WHAT QUESTIONS SHOULD I ASK A NEW YORK ELDER LAW ATTORNEY?

There Are a Number of Different Pressing Elder Law Issues at the Present Time, and You Should be Aware of the Facts So that You Can Plan Ahead in an Intelligent and Informed Manner

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If you are concerned about the eventualities of aging, you should definitely sit down and discuss the future with a licensed elder law attorney.

These attorneys are focused on matters that are of particular interest to senior citizens.

There are a number of different pressing elder law issues at the present time, and you should be aware of the facts so that you can plan ahead in an intelligent and informed manner. In this post we will look at some questions that you should ask an elder law attorney, and we will provide some basic answers.

To obtain comprehensive information, you should go right to the source and speak with an elder law attorney directly.

Are there any significant gaps in Medicare coverage?

When you are budgeting for retirement, you should be aware of the fact that there are out-of-pocket expenses that you must pay, even if you are enrolled in the Medicare program. These include co-payments, deductibles, and a monthly premium for Medicaid Part B coverage.

Part B is the portion of the Medicare program that pays for visits to doctors and outpatient care. The premium would typically be deducted from your Social Security direct deposit.

Out-of-pocket expenses are one thing, and gaps are another. There is a huge gap that you should be well aware of when you are preparing for your senior years.

Medicare will not pay for long-term care. If you were to reside in a nursing home or assisted living community, you would be receiving custodial care. Medicare does not pay for custodial care.

The program will pay for up to 100 days of convalescent care, but it won't assist with custodial care expenses.

Is long-term care expensive?

Long-term care is quite expensive, and costs are rising all the time. Our firm practices in Western New York and the Finger Lakes. A typical

annual charge for a private room in a nursing home in our area is approximately $144,000. It is not uncommon for people to spend two or three years in nursing homes, and about 10 percent of nursing home residents remain in the facilities for at least five years.

When you compare the cost of nursing home care to the average retirement savings account, the numbers simply don't add up.

If I can't pay out-of-pocket, what can I do?

For many people, the solution is Medicaid. This is another government health insurance program. Medicaid will pay for long-term care, but it is only available to people who have significant financial need.

In spite of the fact that there are income and asset limits, most of the long-term care that is received by seniors in the United States is paid for by Medicaid.

How can I qualify if I do have some resources?

There is a process called a Medicaid spend down. You could essentially give your children their inheritances in advance.

However, there is a five-year Medicaid look-back. If you give away assets within five years of applying, you will be deemed ineligible for a particular period of time.

The period of ineligibility is tied to the amount of the divestitures as they compare to the cost of long-term care in New York. If you gave away enough to pay for one year of long-term care, your eligibility would be delayed by one year.

While giving away all of your assets is one option, it usually is not a very good option. A better option is a special form of trust that allows you to

maintain control of your assets while still being able to qualify for Medicaid.

What happens if I become incapacitated due to Alzheimer's disease or some other ailment?

If you were to become incapacitated and unable to handle your own affairs, the state could be petitioned to appoint a guardian to act on your behalf.

This is disconcerting to some people, because you would have no control over the choice of guardian. It is possible to prevent a guardianship through the execution of a legally binding document called a durable power of attorney. However, a power of attorney document often is not accepted by financial institutions, and so for many people creating a trust provides greater protection from a guardianship proceeding.

You could also name someone to make health care decisions on your behalf by executing a health care proxy.

I've heard some things about elder financial abuse. Is this something I should be concerned about?

The answer is a resounding yes. Elder financial abuse is costing people billions of dollars a year. The exact extent of the problem is hard to calculate, because many instances of elder financial abuse go unreported for one reason or another.

There are legal steps that you could take to mitigate your exposure to abuse.

Conclusion

There are a number of different things to take into consideration when you are preparing for the latter stages of your life. To be optimally prepared, you should discuss these matters with a licensed elder law attorney.

Your attorney will answer all of your questions, provide additional information, and offer solutions that can be implemented if you decide to go forward.

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About the Author

Clients notice Michael Robinson's unique approach to his estate planning practice the minute they walk through his office doors. Mike has established a law practice that provides clients with a warm, comfortable and relaxed atmosphere staffed by professionals who believe in providing highly individualized attention.

That's especially important in Mike's practice, because estate planning is an often personal process reflecting the most cherished hopes and dreams of his clients.

"The estate planning we do for our clients," Mike explains, "often represents the culmination of their life's work. That's why we take a personal interest in helping them complete estate plans that suit their needs and that address the unique circumstances of their families."

There's one last difference clients often remark upon in Mike's estate planning practice. "Because we concentrate on estate planning exclusively, we have the focus to bring state-of-the-art, cutting-edge estate planning techniques and strategies to a broad range of clients, no matter how diverse."

Mike's firm has the breadth of expertise to provide its clients with estate plans ranging from the basic to the very sophisticated, including offshore asset protection trusts.

His office regularly conducts seminars on estate planning topics throughout the Rochester and Finger Lakes area. Mike has also been a guest speaker on the subject of estate planning before a variety of professional organizations.

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