

WHY CALIFORNIA ELDER LAW MATTERS

*Get a Better Idea of What Elder Law Is
and Why It Matters Not Just to Seniors
but to Younger People As Well*



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If you ask the common person what “elder law” is, you’ll probably get a range of different answers. As the name implies, elder law is something that affects seniors and elderly people. However, the term is very broad and covers topics that, even though they mostly affect older people, can also affect people of much younger ages as well.



Elder law attorneys are lawyers who specialize in those issues that people normally face as part of getting older. However, what elder law attorneys don’t necessarily do is help seniors or elderly people with all the legal problems they might encounter. For example, elder law attorneys often help people worried about

needing long-term care in the future, regardless of their age. On the other hand, elder law lawyers are not right for seniors who want to defend against a criminal charge.

The reason elder law is so important is because of the issues it covers. Everyone has worried about, for example, the possibility of losing their ability to make choices or care for themselves. People worry about their elderly parents, or their child with special needs.

Elder law covers all of these topics, and more. To get a better idea of what elder law is and why it matters, let's take a look at some of the more prominent issues that elder law attorneys commonly deal with.

ELDER LAW, ESTATE PLANNING, AND ESTATE ADMINISTRATION

Everyone, whether they know it or not, has an estate. Your estate is simply the



total of all of your worldly possessions. Whether those possessions include valuable personal property, real estate, intellectual property, or debts and other obligations, your estate represents everything you own. Most people don't have to worry about someone else managing their estates because they are able to do it

themselves. However, you won't always be around manage your property, and you might one day lose the ability to do so.

Estate planning is that portion of elder law that looks ahead to what will happen to your property after you die. Estate planning looks at a number of issues, such as tax implications, inheritance choices, and even funeral planning. With an estate plan you prepare your estate to transfer to your family or other inheritors, and to do so as smoothly as quickly as possible.

Estate administration, on the other hand, is managing an estate. For example, if your father dies and names you as the estate's personal representative, you will have a legal obligation to manage the estate property and ensure it is properly transferred to new owners. Estate administration is how you go about this process. It involves a number of steps, such as taking an estate inventory, filing the appropriate documentation with the probate court, notifying estate creditors, and finally, distributing estate property.



It's important to note that estate administration doesn't only have to occur when someone dies. In situations where, for example, an adult becomes incapacitated, someone will have to step in and administer that incapacitated person's estate as well.

ELDER LAW AND INCAPACITATION

Planning ahead against the possibility of incapacitation is also a key area of elder law. Just like estate administration, incapacitation can happen to you whether you are elderly or young. Even if you are a younger person, having a family member, spouse, or child who becomes incapacitated will also significantly affect your life.

As a part of their practice, elder law attorneys routinely help clients create incapacity plans. These plans use different elements to protect you and your family against this loss of ability.

For example, should you one day be involved in a car accident that leaves you comatose, your incapacity plan will give others the right to make important decisions on your behalf. It will also ensure that your property is properly looked after and that your family is also protected.

On the other hand, if you fail to make such a plan, you have no control over who will step in to make those decisions.

ELDER LAW AND ELDER ABUSE OR DISCRIMINATION

Some of the problems that elderly people face come at the hands of others. As the number of elderly people continues to increase, so to is there an increase in the number of cases of elder abuse and age discrimination every year. Some elder law attorneys counsel people who have been subjected to abuse, neglect, or discrimination because of their age.

In many situations, seniors can create tools that will protect their interests as they get older, especially if



they are concerned about the possibility of someone taking advantage of their

financial resources. In other situations, someone who has already suffered abuse or been the victim of age discrimination can pursue litigation to recover damages for the harms they have suffered.

Elder abuse and neglect is also a serious issue for seniors who are considering the transition into a nursing home environment. Researching the type of home that is appropriate for your needs, determining how much you can afford, and whether you will be able to use Medicaid (called Medi-Cal in California) to pay for long-term care are all topics that elder law attorneys are familiar with.

ELDER LAW AND YOU

Because elder law can affect almost anyone at any time, you never know when



you might need to contact an elder law attorney. In the best possible scenario, you will only need an elder law lawyer to help prepare you for what might, and will, happen to you as you get older. In many situations you won't have to deal with a family or personal

elder law emergency. Even if such a situation arises, your lawyer can help you ensure you have the proper plans in place.

Regardless of your current circumstances, being adequately prepared is the best thing you can do for you and your family. If you have ever worried about what

the future holds, are nearing retirement, need legal advice about your options, or have wondered what you can do to help an elderly family member, you should talk to an experienced and qualified elder law attorney as soon as you can.

About the Author



Timothy P. Murphy

Timothy P. Murphy is an estate planning and elder law attorney whose practice emphasizes helping people to build, preserve and pass on their wealth. He works with his clients to accomplish their goals while avoiding unnecessary court proceedings and minimizing or eliminating exposure to death taxes. Mr. Murphy also assists families facing the myriad of problems associated with dealing with a loved one's declining health and rising needs for care. He has practiced law in the Sacramento area for 29 years, first with a large firm, and then with his own firm since 1987.

Tim has written a regular column on legal issues for Senior Magazine. He also was a regular featured guest on the Money Experts radio program heard locally on KFBK (AM 1530). Tim has been featured in the Sacramento Bee, Sacramento Business Journal, Sacramento Magazine, Comstock's Magazine and other publications on estate planning and related topics. He also assisted local Channel 3 (KCRA) in an investigative report on the trust mill problem in the Sacramento area and was featured on Channel 10 (KXTV) in its series on personal financial planning.

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