



The Elder-Centered Law Practice

By: Miles Hurley, Esq. & Dianne O'Donnell, Esq.



As a rule, when people discuss elder law, they generally think either of wills, trusts, powers-of-attorney and probate, or they think about Medicaid based asset protection planning. However, the National Academy of Elder Law Attorneys (NAELA) describes the practice of elder law in the following words:

“...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.”

If one accepts NAELA’s definition, then elder law is really about forging a relationship with not only the elderly client, but also with the family support group. With the parameters set, let’s take a look at how the elder-centered law practice really works.

When an elder is diagnosed with Alzheimer’s Disease, Parkinson’s Disease, has a stroke, breaks a hip or receives any other traumatic diagnosis, he or she generally has no idea of where to turn to get the help and care that is needed. Our medical system as it is currently set up focuses on handling the immediate, acute needs of the patients. Once the acute needs have been met, in general, the patient is sent out into the world with a referral or two and told that they now need to manage the care of chronic conditions. Most patients and their families have no idea where to begin in the maze of options (nursing home rehab, nursing home permanent placement, assisted living facility, personal care home, CCRC, in home care [skilled nursing or otherwise]) or the

most effective way to pay for the costs of the services that are needed. The primary goal of the elder centered law practice is to provide the solutions and to help guide the patient/client through the maze.

Most elders (85%) who need long-term care receive it from family or friends; few receive assistance from paid professionals because of quality or financial concerns. As it stands now, caregiving is viewed as an unpaid extension of the public health system, providing approximately \$196 billion in uncompensated care annually. What can be done to support caregivers and to provide the appropriate level of care to elder in order to promote a prolonged independence: create of a collaborative approach between medical and non-medical service providers that creates the continuity of care necessary to preserve the independence and good health of the elder.

Studies show that there are deficiencies in the current healthcare delivery system, especially related to the management of chronic care issues. Those deficiencies include practitioners who are so rushed that they may not follow established guidelines; lack of care coordination; lack of follow-up to ensure the best outcomes and patients who are inadequately trained to manage their illnesses.

In order to combat these problems, among others, the “elder centered” law practice has developed. The 2004 National Healthcare Quality Report states, “patient centeredness:” health care that establishes a partnership among practitioners, patients and their families (where appropriate) to ensure that decisions respect patients’ wants, needs and preferences and that patients have the education to and support they need to make decisions and participate in their own care. Patient centeredness encompasses qualities of compassion, empathy and responsiveness to the needs, values, and expressed preferences of the individual patient. To overcome these problems, Edward H. Wagner, MD has developed a Chronic Care Model. Following that model, the elder centered law practice proposes to create the “ac-

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tivated, informed Patient” who is ready for the “Prepared, Proactive Practice Team.” How do we create the “activated, informed patient? We learn everything that we can about the client/patient in order to determine where patient stands on the “elder care continuum.” The “elder care continuum” is a timeline on which the client/patient is moving toward the end of life. On this continuum, the ideal is to age in place, meaning that the elder lives in his own home, independently and successfully with no assistance needed, until he keels over dead in his bed or living room. While some people are fortunate enough to live the ideal, most are not. In order to provide long-term care planning for the client/patient, the individual’s place on the continuum is determined. Next, the job is to identify, access and pay for good care for the elder, both now and in the future. This process is not easy, but it is the essence of what the elder centered law firm does.

We want to help our clients with what they really want and we believe that to be promotion of the good health, safety and well being of the elder, whether the elder is at home or already in some other type of facility. These are the things that families know and that we help them to overcome: the system does not serve their needs and preferences; the system is fragmented, confusing and inefficient; and the system is financially unsustainable to them. As attorneys we are able to help clients navigate the financial system, but our training does not qualify us to help the client/patient make the right decisions regarding care and care management. This is where we become a multidisciplinary

practice. We have “Geriatric Care Coordinators” to help us to assess the needs of the client/patient, and then to present the various care paths to the client/patient and their family. Through this type of service to the client, we want to be known as the compassionate guide through the entire system, as opposed to just people who prepare documents or qualify people for Medicaid.

A Geriatric Care Coordinator (GCC) is assigned to each client and serves as the point of contact with the law practice and assists in coordinating the services necessary to help the family care for the elder. The initial duty of the GCC is to conduct a care assessment of the elder to identify care and related problems and then to assist in solving those problems. The GCC does not actually provide any health care, but enables the elder to access the appropriate level of care for his or her needs.

The Elder Centered law practice is a collaboration of legal and social services that educates, prepares and guides clients through the medical and financial maze that appears upon the diagnosis of a chronic condition. From this written explanation of the practice, it is easy to see that there many areas of running a business in general that come into play.

Miles Hurley is the founder of Hurley Elder Care Law in Atlanta, Georgia. He also hosts the radio show “Elder Talk” and serves as the Secretary for the Life Care Planning Law Firms Association.

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