

Why You Should Use an Elder Law Specialist

by Attorney Michael Hooker

Many lawyers in the Pioneer Valley are general practitioners. Only a few devote a significant part of their practice elder law and even less work exclusively in it.

Why does this matter to you? Because there are some elder law issues that are far beyond the skill or knowledge of the general practitioner. I realize that I have a bias towards using an elder law specialist, because I am one. But maybe my bias is justified.

Elder law involves guardianship, estate planning, end-of-life care issues, nursing homes, government benefits and Medicaid. Wills, death, and estate administration are fairly easy. The real problems are when the elder becomes incapacitated and can no longer live independently in the community. Or worse, is being financially and/or emotionally exploited or is going broke paying for care in the home or other setting.

Here is an example of how the hiring of an elder lawyer (who is often more expensive than a general practitioner) can help. A woman in her 80's lives in a two-family house. She is in one side, and her daughter in the other. Daughter cares for frail mother. Mother never transfers the home to her daughter, though her will leaves it to her at a discounted price. Mother is admitted to a nursing home. A general practitioner does the legal work to sell the house to the daughter at the reduced price indicated in the Will. This requires that the 70 year old daughter take out a \$100,000 mortgage. Mother now has \$100,000 which she has to spend on the nursing home and daughter is burdened with a \$100,000 mortgage.

At some point the daughter was referred to me and I was able to clean up the mess so that the daughter kept the house under the caretaker child exception and mother had her care paid by Medicaid.

One of the critical problems faced by elders is that they don't know there is a better way. Had the daughter not been referred to me, she would never have known that the general practitioner was in way over his head and messed up.

Shopping for a lawyer is much harder than buying a car. You can't just compare cost/fees. It is very difficult to assess the value of your purchase. Did the lawyer save me money? If so, how? Did he/she create a trust when I didn't need one? Elder law attorneys may charge more. But you know what they say...you get what you pay for.