

## Los Altos Elder Law Attorney Emphasizes Prevention and Planning

When it comes to being prepared for the future, Barbara Small offers timely advice to baby boomers and their adult children: an ounce of prevention and planning prevents a pound of confusion and missed opportunities. Small, who operates a Los Altos law office specializing in elder law and estate planning, has seen all too well what can happen when people aren't adequately prepared. After years of practice in putting out the symbolic fires caused by poor or absent incapacity and estate planning, Small decided to focus on being more proactive in her practice. In the Law Office of Barbara Small, established in January of last year, her work includes conservatorships, guardianships, and other traditional areas of estate planning and elder law. But she now focuses more on elder law counseling and timely planning for future financial, legal, and health needs. Small explains: "I had been handling 'back end' estate and elder law issues for several years. I felt like it was time to become more involved on the front end, and help people avoid the issues that I often saw arise without good planning."



Small spends much of her professional time helping individuals and families understand the importance of planning. "I ask people to ask themselves a few simple questions," Small says. "If something happened to you, who would you rely on to make decisions for you? What steps have you taken to make sure that the person you rely on is informed of their role to make decisions for you? Have they been given legal authority to carry those decisions out?"

Asked about her top recommendations for aging baby boomers and concerned families of older adults, Small readily lists the primary actions she recommends to any client:

- *Get an advanced healthcare directive.* The medical care system is complex, and the choices that need to be made are equally so. How will individuals' needs be communicated if they are incapacitated? Small notes that older adults often feel anxious about losing control of their lives. An advanced healthcare directive actually gives them greater control of their lives, by allowing them to make their own personal choices about future care.
- *Designate someone to have your power of attorney.* In the event that an individual becomes incapacitated, having someone already designated to handle legal and financial affairs avoids costly and cumbersome issues with guardianships or conservatorships. Regardless of a client's assets, Small thinks it's just a smart move to have that document in place.
- *Establish a trust.* For individuals with any appreciable assets, having a trust in place can help ensure that their financial wishes are carried out after they are gone. It also helps avoid a costly and public probate process.



- *Draw up a will.* Every individual should have a will in place, in order to address distribution of assets not covered specifically in a trust. And for individuals who do not have a trust, it is the only legally sound way to ensure that their financial wishes are honored after their death.

Small encourages families to broach the subject of advance health care directives and powers of attorney by simply asking each other a few questions: If something happened to you, what medical decisions would you make for yourself? Who do you want communicating those decisions? Who would take over responsibility for your finances? If family members can identify the person they trust to carry out their choices, it becomes less overwhelming to then write down their instructions for doing so in a health care directive or power of attorney. It's common for the same individual to be named as trustee and agent for finances under a power of attorney. The agent under an advance health care directive may or may not be the same individual. Choose your representative well and make sure you communicate your expectations clearly.

She also suggests that families involve a medical and legal professional who can assist in the process of translating an individual's choices into effective written instructions in a health care directive or power of attorney. The family physician, for example, may be an excellent resource for discussing an advanced healthcare directive. The legal professional can provide a checklist for a basis of discussion about the decisions that need to be addressed.

Finally, the importance of having comprehensive and explicit instructions regarding how you want your financial, legal, and healthcare affairs managed can't be over-emphasized. (Those of us who work in [senior care](#) know that setting up care arrangements is a much smoother process when a loved one's needs are known and communicated.)

Barbara Small sees much of her professional role today as being an advocate, helping to get the word out for people to be thinking about the future. "Just like you make plans for your children's college education, make plans that will assist you and your family to smoothly transition decision-making authority," Small cautions. "If you become incapacitated, as well as after you are gone, having your wishes carried out should not be left to chance." The future is as close as the next hour in the day. Don't put the future on the back burner."

If you have questions about how to begin the planning process in your own family, contact the Law Office of Barbara Small at (650) 947-9327.

*Barbara Small's legal career includes work in securities litigation, corporate governance, and trademark matters, through her previous practice with Wilson, Sonsini, Goodrich & Rosati, as well as the Oracle Corporation. After taking time out to raise three children, she turned to elder law, working first with the Law Offices of Besson & Yarbrough. She is a current member of the California State Bar Trust and Estates Committee and the Santa Clara County Estate Planning Counsel. She is also a member of the attorney referral panel of the California Advocates for Nursing Home Reform.*

Link: <http://www.homecare-california.com>

Tags: Los Altos senior care, Los Altos elder law