

## **How to Choose an Elder Law Attorney**

It may seem very easy to open a phone book or search the internet for the name of an attorney, but finding the RIGHT one that fits your needs will require some research. Attorney Edward Smith of Southwest Florida Estate Planning and retired elder law attorney and Medicaid expert, K. Gabriel Heiser, offer the following guidelines to help you find an elder law attorney who is knowledgeable, personable, and in your budget.

### **Seek Out Referrals and Recommendations**

“Talk with your friends, your financial advisor, your accountant, your family attorney and anyone else you trust who may know of an elder law specialist in your community,” recommends Smith. “A reliable referral can come from someone who knows an attorney professionally or has personally used their services.” If you cannot get a referral, contact your local bar association. They will put you in touch with a lawyer who has experience in the area you require.

### **Questions to Ask an Elder Care Attorney**

“Many people do not realize the degree of specialization that exists among attorneys,” Heiser notes. “You want to make sure that the attorney you hire matches your particular area(s) of concern.”

#### **Does your practice specialize in a particular area of elder law?**

Elder law specialists focus on legal and financial issues that frequently affect seniors and their families. This includes wills, trusts, surrogate decision-making (guardianship, conservatorship and powers of attorney), legal incapacity, living wills, public benefits planning (Medicare, Medicaid, SSI and SSDI), long-term care options, and insurance. Knowledge of the tax implications of these matters is also important. Ask the attorney you are considering hiring if they have experience in the area that specifically matches your needs.

“Even lawyers who limit their practice to elder law may not be experts in all these areas,” cautions Heiser. “For example, many elder law attorneys do not go to court, so if you have a possible contested will or guardianship issue at hand, you will want to find an attorney with court (litigation) experience

#### **How long have you been in practice and what professional credentials do you hold?**

Attorneys must be licensed in the state where they practice law and must be registered by the Bar Association of that specific state. In addition, attorneys can pursue membership of specialized national consortiums, such as ElderCounsel or the National Academy of Elder Law Attorneys, Inc. (NAELA). These professional organizations focus on providing members with materials and information for continuing education in the realm of elder law. Members must follow an aspirational, ethical and professional set of standards. “These organizations can be a valuable resource for consumers who are researching attorneys’ credentials and overall information,” Smith says.

Attorneys can pursue Board Certification as well, which evaluates and certifies their exceptional skills, ethics and proficiency in specific areas of the law. State Bar Associations also feature special committees and sections composed of attorneys who study and report on certain legal topics. “Any attorney in a leadership position of an elder law section or committee has essentially been given a stamp of approval by their fellow attorneys,” Heiser advises. “This generally indicates professionalism and expertise in that field.”

### **What services, documents are included in our contract agreement?**

Utilizing an attorney’s services for any reason is a very personal matter. It is important for you to trust that your attorney is looking after your best interests. “Many legal professionals can provide you with an end result, such as a will, a power of attorney or an advance directive,” Smith acknowledges. “However, a skilled attorney should present you with a number of personalized options and solutions that may be appropriate for your situation as well as the pros and cons of each approach.”

Elder law issues, such as estate and advance health care planning, are typically very delicate issues for a family to address, so tact and empathy often factor into this hiring decision. “Your attorney should take the time to truly understand all facets of your position and have a genuine interest in helping you and your family,” Smith asserts. “You should feel comfortable sharing any and all concerns and goals for your care and your estate with your legal advisor.”

### **Is there an initial consultation fee and how are ongoing fees computed?**

Once you have compiled a list of attorneys in your area that seem well qualified to handle your particular issues and researched their practices, arrange initial consultations with the final contenders. “A brief meeting with an attorney in their office is always a good idea, since it will give you important feedback about their office, staff, and whether you feel comfortable with them,” says Heiser. Be aware that some attorneys offer initial consultations for free, while others charge.

Some attorneys will charge clients hourly, while others will charge a flat rate for certain tasks or documents. It is important to know this up front in order to make sure you are comfortable with the arrangements. “A flat rate might appear a bit high at first,” Smith admits, “but you will not be nickel-and-dimed for every five-minute phone call you make.” The objective and scope of work should be well defined (what is included and what is not?), and terms should be clear in case you wish to terminate the agreement.