

What type of advisor should you rely upon with respect to long-term care planning?

Prior to retaining assistance with long-term care planning issues, including qualifying for VA or Medicaid benefits to help pay for long-term home care, assisted living or skilled nursing care, you may want to consider the following:

Is the person you are considering a member of an organization which provides oversight? If you are damaged or not treated properly, can you complain to the oversight organization, such as the Florida Bar, FINRA, Department of Professional Regulation of the State of Florida or any similar organization?

Does the person have errors and omissions insurance?

Do they have a physical office, including a well-trained staff capable of completing all of the necessary instruments, agreements and filings?

Does the person have a substantial investment and positive reputation in the community?

Is the person charging a fee or are they making their money through the sale of products? If the latter, how can you know their advice is not biased?

Have they been subject to a background check or any other requirements for qualification to render the services sought?

If you are seeking someone for assistance with VA benefits, have you checked the VA website (VA.gov) to determine whether or not the person is an accredited agent, or an accredited attorney?

Does any agency regulating the advisor require continuing education? Is there any agency or entity regulating the advisor? Does the oversight organization exercise any control on the advertising or solicitation to protect the public?

If the person is not an attorney, have they told you that an attorney is reviewing all of the paperwork? Have you ever seen or talked to the attorney?

Does the person have the education, experience and proven competency to be able to adequately advise you of all the many interacting disciplines of the law which may apply in any long-term care planning situation? This includes the interrelationship of Medicaid and VA benefits, issues associated with real estate conveyances, income tax implications of irrevocable trusts, tax ramifications of personal care contracts, testamentary and other issues associated with family dynamics, especially in blended families, and the need for proper preparation and funding of an effective qualified income trust when necessary?

Who is going to pay the costs and damages associated with bad advice on any of these issues?

The best way to protect yourself and your family is to use an advisor with recognized experience, credentials, reputation and capabilities to be able to provide excellent advice in this very complex area of the law.

The author, Michael D. Fowler, J.D., LL. M. is double board certified by the Florida Bar in both elder law and wills, trusts and estates – one of only nine attorneys in the state who is certified in both of those practice areas. Attorney Fowler has been practicing locally on the Treasure Coast for over 34 years.

Florida Bar Board Certification brings with it rigorous vetting by the bar in terms of a comprehensive examination, substantial and continuing peer review, requirements for continuing education substantially in excess of those required of a non-certified lawyer, as well as requirements for appropriate insurance coverage.

To learn more about the latest on estate and long term care planning, please attend our free seminar on February 24th.

R.S.V.P. to our office by calling 772-871-7271.



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