

Ask the Eldercare Lawyer

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Ask the Eldercare Lawyer is a regular feature of Quality Lifestyle magazine. Each issue will address your questions in areas relating to estate, probate, elder law, Medicaid, Medicare, and eldercare legal advocacy and counseling. If you wish to have your questions answered, please send them to Sanford J. Mall, 31000 Northwestern Highway, Suite 220, Farmington Hills, MI 48334. The questions below came from recent meetings at the law offices of Mall, Hamilton & Associates, P.C.

Eldercare legal planning is a holistic legal / care planning service model. Quality of care is a central planning priority. ElderCare legal planning is unique in many ways. It is a holistic approach that recognizes the importance of a network of professionals from various disciplines that can assist in providing services to our clients. This type of planning employs Care Advocacy to assure high quality of care. Further, it allows the focus of the planning to be on retaining dignity and honoring our elders, by capturing and preserving their wisdom and helping them find a way to enhance their living legacy. One of these distinctions, Care Advocacy, is the subject of this issue's Ask the ElderCare Attorney.

Generally, someone in need of care relies on others to provide that care in a professional manner, preserving the dignity of the person in need. Certain "vulnerability" exists when we are in need of care. Sometimes, the ElderCare attorney must rely on other professionals in the care network to provide services to a client. However, with quality of life concerns being so important to our clients and their loved ones, we have a full-time professional Care Advocate on staff. In our experience, those who have an advocate receive better quality of care. Over recent months, our ElderCare Specialist, Sharon Terry, has helped numerous clients and their families obtain much needed care services. Often, the difference between good and poor quality care is simply being made aware of benefits to which your loved one may be entitled. Answers to some commonly asked Care Advocacy questions are provided below.

What is Care Advocacy?

As the phrase suggests, it is an active process dedicated to ensuring the best possible quality of life and quality of

care available. The professional training and skills of a Care Advocate vary, but may include nursing, social work, gerontology or other formal education. Most importantly, the effective Care Advocate will have earned his or her "credentials" in the trenches working to improve the quality of care and quality of life for others. The effective Care Advocate must also be an expert at the often confusing and complicated maze of care services. Additionally, it is critical for the Care Advocate to fully understand the legal rights that we and our loved ones have.

Our mother has been in a nursing home for several months. The quality of care seems to have declined. What can we do?

Family advocacy is very important to help assure the quality of services provided to a loved one in a care facility (or even at home). Often, the best single advocacy recommendation is to schedule a Care Plan Meeting. We recommend that you get a copy of your mother's written Care Plan. Most people are unaware that they have a right to have a copy of the Care Plan. Such a plan should have been written shortly after your mother was admitted to the nursing home. Review the Plan and participate in its further development. If things have changed for your mother since admission, it is time that the Care Plan is reviewed to determine if it continues to meet her needs.

Without family (and sometimes professional) advocacy, it is very common that the Care Plan is not reviewed. A formal review of your mother's Care Plan should be done in conjunction with a team meeting. Generally, the nursing home staff members present at a team meeting may include the Director of Nursing, a Social Worker, and any therapists working with your mother (such as physical therapy, speech therapy, occupational therapy). By law, your mother has the right to attend the meeting and to have others attend either with her or on her behalf. We often recommend that concerned family members either attend the team meeting and/or have a private "pre-meeting" to prepare for and discuss all the questions and concerns.

As ElderCare Attorneys and Care Advocates, we are often asked to attend Care Plan meetings with families. Our experience has taught us that an involved, concerned and knowledgeable family is the best protection to help assure quality of care for your loved ones.

Why do we need a Care Advocate if all our planning and legal documents are already done?

A Care Advocate can help make sure your plans work when they are needed. Legal planning provides an excellent foundation and will make sure that your wishes are well documented and your chosen legal representatives

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are identified. However, when you need help assuring that you or your loved one will receive quality care – Care Advocacy is needed.

My husband had a stroke and is in the hospital. I am concerned that I may not be able to take care of him at home. What can I do?

This is a very common question, but it is frequently not asked until after problems arise. As a caregiver to your husband, you are smart to recognize the potential difficulties before overtaxing yourself and possibly placing both you and your husband at risk. Effective advocacy starts with accurate assessments. We recommend you obtain a geriatric care assessment for your husband. The objective of this assessment is to determine his current care needs as well as to determine your ability to care for him at home.

During the evaluation, you can expect to meet with the geriatric care manager and he or she will also tour your home to assess whether your husband's care needs can safely be met there. If your husband can return home, the care manager will identify the goods and services to assure a safe return home. Often, some home modification, assistive devices or added in-home care staff is all that is needed to assure a safe return home. The geriatric care man-

er should also be able to assist you in locating the necessary care services and even help you to determine how these services can be paid for. If returning home is not possible, the geriatric care manager can help you identify alternate placement to best care for your husband during his recovery.

My parents are doing fine right now, but I am concerned for their safety and what will happen if one of them gets sick – especially my mother. Is there anything I can do in advance?

If your parents already have legal planning in place, it is probably a good idea to have it reviewed to make sure it will meet their current (and changing) needs. If they have not done any prior planning, it is important for them to consider doing so. The earlier that planning is in place, the more options that are available. Not only can such planning keep them out of Probate Court and keep their affairs private, but also it will likely provide them the best opportunity for meeting their care needs, preserving their assets and other resources, maximizing their control, and preserving their legacy. Hopefully your loving guidance will help them understand why advanced planning is in their best interests.