



## **So, You Want To Be An Elder Law Attorney?**

A 2003 AARP survey found that less than half of people age 45 and older hold a durable power of attorney for health care decisions. The survey also found that lawyers are the most popular choice for preparing these documents.

This certainly points to the need (and potential market) for legal services targeted to our aging population. Unfortunately, simply packing your firm's waiting room with senior citizens doesn't make you an elder law attorney!

Read on to find out how you can transform your legal practice to better serve this potentially lucrative market.

### **Step 1: Know What An Elder Law Attorney Does**

In a sense, most attorneys could think of themselves as elder law attorneys, especially when they are preparing estate planning documents or consulting with a client on a pension plan or Social Security benefits.

While it is true that elder law attorneys focus on the legal needs of older clients, elder law is different from traditional estate planning. More emphasis is placed on planning for the contingencies of an extended lifetime — a time when finances, health, mental capacity and support structures progressively change.

The National Elder Law Foundation defines elder law as “the legal practice of counseling and representing older persons or their representatives.” It itemizes 13 substantive areas of legal services, the first five of which are treated as core areas for its elder law certification program, which is approved by the American Bar Association. These core topics include:

1. Health and personal care planning
2. Pre-mortem legal planning
3. Fiduciary representation
4. Legal capacity counseling

## 5. Public benefits advice

### **Step 2: Learn To Work Collaboratively**

Elder law strives for an interdisciplinary planning perspective, requiring collaboration with a host of allies, including:

- Medical professionals
- Social workers
- Geriatric case managers
- Finance and tax consultants
- Family and professional caregivers

This collaboration is not without its challenges, however. Elder law attorneys can face significant ethical conflicts when advising more than one generation, especially if the older client has lost the ability to make legal decisions. Deciding “who is the client” often becomes the major question.

### **Step 3: Learn To Use A Holistic Approach**

Elder law integrates legal planning into the larger picture of planning needs. Certainly, older clients require guidance in traditional areas such as estate planning. But these clients also consult elder law practitioners about so-called “nonlegal” needs. And these personal needs are intimately enmeshed with the law.

Using a holistic approach, the elder law practitioner counsels clients about a number of overlapping issues, including:

- **Assisting with long-term care needs.** Increasingly, the elder law attorney also assists the client in planning for possible long-term care needs, including assisted living and nursing home care.
- **Locating resources.** 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.
- **Preparing for end of life.** The elder law attorney must also be able to assist the client in making preparations for death. Often, time is of the essence and the elder law attorney must be able to confront emotional as well as legal issues facing a dying client and the surviving family.

### **Step 4: Consider Certification**

Elder law attorneys may now be certified in this field by the non-profit Board of Certification of the National Elder Law Foundation. Certification entails continuing legal education, peer review and a certification examination. For full details, visit [www.nelf.org](http://www.nelf.org).

*An experienced accounting professional can be an important ally as you develop your legal practice to encompass areas of elder law. Contact our office for more information.*