

Learn About Legal Documents and Medicaid

People frequently hear that they should visit their attorney to have their Wills and other important legal documents prepared, but many people procrastinate so if you're in that group do not feel like you're alone.

One situation that will change if you wait until your older years to begin planning your estate, is the visit to an elder law attorney's office. Why? Because this specialized attorney knows you are about to enter a time of your life in which legal documents are more likely to be used. This may be a person's last chance to get their estate planning documents in place before a tragedy strikes that leaves the person either incapacitated or dead. But another reason you should see an elder law attorney at this juncture is that your estate planning now also relates to financing long term care. Making highly intelligent legal decisions at this critical point in your life is key as opposed to passing up the opportunity because you were not advised or advised poorly.

Beyond the Will that should be in place, you will also want to secure your ancillary documents which typically include a durable power of attorney for finances, a power of attorney for healthcare, a living will, a declaration of guardian in the event of later incapacity and a HIPAA medical authorization document. Some people also want a designation of remains in order to name a person to be the appointed agent to take care of the body at death.

Elder law attorneys often suggest updating powers of attorney, specifically the durable power of attorney for property because what people have in place, if they have one at all, is often outdated and not suitable for authorizing the agent to handle the issues likely to be experienced at this time in the life of an older person. For elder law, especially as it relates to Medicaid planning, one will need a powerful document that clearly authorizes the agent to deal with all assets. The document will also need to include a broad gifting power for the agent to transfer assets out of the estate, or the agent may be left in a position in which they cannot help protect assets.

You will also want to protect your home for future transfer to the children upon your death or upon the second parent's death. This will need to be planned for in advance if you want to have any hope of preserving the home from Medicaid Estate Recovery, which is a state administered program in Texas authorized to go after the assets of a deceased Medicaid beneficiary to the extent that the beneficiary received Medicaid benefits during his/her life and after the age of 55.

You will want your own elder law attorney to help you with your estate planning documents mentioned above, with trusts and deeds to help protect from Medicaid Estate Recovery as well as marital property agreements to further protect assets for your spouse. Do not wait until it's too late. Seek the advice of an experienced elder law attorney to give you the custom tailored plan best for your particular situation.

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Probate Law and are certified as Elder Law Attorneys by the National Elder Law Foundation. Nothing contained in this publication should be considered as the rendering of legal advice to any person's specific case, but should be considered general information.