

# What Is Elder Law? Know The Facts



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What is  
"Elder Law"?

**A** Elder Law is a sub-specialty .n.within the practice of law.

Until the early 1990's, this area of practice was more generally known as "Estate Planning," which is one of the core subjects taught to first year law students.

Elder Law developed as a sub-specialty within Estate Planning sometime in the late 1980's. The National Academy of Elder Law Attorneys was founded in 1987 as a professional association of attorneys who are dedicated to improving the quality of legal services provided to seniors.

**Q** What is "Estate Planning"?

**A** Estate Planning generally involves the drafting of Wills, and planning for the disposition

Planning can also include tax planning, to reduce or eliminate the various death taxes

which can, in some cases, seriously deplete an estate.

**Q** Do Estate Planning Lawyers address planning issues in the event I become incapacitated?

**A** During the 1980's and .17.19'.10's, Estate Planning expanded to include planning for incapacity as well: If you are in a car accident or suffer a stroke, leaving you unable to tend to your legal affairs or make medical decisions, a Will be of little use to you, as it is effective only upon death.

Thus, most lawyers today will talk to you about Durable Powers of Attorney and Advance Medical Directives ("Living Wills") when you go in to talk about drafting a Will.

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**Q** If an attorney focuses on elder law, what areas of law would that include?

Elder Law encompasses many different fields of law. Some of these include:  
- Preservation/transfer of assets seeking to avoid spousal impoverishment when a spouse enters a nursing home



-Medicare advocacy, claims and appeals

- Social security and disability claims and appeals
- Supplemental and long term health insurance issues.
- Disability planning, including use of Durable Powers of Attorney, Living Trusts, and "Living Wills"
- Conservatorships and guardianships
- Probate, Administration and management of trusts and estates
- Long-term care placements in nursing home and life care communities
- Nursing home issues including questions of patients' rights and nursing home quality
- Elder abuse and fraud recovery cases
- Housing issues, including discrimination and home equity conversions ("reverse mortgages")
- Retirement, including public and private retirement benefits, survivor benefits and pension benefits

Most elder law attorneys do not specialize in every one of these areas. For example, I do not handle Social Security Disability appeals or Elder Abuse cases. As well, some Elder Law attorneys handle matters for clients who are not elderly. For example, I draft Wills for clients of all ages.

**Q** If I see the designation "CELA" after an attorney's name, what does that mean?

**A** One of the ways to evaluate the experience and knowledge of an attorney who claims to

Estate/Trust Administration  
Guardianships Will  
Contest

Special Needs Trust  
Medicare, Medicaid, Long-Term  
Care & Disability Planning

## RiceElderLaw

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of estates upon death. Estate

practice Elder Law is to consider whether he or she is Certified as an Elder Law Attorney (CELA).

The purpose of the certification program is to identify those lawyers who have the enhanced knowledge, skills, experience, and proficiency to be properly identified to the public as Certified Elder Law Attorneys.

The criteria for certification include:

1. I.icensure - The Attorney must be licensed to practice law in at least one state or the District of Columbia.
2. Practice - The Attorney must have practiced law during the five years preceding his or her application and must still be practicing law.
3. Integrity/Good Standing The Attorney must be a member in good standing of the state bar in all places in which they are licensed.
4. Substantial Involvement - The Attorney must have spent an average of at least 16 hours per week practicing elder law

during the three years preceding his or her application. In addition, he or she must have handled at least 60 elder law matters during those three years with a specified distribution among subjects as defined by the National Elder Law Foundation.

5. Continuing Legal Education - The Attorney must have participated in at least 45 hours of continuing legal education in elder law during the preceding three years.
6. Peer Review/Professional References - The Attorney must submit the names of five references from attorneys familiar with his or her competence and qualifications in elder law. These people must themselves satisfy specified criteria.
7. Examination - Attorney must pass a full-day certification examination.

*Nancy Rice has been practicing Estate Planning and Elder Law in New Jersey and Pennsylvania since 1986; she was Certified as an Elder Law Attorney in 1997; and since 1999, she has maintained offices in Camden and Cape May counties, specifically in Cherry Hill and Ocean*  
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