

## Where Elder Law and Estate Planning Meet - *Trusts & Estates and Elder Law Newsletter*

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Pashman Stein Walder Hayden's (PSWH) Trusts and Estates' group provides clients with advice to help them preserve, manage and plan for the transfer of their assets and wealth. We assist in developing planning strategies designed for each client's unique situation, to achieve their personal goals, while minimizing the gift, inheritance and estate tax impact of implementing those strategies. While this traditional estate planning remains as important as ever, PSWH's Trusts and Estates/ group has expanded to include an Elder Law practice. Our Trusts and Estates/Elder Law group now also addresses the specific needs of aging individuals, people with disabilities and their families, providing a more comprehensive and holistic approach to planning for our clients while providing future options in case of an emergency.

It is important to note that a Last Will and Testament, a Durable Power of Attorney, an Advanced Directive for Health Care/Health Care Proxy and Directive (commonly referred to as a Living Will) are basic estate planning documents that all individuals should have in place. Without them, in the event of incapacity or death, your specific wishes and goals may not be realized. The Last Will and Testament memorializes your wishes relating to your estate after you have died, while the other documents are important during your lifetime if you are unable to make decisions for yourself.

It is a common misconception that elder law is simply estate planning for elderly individuals. While it is imperative to ensure that older people (just like their younger counterparts) have appropriate estate planning documents in place to cover all of the "what ifs", and that those documents are reviewed periodically to ensure that they continue to make sense under the circumstances and comply with current law, elder planning is much more than that. The focus of elder law is on

planning for common issues that arise when individuals live longer. The objective is not only to help them preserve family wealth, but also live with dignity.

For instance, many individuals ultimately require some level of care as they get older, from extra assistance in the home to around the clock long-term care in a nursing home. Many people are understandably concerned about how this care will be funded. PSWH's Trusts and Estates/Elder Law group now provides advice regarding asset protection planning that specifically includes educating our clients about the tax and legal issues surrounding long-term care, Medicare and Medicaid. We are also able to provide tailored recommendations to minimize long-term care costs, with particular attention to how those recommendations may impact your other estate and tax planning goals.

Other issues commonly covered under the umbrella of elder law include determining what sources are available to fund long-term care, how to qualify, and how to apply for those needs based benefits. They also include guardianship and conservatorship actions when individuals have not put the appropriate estate planning documents in place before mental capacity has declined. An elder law attorney can also assist individuals with diminished capacity that may be suffering from elder abuse, including physical, emotional and financial abuse and exploitation.

Many of you have elderly parents or other family members who currently need elder planning. Additionally, even if you have estate planning documents in place, there may come a time where the focus shifts from traditional estate planning to elder law planning. Advance planning before an emergency situation arises provides individuals with a wider array of options.