

# What is Elder Law?

By [Wesley E. Wright](#) and [Molly Dear Abshire](#), as published in the Houston Chronicle Senior Living Section on May 15, 2013.

The issues that arise in the practice of elder law affect virtually every family at some time in their lives.

Elder law is an area of law that focuses on the legal needs of the elderly and persons with special needs (regardless of age). Specifically, elder law consists of a wide variety of legal areas that concern seniors and persons with special needs, ranging from estate planning and probate to guardianship, Medicare and Medicaid advice to veteran's benefits and retirement planning, as well as many other important legal issues.

Attorneys who practice in this field have knowledge of legal issues unique to the elderly population. For example, a man approaching retirement age who has a spouse that has been diagnosed with a debilitating illness may contact his attorney to simply discuss the income tax ramifications of minimum distributions from his individual retirement account; yet, he may have not been aware of other important issues that surround his situation, such as coverage under Medicare benefits, financing long term care, and preparing well-coordinated estate planning documents.

The most common scenario is one in which clients may need advice about financing long term care through private pay, long-term care insurance or Medicaid planning, which includes helping individuals to attain nursing home Medicaid eligibility without losing their life savings. Another unique component of elder law is disability planning. This includes how to leave assets to a disabled loved one by the use of a special needs trust. Disability planning also encompasses establishing guardianships and providing assistance with administering those court dependent relationships involving housing options and personal caretaking choices.

Resident's rights advocacy is another distinct specialty of elder law in which the attorney advocates for the needs of the individual that may be unmet by either the facility or the caretaker company based on state or federal law. Many elder law attorneys engage in administrative advocacy for Medicaid or Medicare, which deals with assistance in appealing cases within a less formal structure than that of a formal courtroom proceeding.

Another common aspect of elder law is fiduciary representation, which simply means advising a personal representative of the estate of a decedent, an agent under a power of attorney or a guardian or trustee, and helping the person to legally administer their duties as a financial representative.

Law firms that devote their practice to elder law are few. When searching for an attorney who practices elder law, seek one who has significant experience in the particular matter in which you have an interest. Membership in the National Academy of Elder Law Attorneys is an indication of the attorney's dedication to improving the quality of legal services provided to the elderly and people with special needs. Additionally, some elder law attorneys are certified as specialists by the National Elder Law Foundation. Such certified elder law attorneys must pass a comprehensive written exam and peer

review in order to be certified as specialists. Attorneys with this certification will have the letters "CELA" after their names.