



Chester McLaughlin

ELDER LAW



*Elder Law,  
Special Needs  
& Estate Planning*

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# ELDER LAW, SPECIAL NEEDS & ESTATE PLANNING

The Law Offices of Chester B. McLaughlin has extensive experience in helping clients address legal issues that often accompany growing older or having special needs.

We provide comprehensive legal services in the following areas:

- Long Term Care Planning
- Public Benefits Planning: ALTCS/AHCCCS/SSI/VA/Medicaid/Medicare
- Guardianship & Conservatorship
- Special Needs Trusts and Planning
- Estate Planning: Trusts/Wills/Powers of Attorney
- Probate & Trust Administration
- Financial Exploitation and Elder Abuse
- Mental Health Law
- Litigation in the above Areas of Law



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## THE FIRM

Our tradition is excellence. From our inception, we have limited our practice to the areas of elder law, estate and special needs planning, and mental health law. We are dedicated to helping seniors and their families through creative legal planning in a caring and compassionate manner. We also represent clients in court proceedings related to our fields of practice.

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## ELDER LAW

Elder law concerns the legal needs of seniors, persons with special needs and their families. Although elder law is defined by the clients served rather than the legal issues involved, some of the typical issues involving older clients include financial planning for long term care needs, estate planning, and advance planning for financial and health care decision making in the event of incapacity. Guardianship and conservatorship proceedings are sometimes necessitated by an incapacitated person's inability to make competent health and/or financial decisions. We also provide advice in the area of special needs trusts for disabled clients of any age.

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## LONG TERM CARE PLANNING

Our firm has been, and continues to be, a leader and innovator in Arizona in long term care planning. A substantial portion of our practice is dedicated to helping people faced with the overwhelming cost of institutional and community-based long term care. According to a 2016 Genworth study, the median cost of nursing facility care in Arizona is \$75,555 per year for a semi-private room and \$93,075 per year for a private room. In 2014, 1.2 million people (out of 46.2 million) age 65+ resided in skilled nursing facilities. Many of our clients cannot afford to privately pay for long term care, yet have too much money to qualify for public benefits through Arizona's Medicaid program, the Arizona Long Term Care System (ALTCS).

We assist our clients in addressing the long term care needs for themselves or the needs of their loved ones. We discuss all available options, including long term care insurance, Veteran's Administration benefits, Medicare coverage, and private financing. If ALTCS is the only viable option, then we advise our clients on how to preserve for themselves and their families as much of their savings as possible, while at the same time hastening their eligibility for ALTCS benefits. A long term care plan is formulated at a comprehensive initial consultation and may be followed by a written plan at the client's request, referrals to appropriate professionals and ongoing advice. We have a former ALTCS eligibility worker on staff who can prepare and process a client's application and other paperwork through the ALTCS agency.

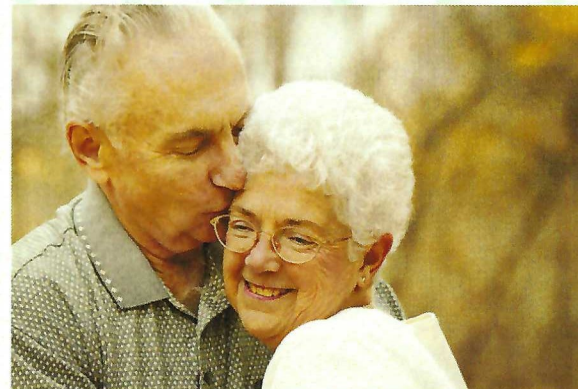
In addition, we prepare trusts related to Medicaid/ALTCS/SSI planning. The "income only trust" allows an individual whose income exceeds the monthly ALTCS limit to still qualify for the program. Sometimes clients also elect to transfer assets to a special irrevocable trust which allows for ALTCS eligibility after a waiting period.

We often utilize specialized annuities to preserve assets for married couples when applying for ALTCS. Assistance is also provided to help shield the estates of deceased recipients of ALTCS benefits from estate recovery claims by ALTCS. In some cases, the family home can be protected from liens and claims made by the State after death.

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## SPECIAL NEEDS PLANNING & TRUSTS

Some of our clients are taking care of a loved one with "special needs" who is receiving needs-based public benefits through ALTCS or the Social Security Administration. They are often concerned about what will happen to their loved one and their benefits if the client passes away or they become incapacitated. We help these clients with special needs planning and prepare special needs trusts for their loved one's benefit. We also assist families where a personal injury recovery or inheritance will disqualify a physically or mentally disabled person from receiving public benefits. A specially drafted trust for a disabled individual under the age of sixty-five can protect that person's assets while ensuring eligibility for ALTCS or SSI benefits.



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## ESTATE PLANNING

Estate planning is important to ensure proper distribution of a person's property upon death. Our goal is to help our clients of any age avoid probate and taxation to the greatest extent possible while ensuring their wishes and desires for the ultimate distribution of their wealth are met. Our client's goals are often attained through the use of wills and trusts. We routinely work as a team with other professional advisors, such as accountants and financial planners, to ensure the most comprehensive service to our clients.

Our firm also provides advice regarding the preparation of documents to help clients plan ahead in the event of their incapacity. These documents include financial powers of attorney, trusts, health and mental health care powers of attorneys, living wills and pre-hospital medical care directives.

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## GUARDIANSHIP & CONSERVATORSHIP

Unfortunately, many people have not planned ahead and do not have estate planning documents, such as powers of attorney or a trust. If they are already incapacitated, it is too late to have documents prepared. If someone becomes incapacitated and cannot make health care or placement decisions for themselves, requesting the court to appoint a guardian may be the only answer. If an incapacitated person cannot manage their financial affairs because, for example, they cannot pay their bills, the person may need a court-appointed conservator. A conservator may also be required to protect assets from being wasted or dissipated by the incapacitated person or by an exploiter.

Guardianship and conservatorship has been a major area of practice in our firm. We have extensive experience in Title 14 guardianship and conservatorship proceedings, including appointment of guardians with "mental health" powers, and emergency petitions. We have

paralegals on staff who work extensively in the areas of guardianship, conservatorship and probate. We work closely with many private fiduciaries in providing protection to incapacitated persons.

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## PROBATE AND TRUST ADMINISTRATION

We handle probate matters and trust administration for our clients. A court probate action includes the filing of an application for appointment of a personal representative, publishing notice to creditors, completing an inventory, appraisal of the estate, payment of debts, claims and taxes, final distribution and closing the estate. Trust administration assistance is available to ensure assets are properly distributed, required reporting is done by the trustee, and taxes are minimized after the passing of someone who has previously established a trust.

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## FINANCIAL EXPLOITATION AND ELDER ABUSE LITIGATION

Unfortunately, many incapacitated people are vulnerable to financial exploitation and physical abuse by others. For example, powers of attorneys are often abused, or co-owners on joint bank accounts take funds that properly belong to the vulnerable adult. Conservatorship proceedings and litigation are sometimes necessary to ensure that the exploitation and abuse is terminated and financial recovery is made against the exploiters and abusers through legal proceedings.

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## MENTAL HEALTH LAW

Mr. McLaughlin, as a former assistant attorney general for the Arizona State Hospital, and medical legal attorney for a large private hospital system, has had substantial experience in working with the mental health system. He can help with obtaining treatment in the mental health commitment process. He has also helped with the discharge of many persons committed to the Arizona State Hospital because of a finding by a court in a criminal case that the person was "not guilty by reason of insanity" or "guilty except insane."

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## CHESTER B. McLAUGHLIN

Chester B. McLaughlin is an "AV" rated lawyer with Martindale - Hubble. Based on peer review, he has been named in *Best Lawyers in America* and *Southwest Super Lawyers* in the field of elder law for 10+ years. He is a life member of the National Registry of Who's Who. Mr. McLaughlin has written and lectured extensively in the areas of practice described in this brochure.

Mr. McLaughlin has been practicing law since 1983. In addition to many years of private practice in the legal areas described in this brochure, his past legal experience includes criminal prosecution, representation of the Arizona State Hospital as an Assistant Attorney General, and providing medical/legal representation for Samaritan Health Services. Mr. McLaughlin's professional associations include:

## ASSOCIATIONS

- National Academy of Elder Law Attorneys: Current member; former member of public policy committee;
- Arizona Chapter of National Academy of Elder Law Attorneys: Current member; former president and vice president; Chapter member of the year for 1996 and 2006; member of public policy committee and former chair;
- Member and current board member of the Elder Law Mental Health and Special Needs Planning Executive Council.
- Greater Phoenix Chapter of the Alzheimer's Association: Former board member and secretary; former member and chair of the public policy committee; board member of the year for 1998; former volunteer of the month;
- Alzheimer's Advisory Committee to the Governor's Council of Aging; former chair.
- Governor's Council on Aging; former member