

Elder Law
What Is It and How Is It Changing?
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A large portion of the legal practice at **Hickman & Lowder** is in the area called "Elder Law." Two of us at the firm are certified Elder Law "specialists" (there are only 17 such specialists in the State of Ohio).

The National Academy of Elder Law Attorneys describes the practice as follows:

Rather than being defined by technical legal distinctions, Elder Law is defined by the client to be served. In other words, the lawyer who practices Elder Law may handle a range of issues but has a specific type of clients--seniors.

Elder Law attorneys focus on the legal needs of the elderly, and work with a variety of legal tools and techniques to meet the goals and objectives of the older client.

Under this holistic approach, the Elder Law practitioner handles general estate planning issues and counsels clients about planning for incapacity with alternative decision making documents. The attorney would also assist the client in planning for possible long-term care needs, including nursing home care. Locating the appropriate type of care, coordinating private and public resources to finance the cost of care, and working to ensure the client's right to quality care are all part of the Elder Law practice.

Despite the "holistic" approach described by the Academy, most Elder Law practitioners focus their efforts on clients who are facing the "asset protection crisis" of a nursing home placement. They are "Medicaid planners" and, until this crisis occurs, the burden of researching, coordinating and delivering supportive care is shouldered by the family. To meet the goal of preserving an elder's independence and dignity for as long as possible, most families need help much earlier.

In recent years, a growing number of firms (**including Hickman & Lowder**) are adopting a new, and more multi-disciplinary "care planning" approach. Like traditional Elder Law firms, they help families in crisis make immediate arrangements for long-term care, handling the legal work and Medicaid application. But they offer much more, much earlier.

These firms employ “care coordinators” and maintain an ongoing relationship with the client and family. They provide care coordination and support to families whose elderly loved ones are still living at home or with family. This lightens the load for family, improves the elder's quality of life and can postpone the need for nursing home care. The firm develops a plan to handle the legal, financial, health care, housing, and long-term care issues as the elder's condition progresses. This earlier planning enables the family to bypass the “asset protection crisis” if they have to make last-minute arrangements for an elder's long-term care.

Among the benefits of care coordination through an Elder Law firm are these:

- **Reduces the frustration that is common when dealing with long-term care decision-making.** For most families, this is a new experience. The information and changes can be overwhelming. The care coordinator arms the senior and his or her family with education and support to guide them through the process.
- **Provides caregiver coaching and care advocacy.** For those acting as a spouse's or parent's caregiver, the care coordinator helps them become the best, most effective caregiver possible. Support and counseling are crucial in order to be able to maintain a loved one in the home. If that pillar of support crumbles, a move outside the traditional home setting may be necessary, resulting in increased long-term care expenses and a host of necessary healthcare decisions.
- **Helps the client understand a diagnosis, a disease process, or treatment options.** The care coordinator provides on-going education, support, counseling, and guidance to help the client and family understand and make decisions about the client's particular healthcare needs.
- **Guides the client to anticipate and plan for expected or predictable changes, as well as to react to sudden changes that were not anticipated.** The care coordinator knows that as a person ages and healthcare issues arise, things will change. He or she provides foresight, as well as sensible planning to cope with such change.
- **Aids the client to plan for placement and transfers.** Sometimes it is not possible to continue to provide care for the client in the home setting. The care coordinator's assessment skills and experience can assist in determining if that time has come and what to do next. Bringing experience and knowledge to the assessment of the client's needs, the care coordinator helps the client and family determine the best place for continuing care.

- **Helps to monitor changes in mood and behavior and address those changes.** If this occurs, the care coordinator helps the family figure out the cause and appropriate response. Although depression is not a normal part of aging, it often occurs among those with chronic illness, and is sometimes hard to recognize.
- **Identifies changes in pain and explores ways to manage pain.** Seniors suffer pain needlessly because they cannot or do not communicate the intensity of their symptoms. Pain symptoms are sometimes misinterpreted as “behavior” and managed with the wrong medication. The care coordinator helps stop that from occurring.
- **Assists the client in understanding public benefits that can help pay for needed care (such as Medicare, Medicaid, and VA programs).** The area of healthcare benefits available to Americans is complex. The particular programs can be confusing and frustrating to maneuver. It is crucial to have advocates who can help the senior and his family through this process so that the senior receives the benefits he is entitled to receive, while protecting all of the resources that he is entitled to protect. Elder Law attorneys are well-versed in these matters.

The “holistic” practice of Elder Law envisions a relationship with a client his or her family that lasts for years, helps the client spend those years with continued dignity. For those it serves, **Hickman & Lowder** is committed to this end.

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