



Ward and Smith, P.A.'s Elder Law Practice Group provides counsel for seniors on matters relating to guardianships, estate administration, estate planning, wills and trusts, health care planning, Medicare/Medicaid planning, elder rights, and special needs trusts. Our attorneys keep current on new laws and regulations that are relevant to this special population. Our Group advocates for the rights of our senior clients and addresses the legal needs of spouses, children, parents, and even extended family members.

Guardianships

We represent clients in all phases of guardianship proceedings and guardianship administration. We can represent a family member or friend who would like to consider filing a petition for incompetence and appointment of a guardian. Once a guardian has been appointed, we often assist the appointed guardian with court filings and bond renewals. We also are available to defend the person served with an incompetency proceeding who would like to challenge the petition. While many guardianship proceedings are not contested, our Elder Law attorneys have experience litigating those cases that become adversarial.

Long-Term Care Planning

Members of our Elder Law Practice Group work with clients at many different stages in the long-term care planning process. Our attorneys often work with families long before any type of long-term care is needed to structure assets in the most advantageous way depending on the client's goals. In addition, once care becomes imminent, our attorneys work with clients to determine what benefits are available, including N.C. Special Assistance for assisted living and memory care or Medicaid for skilled nursing care. This process often involves consideration of planning opportunities to protect and preserve all or a portion of the client's assets depending on the client's goals, assets, and type of care needed. In addition to our attorneys, we have qualified paralegals who work closely with clients and family members throughout the N.C. Special Assistance or Medicaid application process. We often become the intermediary between the client and the case worker to confirm that all information and documentation is provided timely and accurately.

Financial Powers of Attorney

We prepare financial powers of attorney (often called Durable Powers of Attorney) for clients who would like to name an individual or bank or trust company to make legal and financial decisions in the event of incapacity. It is our belief that these powers of attorney often are not treated with importance. However, we believe that this is one of the most powerful documents, if properly drafted, to allow planning efforts once you are not able to make decisions for yourself.

Health Care Directives

We counsel clients regarding their options for naming a person to make health care decisions in a Health Care Power of Attorney. In addition, we counsel clients regarding their desire to state their wishes regarding life support in a properly drafted Living Will.

Wills and Trusts

Ward and Smith has six attorneys who are certified by the North Carolina State Bar as Board Certified Specialists in Estate Planning and Probate Law. Therefore, we are able to meet our clients' needs regarding the preparation of wills and trusts from a simple will to a complex trust. As part of this process, we provide clients with strategies to reduce or eliminate estate taxes and probate fees.

Special Needs Trusts

We work with individuals of all ages to create Special Needs Trusts into which funds from personal injury cases and inheritances are contributed. If properly drafted, these trusts allow such funds to be preserved for the use and benefit of the beneficiary of the Special Needs Trust without disqualifying the beneficiary from governmental assistance. We have experience gaining court approval for these Special Needs Trusts. We also provide counsel to Trustees of Special Needs Trusts with respect to distributions from such trusts so that the distributions do not adversely affect governmental assistance.

Fiduciary Representation

We represent many types of fiduciaries such as Executors and Administrators of Estates, Trustees, Guardians, and Attorneys-in-Fact. We often provide counsel when a fiduciary needs legal advice about making a legal decision or entering into a transaction. In addition, we represent fiduciaries who are sued in their official capacity.

Our Elder Law attorneys are recognized by their peers as being among the very best. One attorney in this Practice Group is certified by the North Carolina State Bar as a Board Certified Specialist in Elder Law and by the National Elder Law Foundation as a Certified Elder Law Attorney. Another attorney in this Practice Group is a Fellow in the American College of Trust and Estate Counsel, the premier organization of estate planning and probate lawyers in the country.

Our attorneys belong to many organizations relating to their practice areas and are members of numerous professional organizations such as the American Bar Association (Real Property, Trust and Estate Law Section), the East Carolina Estate Planning Council, the National Academy of Elder Law Attorneys, the New Hanover County Estate Planning Council, and the North Carolina Bar Association (Estate Planning and Fiduciary Law Section and Elder Law Section).