

AGING WITH AUTONOMY

10 QUESTIONS FOR LIFELONG INDEPENDENCE



THE FLORIDA BAR
ELDER LAW SECTION



As you get older or are caring for an aging loved one, you will need a well-informed plan in place. Yet, nearly 64 percent of adults 45-64 and 62 percent of adults 65 and over have not done the necessary preparation. Ask yourself these 10 questions to see how ready you are, and reach out for expert help if you find yourself responding, "I don't know."

DO YOU HAVE A WILL, AND DO YOU NEED A TRUST?

When estate planning for your or your family's future, it's important to get the necessary legal documents taken care of and out of the way. Your planning may include a will, trust, durable powers of attorney, health care advance directives and deeds. Most legal documents should be written and signed in advance, and can be adjusted as your circumstances change.

Wills dictate what happens to a person's probate property after they have died. If there is no will at the time of a person's death, the state will prescribe how the person's property gets handled. Having a will does not avoid a probate.

A living trust is a legal document created during an individual's lifetime. It designates a person to manage the individual's assets for the beneficiary while they are still alive, and provides instructions for the distribution of assets at death. If a living trust is properly funded, probate can be avoided.

WHO SHOULD BE YOUR DURABLE POWER OF ATTORNEY?

A durable power of attorney delegates legal authority to another person and typically focuses on financial decision making, though health care authority can also be granted. It is frequently used to help in the event of a person's illness or disability. If you grant power of attorney to a spouse or relative, that person can make decisions affecting your care, and can even stand in for you to sign legal documents. Technically, anyone can be named your power of attorney, as long as you are mentally competent and acting under your own free will. It is recommended to choose someone trustworthy and capable, like a close family member or friend. In Florida, a durable power of attorney is effective immediately.

WHAT ARE YOUR INSTRUCTIONS TO YOUR FAMILY?

A letter of instruction is a personal letter that goes along with your will. The first part includes instructions for planning a funeral, names people to contact when you pass away, and otherwise sets out your wishes related to your death. The second part covers financial affairs such as lists of accounts and contact information for your employer, insurance agent, or broker. In the final part of a letter of instruction, people often write special messages to family members. A letter of instruction is not a legal document, but it helps your survivors understand many of the things you intended to happen upon your death.

HOW FAR SHOULD MEDICAL PROFESSIONS GO TO PROLONG YOUR LIFE?

Every adult with legal capacity has the right to make decisions concerning his or her own health. A health care advance directive recognizes the right of such a competent adult to instruct a physician to provide, withhold, or withdraw life-prolonging procedures, and to designate another individual to make treatment decisions if the person becomes unable to make his or her own decisions. It's never too early to have an advance directive in place to ensure your medical wishes are known and honored.

Have you considered all the long-term care options?

As you and your loved ones begin the process of planning for your or their long-term care, it is important to figure out which long-term services you and your family may need and how they will be paid for. Every person's needs are different: some may require intermittent care while others require part-time or full-time care, and some have family members who can serve as caregivers while others will require hired service or be placed in a long-term care center. It's important to take all of your options into consideration before deciding what is best for you and your family.

HAVE YOU CONSIDERED ALL THE LONG-TERM CARE OPTIONS?

Even with the best planning, care can be expensive, and most families aren't able to pay straight out of pocket for long-term care services. Medicaid is an option to cover some long-term care expenses, but individuals are required to meet certain financial and health criteria to receive the benefits of that government-funded program.

Most private health insurance companies do not insure long-term care but will cover hospital stays, doctor visits, and prescription drugs. Long-term care insurance might be worth exploring if you think you may need more coverage.

IS YOUR HEALTH INSURANCE ADEQUATE?

As you and your loved ones begin the process of planning for your or their long-term care, it is important to figure out which long-term services you and your family may need and how they will be paid for. Every person's needs are different: some may require intermittent care while others require part-time or full-time care, and some have family members who can serve as caregivers while others will require hired service or be placed in a long-term care center. It's important to take all of your options into consideration before deciding what is best for you and your family.

WILL YOUR HOME MEET YOUR NEEDS AS YOU AGE?

Make sure your home will be accessible for yourself and your loved ones as you get older. For example, you may need wider doorways and ramps to accommodate a wheelchair, and shower and bathtub modifications for safety. If altering your home isn't possible, other options may include relocating to an assisted living facility or moving in with a loved one.

HOW WILL YOU PAY FOR NURSING HOME CARE IF YOU NEED IT?

Nursing homes are a great long-term care option for someone who needs 24-hour care, or who isn't able to make their home more accessible. Nursing homes can be paid for with personal funds, Medicaid, or long-term care insurance. Medicaid planning can be a complicated process, but there are ways to accelerate the process of meeting Medicaid's financial eligibility requirements and maximize the benefits and savings on care.

CAN YOU ACCESS REHABILITATIVE CARE?

A rehabilitation facility can care for you in the short term after an accident,

injury, or surgery. You or your loved one's doctor will consider whether or not a rehabilitation facility is necessary based on the severity of an illness or injury.

Senior rehabilitation facilities often include programs like physical therapy to improve mobility, balance, and strength; occupational therapy to assist with activities of daily living and fine motor skills; speech therapy to improve communication, swallowing, and cognitive skills.

Your doctor will choose either an inpatient or outpatient facility based on the severity of you or your loved one's condition. If you or a loved one is in an inpatient rehabilitation facility, the goal is to get you home as soon as safely possible.

HAVE YOU LOOKED INTO LOCAL RESOURCES OR ASKED FOR HELP?

When planning for the long-term care of yourself or your family member, look for resources available in your community specifically to work with the needs of the elderly and other vulnerable populations.

When planning for the long-term care of you and your loved ones, research your options, have open and honest discussions with each other, and look into finances. A Florida elder law attorney is a fantastic resource as you begin to plan for long-term care. These attorneys focus their practices on legal and care-related issues that arise as people age. Their knowledge of the law and local resources in your community can help you and your family make the best choices for you as you consider options about your care.

The U.S. Administration on Aging offers a free online Eldercare Locator tool, which can be an excellent place to start. The service lets you enter a zip code to find local resources on such subjects as support services, housing, health care, transportation, and more.

The Elder Law Section of The Florida Bar has also launched a printable resource sheet to help you navigate these questions and important processes, and a discussion guide for having tough conversations with your loved ones about long-term care planning.