraging Louisiana's elderly to stay in their homes longer as a result of new nursing initiatives.

Nurses will have a crucial role in training and overseeing "direct service workers" Direct service workers are unlicensed workers who are allowed to administer medicine and perform other health-related tasks for Louisiana residents in their homes.

The direct service workers must have:

1. At least 16 hours of training in the fundamentals of medicine administration, including handling and storage of medicines, side effects, and drug interactions;
2. At least six hours of patient-specific training from a registered nurse;
3. Their competency validated annually by an RN, using rules being developed by the Louisiana State Board of Nursing and the Department of Health and Hospitals.

The Health Care Reform Act of 2007:

Currently pending in the Senate Finance Committee is SB No. 1, “The Health Care Reform Act of 2007,” which establishes a health care delivery system to be called “Louisiana Health First.” This “medical home system of care” is highly integrated and electronically links a patient’s various providers. The “home” in the medical home system of care does not refer to a literal house, but to the concept that all of a patient’s treatment, from birth to death, is integrated.

The Louisiana Department of Health and Hospital’s Medical Home Concept Paper describes the elderly patient’s treatment:

Adult-onset and Aging-related Disabilities

The delivery of long term services and supports would be expected to be flexible enough to assure that all needed services are provided in the home and are varied as far as method of delivery. For example, a person choosing to receive supports and services at home should be offered the option to direct those services, by choosing, training and employing the workers who deliver the services and care in their home. Most persons who are elderly and/or have adult-onset disabilities will live in the community with primary care being delivered through their medical home. These persons may receive specialized supports and services in addition to medical care provided by the medical home (e.g., supportive services such as personal care attendant, adaptive services, assistive technology; see appendix B for standard of care services list for adult-onset and aging-related disabilities).

Louisiana Estate Recovery Program:

In most cases, the estates of deceased individuals formerly in nursing facilities, intermediate care facilities for the mentally retarded, or other medical institutions, and who were age 55 or older when they received Medicaid coverage, are subject to reimbursement claims from the Louisiana Department of Health and Hospitals. There are some exemptions and deferrals. Federal law requires states to exempt or defer estate recovery in certain situations when there is a surviving spouse; when there is a surviving child who is under age 21, blind, or disabled; and, in some cases, when a sibling or caretaker adult child lives in the home.

Louisiana is becoming more aggressive in its Estate Recovery Program. Early on in the federally mandated program, Louisiana performed poorly, with a nationwide low of \$93 per estate in Louisiana.

However, Louisiana was one of thirty-five states which increased their collections between 2002 and 2004. The five states with the highest percent increases were Kentucky (184.7%), Louisiana (100.0%), New Mexico (100.0%), Wyoming (90.8%), and Tennessee (85.1%).

What this means to the Medicaid Long-Term Care recipient who wishes to protect his or her estate is that he or she should begin estate planning now. It is never too late to take measures to protect your estate, but the sooner the better.

WHAT TODAY'S RETIREES ARE SEEKING:

Location, location, location!

1. Cost of living/affordable housing - Can retirees buy a house without taking on a mortgage?
Can a retiree live comfortably on their investments?
2. Climate/family - Most retirees would rather live someplace warm, and most prefer to live near family.
3. Things to do - Many retirees remain very active and want to live in a place with scheduled onsite activities, and a surrounding area where they can find arts, culture, sports and entertainment.
4. Community - Not all retirees want to socialize only with people their age, but prefer to have friends in a variety of age groups.
5. Accessible medical care - To some retirees, access to specialized medical care is of paramount importance.