

This area of law involves planning for the transfer of assets at death or during lifetime, as well as administration of the estate of someone who has passed away. Other issues these attorneys can help with are health care proxies (the appointment of a person who can make health care decisions for you if you are unable to do so yourself), living wills (your wishes with regard to life support in the event that you are incurably ill and unable to make your own decisions), and powers of attorney (the appointment of a person who can take care of your financial and property affairs). "Elder Law" is typically used to describe dealing with issues involving Medicare and Medicaid benefits, nursing homes and other issues that arise during the retirement years of life.

Questions to Ask and Information to Obtain About your Prospective Attorney

Experience – As in all areas of law, the level of experience an attorney has with your particular type of legal matter is always an important area of inquiry. The size and complexity of your estate is an important factor also, as the larger your estate is likely to be, the more likely tax planning will also be an important aspect. For most people, a simple will, power of attorney and health care proxy can be handled by many attorneys practicing in this field. For more complex situations you may wish to look for someone who is experienced in handling larger estates. And as with all areas of the law, the more matters a particular attorney has handled in the estate area, the more likely he or she is to be able to handle your matter competently.

Fees – Attorneys who practice in this field bill in one of two ways, either by the hour or by the matter. Some will offer to draw a will and related documents for a set price. Others will bill by the number of hours it takes to do the job. (Hourly billing is more common in more sophisticated matters.) Estate administration can also be handled at either an hourly rate or a set fee. You should clarify this issue before hiring anyone.

Support staff – Frequently you will be dealing with paralegals or legal assistants, especially in the area of estate administration. This is completely appropriate, but you must be clear at the outset what the division of labor will be so that you are not later surprised by the involvement of support staff. For hourly billing, you should remember that items handled by support staff will cost you less, so that anything that can be competently done by staff is cost effective.

Do you serve on any bar committees or other organizations involved in Trust and Estate law issues? This is not essential, but if they do you can be assured that this area of law is an important part of their practice.

Have you ever been disciplined? Attorneys are strictly regulated by the State of New York through the Attorney Grievance Committee of each of the four Appellate Divisions. It is completely appropriate to ask if an attorney has ever been disciplined and if so, for what.

Do you have malpractice insurance? Attorneys make mistakes because they are human like everyone else. Most but not all attorneys carry insurance to protect clients from the effects of any mistakes that are made. You should hire one that provides this protection.