HOW TO CHOOSE AN ATTORNEY

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When the need for a private attorney arises, locating and hiring the right attorney can be intimidating and confusing. A potential client must balance his or her need for representation with the associated costs as well as expectations of strong advocacy, competence, and trust. Many times, the need for representation arises suddenly and unexpectedly, forcing the prospective client to locate an attorney on short notice.

The following information is intended to be used as a reference when searching for and hiring an attorney. It includes information on a variety of factors that may be important during the search with an emphasis on the legal needs of older persons who may require an attorney familiar with, and specializing in, Elder Law issues.

QUESTIONS TO ASK

It is important to remember that simply walking into an attorney's office does not mean that a prospective client is required, or even intends, to hire an attorney. The initial conversation with an attorney (or a member of his or her staff) should be used to ask questions, obtain information and build trust between the client and prospective attorney. Then, only if both parties are comfortable with the representation should the client formally hire an attorney. Prospective clients should feel comfortable with his or her prospective attorney and should not hesitate to ask questions, request explanations, and demand answers. Some questions to ask include:

Initial Questions

- Does the attorney provide a free, initial consultation?
    - If so, how long? If not, how much does he or she charge for an initial appointment?
- Does the attorney handle cases of the type facing the prospective client?
    - How much of his or her practice is devoted to that area of the law?
    - How long has the attorney been handling cases/matters of this nature?
- Will the attorney require payment prior to beginning representation?
    - If yes, how much is required?
    - Does the attorney handle such cases on a "contingency fee" (the attorney only gets paid if the client wins) basis?
- What types of documentation and/or information will the attorney need prior to, or during, an initial office meeting?
- Can the attorney provide references from other clients?
- Does the attorney carry legal malpractice insurance?

Case-Specific Questions for the Attorney

- What are the legal options that exist to resolve the current issue or dispute?

    - Which option would the attorney recommend?
    - What are the strengths and weakness of each option?
- Has the attorney handled similar cases in the past?
    - What were the outcomes of previous cases? Were they resolved successfully?
- What is the expected timeline for resolving all pending issues?
- How, and how often, will the attorney provide updates about the case?

<u>Billing-Related Questions</u>

- How is the client billed?
    - Hourly? Flat fee? Contingency fee?
- How often will the client receive a bill?
- Will there be any other fees or expenses (e.g. postage, filing fees, copying, travel, etc.) added to the bill?
- Other than the attorney, will anyone else be working on the case?
    - If so, what are their billing rates?
- Will there be a written fee agreement? (If so, always request a copy)

<u>Elder Law-Specific Questions</u>

- Does the attorney have experience dealing with Elder Law issues?
    - If so, how much?
- Is the attorney a member of any local or state professional associations or committees relating specifically to Elder Law issues? (e.g. the "Elder Law" section of the State Bar of Wisconsin).
- Is the attorney a member of the National Academy of Elder Law Attorneys (NAELA)?
- Has the attorney handled Medicaid Planning issues in the past?
    - If so, how often?
- Is the attorney familiar with the current state of the law related to the issues facing the prospective client? (e.g. Medicaid Planning, Divestment, Estate Recovery, Spousal Impoverishment, Long-Term Care Planning, etc.)

<u>Questions a Client Should Ask Him/Herself Before Hiring an Attorney</u>

- Is the attorney's experience and background compatible with the prospective client's personal needs?
    - Did the attorney appear knowledgeable about the subject matter of the current legal needs?
- Did the attorney or his or her staff answer the prospective client's questions clearly and directly?
- Was the prospective client comfortable with the attorney and/or his or her staff?
- Did the attorney and/or his or her staff clearly explain billing amounts and procedures?
- If there is a written fee agreement, does the prospective client understand it and is he or she comfortable with it?

RESOURCES TO HELP LOCATE AN ATTORNEY

Attorneys specialize in a wide range of different legal issues. While one attorney may be unfamiliar with issues affecting a prospective client, another may focus his or her entire practice on the same area of the law. Fortunately, there are many existing resources to help locate an attorney who is competent to handle the legal issues specific to a prospective client. Some of those resources include:

- State Bar of Wisconsin Lawyer Referral and Information Service (LRIS)
    - (800) 362-9082
    - http://www.wisbar.org/forPublic/INeedaLawyer/Pages/Lawyer-Referral-Request.aspx
    - LRIS is a service provided by the State Bar of Wisconsin that assists prospective clients in finding an attorney to represent them, given their specific legal needs.
    - Attorneys referred through LRIS agree to charge no more than $20.00 for the first consultation, up to 30 minutes.

- State Bar of Wisconsin Modest Means Program
    - http://www.wisbar.org/forPublic/INeedaLawyer/Pages/Modest-Means.aspx
    - The Modest Means Program is run by the LRIS and provides legal services to individuals whose income is too high for free services, but too low to pay an attorney's full, standard rate.
    - Prospective clients must complete an application and documentation and the Modest Means Program will attempt to match him or her with an attorney who has agreed to take the case at a reduced rate.
        - Application can be found here: http://www.wisbar.org/forPublic/INeedaLawyer/Documents/ModestMeansIntake.pdf

- National Academy of Elder Law Attorneys (NAELA)
    - www.naela.org
    - NAELA is a professional association of attorneys who are dedicated to improving the quality of legal services provided to people as they age.
    - NAELA can help locate an attorney who specializes in Elder Law issues, including Medicaid planning.

- Martindale-Hubbell
    - http://www.martindale.com/Find-Lawyers-and-Law-Firms.aspx
    - Martindale-Hubbell, in existence since 1868, operates an expansive online database of attorneys, law firms, and more. The database also includes both peer and client ratings for attorneys.
    - Prospective clients can search for attorneys based on name, law firm affiliation, location, practice area, and more.

- Avvo
  - http://www.avvo.com/find-a-lawyer
  - Avvo, founded in 2007, is another online database that includes comprehensive tools for locating attorneys and law firms as well as finding answers to a variety of legal questions.
  - Avvo's attorney database also includes ratings and reviews of individual attorneys and allows prospective clients to search by state, city, and practice area.

- Friends, Family, and Personal Referrals
  - Friends, family, and business colleagues have often either hired attorneys themselves or know someone who has. Discussing others' personal experiences can be extremely helpful in locating the right attorney.

- Local Low-Cost or Pro Bono Services
  - Some local areas may provide low-cost or free legal services for low-income individuals.
  - Elder Benefit Specialists and/or courthouse staff may be able to provide information on whether such programs exist in a given county or municipality.