NAVIGATING CARE GUIDE

Elder Law
OF EAST TENNESSEE

ABOUT
ELDER LAW OF EAST TENNESSEE

Elder Law of East Tennessee was founded in 2010 by Certified Elder Law Attorney Amelia Crotwell as a specialized practice serving elders and persons with disabilities throughout East Tennessee. In 2016, Amelia welcomed attorney Julia Price and attorney Bailey Schiermeyer as partners in the firm. In January of 2020, the firm welcomed Estate Planning and Probate Attorney Katie E. Wise.

As an elder care law and estate planning firm, **Elder Law of East Tennessee** helps families respond with confidence to the challenges of aging, chronic illness, and disability. Through a comprehensive collection of highly individualized services delivered with honesty, respect, and compassion, we help protect what matters most to our clients: quality of life for loved ones, cherished relationships, family wealth, and peace of mind. Elder Law of East Tennessee serves clients throughout the region from our offices in Knoxville and Johnson City.

At **Elder Law of East Tennessee**, we know that it's the little things that often make the biggest difference. Like how easy our office is to find; the warm reception you'll experience every visit; the way our beautifully restored historic home creates a welcoming, comfortable, and accessible space; and most importantly, being in the presence of caring professionals who understand what you are going through. With four attorneys on staff, we are large enough to handle the needs of many East Tennessee families and small enough to give you the personal service you deserve.

When you work with **Elder Law of East Tennessee**, you are doing more than just hiring an attorney: you're gaining an entire team of experienced advisors who will provide compassionate guidance, advocacy, and support throughout the long-term care journey. Together, we will open the door to peace of mind. You may come to us as a client, but you'll leave feeling like family.

The advice you trust. The care you deserve.

MEET OUR ATTORNEYS

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Navigating Care

Exploring your options: from in-home to facility care, and how to pay for it.

by Elder Law of East Tennessee, PLLC

How to Use This Workbook

Where will you get care? How will you pay for it? How much should you do on your own, and at what point should you look for help? Who should be part of your support team? What professionals can help you get the best results?

Navigating care brings up seemingly endless questions, and finding the answers can be like assembling a puzzle: you may not be able to understand the big picture without all the pieces in place. That's why it's helpful to form a team of professionals from different backgrounds to help identify the pieces and complete the puzzle.

Use this workbook to help you get started. It offers general information about some of the most essential questions and prompts you to think about the questions you didn't even know you needed to ask. It guides you to some of the resources you may need – and, we hope, will help you gather the information you need to make the best decisions for yourself and your family.

We are here for you, every step of the way.

Elder Law of East Tennessee
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Navigating Care During the COVID-19 Pandemic

Caring for someone who needs assistance with daily activities is challenging in the best of times. You or a loved one may need assistance with routine personal care functions like bathing, dressing, eating, getting up and down from a chair or bed, expressing needs, toileting, grocery shopping, managing medications, using a telephone, managing finances, etc. The COVID-19 pandemic has made both delivering and receiving these kinds of assistance more difficult than ever.

During the COVID-19 pandemic, it is important to follow guidelines set forth by the Center for Disease Control (CDC) as well as State and local governments. Guidelines like wearing a mask can reduce the risk of inhaling or exhaling air droplets that carry the disease from one person to another. Because the virus lives on surfaces anywhere from an hour to three days, it is especially important to ask caregivers to take precautions when coming into your home.

<u>In-Home Precautions</u>
When a caregiver is coming into your home, here are some steps to take to minimize the risk:

- Call the agency who employs the caregiver. Ask what precautions they are taking so you can know if your caregiver is following proper protocol.
- Set up a handwashing/sanitizing station next to the entrance. This will ensure the caregiver washes and/or sanitizes their hands as soon as they enter the home.
- Make sure the caregiver has a mask and wears it whenever they are coming into your home.
- If you are not the person receiving care, practice social distancing by keeping at least 6 feet between you and the caregiver.

<u>Facility Precautions</u>
If your loved one is in a nursing facility or an assisted living facility, the facility's policies of no visitation during the pandemic are surely difficult for both you and your loved one. Here are some suggestions for staying updated on their well-being:

- Ask who your contact will be for questions about care, as well as a good time/day to contact them.
- Find out if the facility will assist you in having a virtual visit. Most facilities are helping their residents with this. It helps if your loved one already has a smartphone or tablet they know how to use.
- Some facilities are allowing families to go to their loved one's windows and talk on the phone while being able to see them. Call the facility to find out if this is a possibility for you and your loved one.
- If the facility does allow window visits, ask someone to place a piece of paper with the room number in the window so you can easily find it.

Community Precautions

If your loved one attends a day program or other community-based program, call the agency to ask what they are doing in the way of precautionary measures. Asking the right questions can help you make an informed decision to keep yourself and your loved ones safe.

- Do they require masks? Some elders, especially those with dementia, may not be able to keep their mask on for long periods of time.
- Have they reduced the number of attendees to give adequate spacing between attendees? Or have they rearranged their space to allow for adequate spacing?
- Has their hand hygiene practice changed or increased?
- Do they allow family members to bring their elder into the building, or are agency staff greeting them at the car and doing a temperature screening?
- How frequently are they disinfecting the surfaces while attendees are present?

Finally, remember to take care of yourself. It is not possible to care for someone else if you are not taking care of yourself first. This can seem counterintuitive but think about who will care for your loved one if something happens to you. You and your health are equally important to your loved one's health and well-being.

Elder Law of East Tennessee has compiled a list of local resources for seniors as a result of the pandemic. https://elderlawetn.com/community-resources-response-to-covid-19/

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What are Your Care Needs?

Recognizing your current needs and planning for the future will help you make good decisions about what care services to use and where to receive care.

Your Immediate Care Needs

Are your care needs physical, emotional, cognitive (related to memory, reasoning, or understanding), or all of these? What challenges are you facing?

_____

_____

_____

_____

What is your diagnosis or diagnoses?

_____

_____

_____

What is your prognosis?

_____

_____

_____

_____

Do you need help with any of these daily activities?

- ❏ Indoor housework (laundry, cleaning)
- ❏ Outdoor housework (cutting grass, landscaping, repairs)
- ❏ Preparing meals and eating
- ❏ Getting to and from appointments, events, etc.
- ❏ Taking and managing medications
- ❏ Bathing, grooming, and getting dressed
- ❏ Going to the restroom
- ❏ Getting up, sitting/lying down, and walking
- ❏ Remembering to do daily tasks
- ❏ Orientation: understanding or remembering where you are and who you're with
- ❏ Avoiding wandering or becoming lost/disoriented

How urgent is it to address your care needs or find care supports?

- ❏ Immediate Need
- ❏ Within 1 Year
- ❏ 1+ Year Away

How long do you expect to need care support?

- ❏ Long term/permanently
- ❏ Short-term (temporary illness, injury, or rehab)
- ❏ Unsure

Your Future Care Needs

Based on family history or other factors, do you expect to require other types of care or support in the future?

_____

_____

_____

Will your current home support your changing care needs over time?

- ❏ No
- ❏ Yes
- ❏ Unsure

Your Social Needs

Social activity and companionship are key to maintaining overall good health, but staying engaged with others in the community can be a challenge.

Do you have any of the following risk factors for social isolation?

- ❏ Living alone
- ❏ Lack of mobility
- ❏ Lack of transportation
- ❏ Hearing loss
- ❏ Vision loss
- ❏ Cognitive decline (e.g. onset of dementia, confusion or memory loss, or problems understanding and communicating effectively)
- ❏ Speech problems

Acknowledging the changes in your health over time may be difficult and uncomfortable. This important first step will help you evaluate your options honestly and consider the best path forward.

What are Your Care Priorities?

Considering care options is about more than just "needs." It's also about determining what is most important to you.

What are My Care Priorities?	*0 - Least Important, 5 - Most Important*					
Staying at home	0	1	2	3	4	5
Getting the best care available	0	1	2	3	4	5
Being near family	0	1	2	3	4	5
Being near social opportunities, e.g., a church, senior center, or club	0	1	2	3	4	5
Not exhausting or losing family resources, like a home or farm	0	1	2	3	4	5
Limiting the burden on other family members	0	1	2	3	4	5
Being pain free	0	1	2	3	4	5
Managing my symptoms	0	1	2	3	4	5
Keeping my health care providers	0	1	2	3	4	5
Having my own/private space	0	1	2	3	4	5

Quality of life is an important consideration. As you think about care now or in the future, consider these prompts. What matters to you most? Rate your priorities from low to high.

Being in Charge of...	*0 - Least Important, 5 - Most Important*					
My money	0	1	2	3	4	5
My care decisions	0	1	2	3	4	5
My meal selections	0	1	2	3	4	5
How I spend my time	0	1	2	3	4	5
When I do things	0	1	2	3	4	5
Where I live	0	1	2	3	4	5

What I Enjoy Most About Life...	*0 - Least Important, 5 - Most Important*					
Traveling	0	1	2	3	4	5
Reading	0	1	2	3	4	5
Being creative	0	1	2	3	4	5
Romantic relationships	0	1	2	3	4	5
Watching television	0	1	2	3	4	5
Theatre and/or movies	0	1	2	3	4	5
Dancing	0	1	2	3	4	5
Sports/physical activity	0	1	2	3	4	5
Singing	0	1	2	3	4	5
Playing a musical instrument	0	1	2	3	4	5
Playing games	0	1	2	3	4	5
Having pets	0	1	2	3	4	5

Religious Beliefs	*0 - Least Important, 5 - Most Important*					
Following my beliefs	0	1	2	3	4	5
Attending services	0	1	2	3	4	5
Meeting with my priest, minister, rabbi, or advisor	0	1	2	3	4	5
Access to texts and/or items used for worship/prayer	0	1	2	3	4	5

Personal Needs	*0 - Least Important, 5 - Most Important*					
Preparing meals	0	1	2	3	4	5
Feeding myself	0	1	2	3	4	5
Dressing myself	0	1	2	3	4	5
Bathing myself	0	1	2	3	4	5

Family and Friends	*0 - Least Important, 5 - Most Important*					
Communicating with them	0	1	2	3	4	5
Recognizing them	0	1	2	3	4	5
Not being a burden on them	0	1	2	3	4	5
Being with them when I die	0	1	2	3	4	5
Not leaving painful memories	0	1	2	3	4	5
Leaving money to them	0	1	2	3	4	5

What priorities did you mark as most important (4 or 5)?

_____

_____

_____

_____

What do you want others to know about those top priorities?

_____

_____

_____

_____

Are You Living in the Right Place?

You've considered your care needs and priorities, but your physical, mental, and emotional well-being are related to where you live. Do your care needs and priorities align with your current home environment?

Is your home environment safe?

Do you have any of the following risk factors in your home?

- ❏ Stairs to enter the home
- ❏ Stairs to access laundry or bathroom facilities
- ❏ Exposed heat sources
- ❏ Stove, furnace, or gas fireplace
- ❏ Slippery bathtub or bathroom floors
- ❏ Power tools
- ❏ Firearms
- ❏ Old appliances without auto-off features (e.g. iron, space heater)

Some risk factors are easy to fix, such as replacing old appliances with new ones. Others may be structural and require home modifications, such as moving laundry facilities to the main floor or building wheelchair ramps. Still others may be impossible to change.

Can you make your home safer?

Sometimes safety modifications, in-home care by family or a professional, or both can transform the home from an unsafe to a safe environment. Do you have any of the following safety features or supports in your home?

- ❏ Locks or alarms to prevent wandering
- ❏ Grab bars or rails in the restroom, near the bed, or near frequently-used seating areas
- ❏ Smoke detectors
- ❏ Emergency/fall alert system
- ❏ Emergency escape plan posted in high-traffic areas
- ❏ Locked cabinets for firearms, tools, or other potentially dangerous items
- ❏ Lift system for transferring or going up and down stairs
- ❏ Caregivers present during the day
- ❏ Caregivers present at night

If you identified risk factors in your home that cannot be eliminated, you may need to consider a move to a different care environment, such as a loved one's home or a long-term care community. "What Should You Look For in a Long-Term Care facility?" on page 21 will help you consider options.

What Care Services are Available?

Care in Your Home

Family and Friends Family and friends are often the first caregivers called to serve. Family caregivers can be susceptible to fatigue or burnout, so knowing your respite options can help. Family may be unpaid or may be compensated for care. Caregivers hired directly by you and your family must be fairly compensated under the terms of the Fair Labor Standards Act (FLSA.

PRO TIP:

Pay caregivers fairly according to the law.

Under-the-table arrangements expose you and your family to lawsuits. Hiring and paying caregivers properly can be expensive, but IRS and Department of Labor penalties are much more costly.

Adult Day Services are provided at a care agency, senior center, or other place in the community and offer supervision, meals, and activities for up to 8 hours a day. Usually a participant or family must provide their own transportation, and there may be some restrictions based on the person's level of physical need. For example, people on oxygen may not be eligible.

Personal Care Services are provided by care agencies and range from companionship care to assist with activities of daily living, such as bathing, cooking, and dressing. These service arrangements may extend over a longer term than home health services. Depending on the type(s) of personal care are needed, these services may be covered by public benefits or long-term care insurance. Some personal care services may be private pay only. Usually, you have input regarding the scope and duration of the service and can choose the provider.

Home Health Care is skilled nursing assistance received in the home. It may include physical, occupational, or speech therapy, infusions, or other skilled treatments. Home health is meant to be short-term, and the amount of care covered will be limited by Medicare, your insurance company, and/or the type and amount of care prescribed by your physician. Home health does not provide ongoing custodial caregiving such as personal care services to help with activities of daily living.

Community and Facility Care

Independent Living is a residential option for people who need minimal support. Every community is different, but they will typically include up to two meals a day, moderate supervision, assistance with cleaning, social activities, and transportation to medical appointments. Residents may have the option to pay extra for help with medication, laundry, or other personal needs. Some residents who have a higher level of temporary or long-term need might combine independent living with home health or personal care services.

Assisted Living is appropriate for people who need some help with activities of daily living (hygiene, meal preparation, eating, etc.) and/or who have cognitive deficits, such as dementia. To qualify for assisted living, the person must be able to transfer from bed to chair with minimal assistance and, by law, must be able to exit the building during an emergency within 13 minutes. Treatments such as tube feeding may disqualify a person for assisted living. Many assisted living communities have memory care units that are appropriate for physically independent people who need supervision due to dementia or other forms of cognitive decline.

Nursing Home care is for people with the highest level of physical care needs, such as being bed-bound, unable to transfer without substantial assistance, or having a feeding tube. Nursing home residents receive substantial assistance with all daily activities.

Palliative and Hospice Care

Palliative Care provides comfort measures for patients undergoing treatment for major health conditions such as cancer. It is typically delivered in a medical center or a hospice facility, although some hospice or health care providers may offer palliative care in the home. Palliative care can begin at the time of diagnosis and may continue over a long period of time.

Hospice is similar to palliative care in that it involves holistic comfort measures, but it differs in that it can only be provided after life-prolonging treatment stops. In Tennessee, this type of treatment is available to patients who are estimated to have six months or less to live, although treatment may extend beyond six months so long as the patient's health continues to decline. Hospice helps the patient and family prepare for the end of life. It is usually provided wherever the patient is, whether that is a hospital, a care facility, or the home.

What's Available Near You?

It's important to identify what kinds of care are available in your area.

Do you live in an urban area with a wide range of available services?
Or are you in a rural area where the options are more limited?

- ❏ Urban
- ❏ Rural

How far from your current home would you go to receive long-term/permanent care? _____ miles

What types of care are available within the number of miles in the previous question?

- ❏ Family and Friends
- ❏ Home Health care
- ❏ Personal Care Services
- ❏ Adult Day Services
- ❏ Independent Living
- ❏ Assisted Living
- ❏ Nursing Home
- ❏ Palliative Care
- ❏ Hospice

Are there specific communities or service providers from which you wish to receive care?

_____

_____

_____

_____

_____

What is the Cost of Long-Term Care?

Long-term care refers to medical care and assistance with daily activities received for many months or years, typically toward the end of life. Unlike short-term treatments or rehab, it is expected to continue indefinitely and likely to increase for the rest of a person's life.

These are typical long-term care expenses in the East TN Region:

Type of Service	**Approximate Cost of Care in East TN[1]**	
	Monthly	**Annual**
Adult Day Services (5 days/wk)	$1,083 - $2,275	$12,996 - $27,300
Homemaker Services[2] (44 hrs/wk)	$3,623 - $3,935	$43,476 - $47,220
Home Health Aide (44 hrs/wk)	$3,623 - $4,006	$43,476 – $48,072
Assisted Living (not memory care[3])	$3,225 - $4,420	$38,700 - $53,040
Nursing Home, semi-private room	$6,692 - $7,118	$80,304 - $85,416
Nursing Home, private room	$6,996 - $8,108	$83,952 - $97,296

[1]Based on Genworth Cost of Care Survey 2019, available at https://www.genworth.com/aging-and-you/finances/cost-of-care.html – data for Chattanooga, Cleveland, Jefferson City, Kingsport, Knoxville, and Morristown.

[2]Homemaker Services make it possible for people to live in their own homes by helping them complete household tasks that they can't manage alone. Homemaker Services aids may clean houses, cook meals, or run errands.

[3]The cost of memory care in assisted living is much higher – consistent with the cost of a semi-private or private room in a nursing home.

Next, think about the funds and resources available to you to pay for care. For example, if a move to assisted living is on the horizon, can your income and private savings support that level of care for three or more years? If you should need nursing home care, can you afford a private room for at least two years? Fill in the blanks to begin assessing how much care you can afford:

Checking: $_____ Savings: $_____

IRAs: $_____ Investments: $_____

Annuities: $_____ Insurance Cash Value: $_____

Health Savings Accounts: $_____

Home Value: $_____ Family Support: $_____

Other: $_____ Total: $_____

Based on your total private resources, for how many years could you afford each type of care? (*Divide your total private resources by the approximate annual cost.*)

Adult day services 5 days/week	_____ Years
Homemaker services 44 hours/week	_____ Years
Home health aide 44 hours/week	_____ Years
Assisted living (not memory care)	_____ Years
Nursing home (semi-private room)	_____ Years
Nursing home (private room)	_____ Years

Might you need assistance paying for Long-Term Care?

- ❑ Yes
- ❑ No
- ❑ Unsure

If you have monthly income from Social Security, pensions, required distributions, or other sources, it can be used to help pay for care. For most people of retirement age, income alone is not enough to pay for care, especially at the level of assisted living or nursing home care.

Don't panic if you think your private resources are not enough to pay for the amount of care you will need for the rest of your life. In that case, the next step is to assess your overall situation and the benefits you may be eligible to receive (see p. 13, "How Will You Pay for Care?"). Consider working with an attorney or local agency to secure benefits. Time and money spent with an experienced professional can save your family tens or hundreds of thousands of dollars long-term.

PRO TIP:

Many people exhaust all private resources before considering other options, such as public benefits. They believe they must have almost no resources before they can qualify. However, some private resources are excluded for the purpose of benefits eligibility.

How Will You Pay for Care?

This is the question that keeps many families up at night. Medical and personal care are expensive, and the costs increase every year as our population ages and demand for services increases. The good news is, for many individuals and families, help is available. *Your resources to help pay for care may include:*

Private Resources

Private Funds

Your private funds may include checking and savings accounts, health savings accounts, IRAs, proceeds from the sale of a home, investments, annuities, the cash value of life insurance policies, assistance from other family members, such as adult children, and income.

Private Medical Insurance

Many people under age 65 have private health insurance. You may have this coverage through an employer or through a policy purchased on the Health Insurance Marketplace. Health insurance covers medical expenses for injuries, illnesses, and other conditions. It is designed to be relatively short-term, not to cover long-term services and supports that may last for years.

Your primary insurance provider: _____

Your secondary insurance provider: _____

Long-Term Care Insurance

This type of policy covers long-term services and supports, such as custodial care or personal care (for example, hygiene, dressing, and eating). Usually, the policy will cover a limited amount of care per day over a predetermined number of years; it may also be limited to a monetary cap and/or maximum number of days during the policyholder's lifetime.

Your long-term care insurance provider: _____

Amount of coverage: _____

Public Benefits

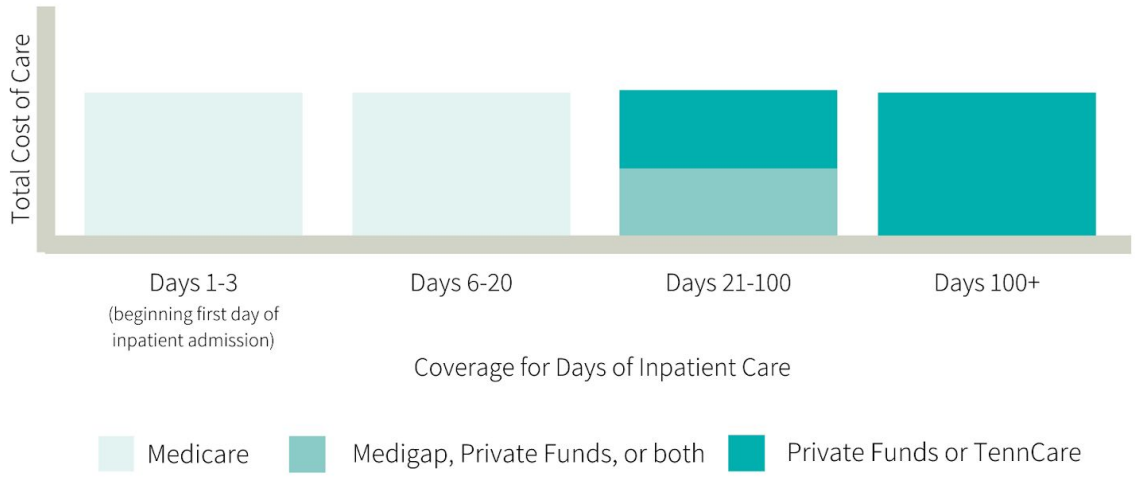
Medicare

Medicare is the federal health insurance program that covers people over age 65 and younger people with disabilities or end-stage renal disease. Part A is hospital insurance; Part B is medical insurance; Part D is prescription drug insurance; and Part C (more commonly called Medicare Advantage) is a bundled plan that includes Parts A, B, and usually D. Your Medicare card indicates which types of coverage you have. Medicare insurance covers relatively short-term skilled treatments, such as rehab, not custodial care that may extend for years.

Your Medicare Plan:

- ❏ Original Medicare Parts A & B
- ❏ Part D Prescription Drug Plan: _____
- ❏ Supplemental/Medigap Plan: _____
- ❏ Medicare Advantage Plan: _____

If you have original Medicare, after an inpatient hospital admission of at least three (3) days, Medicare pays for inpatient rehab for up to 100 days for each spell of illness or injury, beginning the first day of hospitalization. Medicare covers the first twenty (20) days at 100%, after which you must pay a co-payment for the remaining eighty (80) days. Usually your Medigap policy will pay all or most of the co-payment.



If you have a Medicare Advantage plan, covered rehab times may vary, and no three-day inpatient hospitalization is required before Medicare begins paying for rehab expenses.

Medicaid/TennCare

Tennessee's Medicaid program, TennCare, houses a program called CHOICES that covers long-term services and supports for elders over age 65 and adults with disabilities. Eligibility is based on medical and financial need. CHOICES pays for care at home, adult day services, a portion of assisted living, memory care, and nursing home care. This benefit is a service rather than a payment. TennCare can pay for short-term rehabilitation if you have Medicare and a Medicare savings plan or if you have TennCare as your only form of insurance.

PRO TIP:

Don't Confuse Medicare and Medicaid.

While both are considered public benefits, these two programs are different.

MEDICARE	MEDICAID/CHOICES
Federal program	State-administered Federal program ("TennCare" in Tennessee)
Eligibility based on age or disability, not financial resources	Eligibility based on medical and financial need
Is health insurance	Designed to provide for long-term care needs (e.g. caregivers or facility care)
Does not provide for long-term care needs	

VA Pension with Aid & Attendance

This tax-free cash benefit, which is paid directly to the recipient, is available to some low-income veterans and their surviving spouses. The veteran must have served on active duty during a VA-designated time of war, but participation in combat is not required. The veteran must not have been dishonorably discharged. This benefit is different from VA service-connected disability.

It can be more than a little confusing to figure out which agency will pay for the services you receive. Here is a general breakdown of which programs and agencies typically cover types of services:

Type of Service	Medicare	Private Medical Insurance	Long-Term Care Insurance	Medicaid/ TennCare Insurance (not LTSS[1])	Medicaid/ TennCare CHOICES (LTSS[1])	VA Pension[2]
Home Health	■	■		■		
Personal Care Services			■		■	■
Adult Day Services			■		■	■
Respite care (assisted living or nursing home)	•[3]		■		■	■
Rehab care (nursing home)	■	■		■		
Long-term care (assisted living or nursing home)			■		■	■
Palliative care	■	■		■		
Hospice	■	■		■		

[1] Long-term services and supports, also known as custodial care

[2] The VA Pension with Aid and Attendance is a monthly payment made to qualifying individuals. Unlike other benefits programs, which reimburse service providers, VA funds are paid directly to the person receiving care. The individual can use that money to cover medical and personal care needs. The VA Pension is only one type of benefit available to veterans. Other benefits include care provided in a state veterans home or service-connected disability, a monthly payment made to veterans who were injured or exposed to toxins in the line of duty.

[3] Medicare will not cover all respite care, but it may allow a limited amount of respite care for individuals on hospice.

Will You Lose Your Home?

You may have heard that if you go to a nursing home, the State or the nursing facility will "take your home" because you will go on TennCare benefits. Neither applying for benefits nor losing your home is inevitable. Fear of losing your home should not prevent you from getting the medical care you need.

TennCare Estate Recovery Rule

If you are age 55 or older and receive TennCare CHOICES benefits for long-term services and support, after you pass away, the State may claim funds from your estate up to the amount that the State spent on your care during your life. Assets subject to this claim may include your home. However, there are many exceptions.

Rehab in an Assisted Living or Nursing Home

A hospital discharge planner may recommend skilled nursing care in a facility. Staying in a facility for rehabilitation is not the same as moving in long-term. Many people receive valuable therapy in rehab that allows them to return home after a few weeks. Medicare and private insurance pays for short term rehab; TennCare CHOICES does not pay for short-term rehabilitation, so your home is not at risk under these circumstances.

Long-Term Facility Care

If you do need to move to an assisted living or nursing facility for long-term care, and if your private resources are not enough to pay for care, you may need to apply for TennCare benefits. If there is a home or farm you want to protect and pass on to the next generation, it may or may not be at risk under TennCare's estate recovery rule. There are many exceptions to the rule. Two of the most common are for spouses and for caregiving children.

Community Spouse Exception
TennCare cannot claim funds from your estate (including your home) if your spouse is still alive and is not receiving TennCare benefits. If your spouse outlives you and never needs TennCare to pay for long-term services and support, your home can be passed on to the next generation. To get the best outcome, you and your spouse should seek complete information about the estate recovery process before you apply for benefits.

Caregiver Child Exception

TennCare recognizes that an adult child may move in with a parent to provide care. Under federal law, TennCare waives estate recovery if your child lived with you continuously for at least two years prior to your TennCare application. TennCare requires evidence that the caregiving child "provided care that delayed the Enrollee receiving CHOICES for at least two years." This can be difficult to prove retroactively, so it is best to establish proof in advance with the help of an attorney.

Can You Gift Your Home to Protect It?

If you or your spouse will need TennCare to pay for long-term care, either now or in the future, outright gifting your home to your children or selling it to them for less than fair market value may be a risky strategy. It might protect the home but prevent you from getting the help you need to pay for care.

PRO TIP:

Don't fall victim to these myths!

- "I'm going to lose my home if I go to a nursing home."
- "I can give my home to my kids to protect it."
- "I need to sell everything including my home to qualify."

Inaccurate or partial information about complicated benefits programs are widely shared in the community.

What Questions Should You Ask Care Providers?

When planning for your current and future care needs, knowing what questions to ask can make a huge difference in understanding your options and making the best decisions. During a hospitalization, during rehabilitation, or following a move into long-term care, you may talk to several people and get conflicting or confusing information. It's important to keep asking questions so that you fully understand the impact of your decisions on your health and financial situation. Here are some essential questions to help you get started.

QUESTIONS TO ASK

Discharge Planners and Other Hospital Staff

- ❏ What are my options after discharge from the hospital? Should I go home, go to rehab in a facility, move into long-term facility care, or consider another option?

  _____

  _____

  _____

- ❏ What kind of care support will I receive in each of these locations?

  _____

  _____

  _____

- ❏ Who provides that support, and what is their training?

  _____

  _____

  _____

- ❏ What if my family is unable to help with my care?

  _____

  _____

- ❏ Where will I recover more quickly? Which option is likely to give me the best long-term results?

  _____

  _____

- ❏ What benefits programs help pay for each option? Who can I talk to for more information about these programs?

_____

_____

_____

Care Facility Staff

- ❏ How much rehab is covered by Medicare?

_____

_____

- ❏ What if I am not sufficiently healthy to leave the facility when my covered rehab days are exhausted?

_____

_____

_____

- ❏ What will my supplemental insurance cover? Can it be used to extend my rehab stay?

_____

_____

- ❏ If I need long-term care, how can I afford those services? How can I make long-term care costs sustainable for me and my family?

_____

_____

_____

- ❏ Who can competently advise me about benefits to help pay for care?

_____

_____

What Should You Look for In a Long-Term Care Community?

You have completed rehab and are now looking for a long-term care facility. Shopping for a care facility is in many ways like shopping for a new home: the choice is personal, and a "good fit" for one person may not be right for another. You may be limited by financial constraints or geographic area. So first, ask yourself: what are your requirements and priorities?

Refer to the worksheets at the beginning of this workbook, and think about...

- What are your daily care needs?
- What monthly cost can you afford? (Consider your income sources and savings.)
- Does the facility accept the benefits you plan to apply for?
- Do you need to be in a particular location to be near family, church, etc.?
- How much space do you want or need? Do you mind sharing space?
- Will you bring a pet with you?
- What activities do you enjoy?
- Will you continue to drive? If not, do you need transportation services?
- What kind of atmosphere makes you feel comfortable?

What additional thoughts or questions do you have?

_____

_____

_____

_____

_____

_____

_____

Talk to your loved ones and medical providers about your priorities to get input on details you might not have considered. Then schedule visits with facilities that meet your key parameters (for instance, cost and location), and take this document with you.

During your facility visits, ask about…

- ❏ Meeting both facility administrators and day-to-day caregivers
- ❏ Meeting residents or their family members who can describe the community
- ❏ Touring different apartment models
- ❏ Daily activities and transportation services
- ❏ Eating a meal with current residents
- ❏ Rent and care fees, and what services are included in each
- ❏ Other services provided for additional fees
- ❏ Levels of care: what happens when care needs change
- ❏ Room availability and waiting lists
- ❏ How to become a resident (medical screening)
- ❏ Promotions and when they expire

Included, for your convenience, are facility notes and comparison pages. Take these with you as you visit different facilities so that you can compare at a later time, once all your visits are complete.

Facility #1: _____

Location: _____

Done?	Action or Question to Ask	Rate Overall Experience					
		0	1	2	3	4	5
❑	Meeting both facility administrators and day-to-day caregivers (i.e. friendliness, disposition, availability…)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Meeting residents or their family members who can describe the community (i.e. personal experiences, feedback, concerns…)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Touring different apartment models (options, preference, likes/dislikes)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Daily activities and transportation services (availability, variety, frequency…)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Eating a meal with current residents (try the food, dietary needs, variety, time restrictions…)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							

❑	Rent and care fees, and what services are included in each (total expenses, add ons, insurance coverage)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Other services provided for additional fees	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Levels of Care: what happens when care needs change (transition process, increased costs/coverage)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Room availability and waiting lists (*realistic* timelines)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	How to become a resident (medical screening, application process, down payments)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							

Facility #2: _____

Location: _____

Done?	Action or Question to Ask	Rate Overall Experience					
		0	1	2	3	4	5
❑	Meeting both facility administrators and day-to-day caregivers (i.e. friendliness, disposition, availability…)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Meeting residents or their family members who can describe the community (i.e. personal experiences, feedback, concerns…)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Touring different apartment models (options, preference, likes/dislikes)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Daily activities and transportation services (availability, variety, frequency…)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Eating a meal with current residents (try the food, dietary needs, variety, time restrictions…)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							

❑	Rent and care fees, and what services are included in each (total expenses, add ons, insurance coverage)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Other services provided for additional fees	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Levels of Care: what happens when care needs change (transition process, increased costs/coverage)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Room availability and waiting lists (*realistic* timelines)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	How to become a resident (medical screening, application process, down payments)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							

Facility #3: _____

Location: _____

Done?	Action or Question to Ask	Rate Overall Experience					
		0	1	2	3	4	5
❑	Meeting both facility administrators and day-to-day caregivers (i.e. friendliness, disposition, availability…)	0	1	2	3	4	5
Comments:							
❑	Meeting residents or their family members who can describe the community (i.e. personal experiences, feedback, concerns…)	0	1	2	3	4	5
Comments:							
❑	Touring different apartment models (options, preference, likes/dislikes)	0	1	2	3	4	5
Comments:							
❑	Daily activities and transportation services (availability, variety, frequency…)	0	1	2	3	4	5
Comments:							
❑	Eating a meal with current residents (try the food, dietary needs, variety, time restrictions…)	0	1	2	3	4	5
Comments:							

❑	Rent and care fees, and what services are included in each (total expenses, add ons, insurance coverage)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Other services provided for additional fees	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Levels of Care: what happens when care needs change (transition process, increased costs/coverage)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	Room availability and waiting lists (*realistic* timelines)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							
❑	How to become a resident (medical screening, application process, down payments)	**0**	**1**	**2**	**3**	**4**	**5**
Comments:							

What Legal Documents Do You Need to Support Care Decisions?

Every person's situation is different. Your legal documents should be customized to reflect your unique needs and family circumstances. These are a few of the most essential documents all adults should explore. Additional documents may be needed to maximize your options and protect resources for your family members.

Last Will & Testament

What does it do? Your Will appoints a Personal Representative (or Executor) to settle your debts and expenses and distribute your property after you pass away.

What if you don't have one? Without a Will in place, state laws govern who is in charge and how your assets are handled after your death.

How does it help your family? Your Will informs your family of your decisions, gives instructions and appoints the person of your choice to carry out your wishes.

Is a Will the only document you need? No! Your Will *only goes into effect after your death.* For financial and medical decisions if or when you are alive but unable to make decisions, you need Durable Powers of Attorney and Advance Directives.

Durable Powers of Attorney for Finances and Health Care

What do they do? Your financial and health care POAs empower a trusted person (or people) to manage financial and health care matters for you during your life.

What if you don't have them? At some point you may become unable to think clearly about your assets, manage your money effectively, or make sound medical decisions for yourself. In that situation, without a valid Durable POA, you may be subject to a court-controlled conservatorship, lose your rights and privacy, and incur great expense. You may also fall victim to financial predators or make unsound decisions that threaten your financial and medical well-being.

How do POAs help your family? During any time when you can't act on your own, your family may need to pay bills or make care decisions for you. By establishing POAs, you empower a chosen person to access info and accounts with minimal difficulty and expense. You do not give up your rights by signing a POA.

Advance Directive

What does it do? Your Advance Directive (sometimes called a "Living Will" or "Advance Care Plan") tells your medical provider, health care decision-makers, and loved ones what treatments you choose or refuse under specific circumstances. It does not cover every possible situation, which is why establishing a POA is also essential.

How does an Advance Directive help your family? In case you become unable to clearly communicate your wishes, your Advance Directive tells your loved ones how you wish to (or not to) be treated. It relieves them of the emotional burden of making decisions on your behalf. They will not have to worry about making a decision that would go against your wishes.

Trust

What does it do? Different types of trusts are used for a variety of planning purposes, including (but not limited to) qualifying for public benefits programs, avoiding loss of benefits after receiving an inheritance or settlement, avoiding probate, and preserving essential family assets like the homestead. If you are already receiving benefits or may apply in the future, a Trust may be a key component of your plan. Trusts can be powerful tools for achieving your goals when they are structured properly.

Can you create a Trust on your own? Choosing the wrong type of Trust for your situation may do more harm than good.

How does a Trust help your family? Trusts can be used to fund care, plan for incapacity, pass on a legacy to loved ones, and avoid the expenses and emotional strain of probate.

What if you don't know who to name in your documents? Not everyone has reliable relatives or loved ones who are close enough to make decisions in a time of crisis. Professionals are available to serve as decision makers under your financial and/or healthcare powers of attorney. Professionals who may provide these fiduciary services include:

- Care coordinators or geriatric care managers
- Trust companies
- Attorneys

Who Can Help You Navigate Options?

Care Services

A **care coordinator** or a **geriatric care manager** can answer pressing questions about your changing care needs. There are lots of elder care providers: residential facility staff, in-home care agencies, Alzheimer's or other dementia organizations, transportation companies, support groups, and hospital staff, to name a few. But you don't always know where to start or which services will be most appropriate for your situation. A care coordinator or geriatric care manager evaluates the circumstances from a big picture perspective, makes recommendations, and connects you with the resources in your community that will best serve your short-term and long-term needs.

Your local **senior center** or county **office on aging** may have lists of resources or senior resource guides to help you locate care services in your area. They may not offer an in-depth or hands-on approach, but they can help to point you toward service providers in your area.

Public Benefits Applications

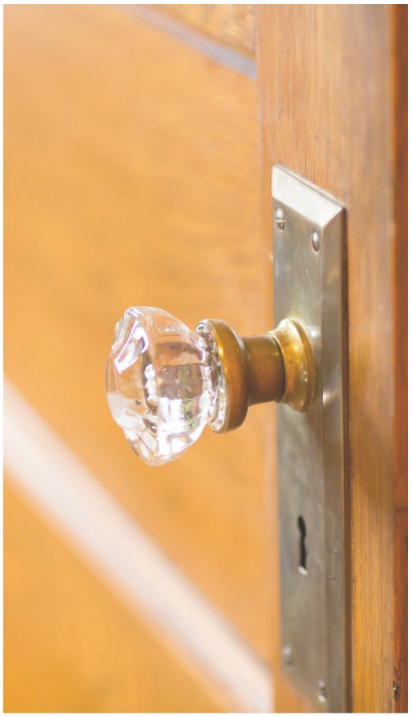
TennCare applications are processed by either the local **Area Agency on Aging and Disability (AAAD)** or by the **facility staff** in the assisted living or nursing home where you plan to reside. The AAAD or facility staff can advise you about what documentation will be needed to file the applications. They may also file the application on your behalf. Most of them will not be able to advise you about asset protection strategies related to TennCare benefits, such as ways to save the home.

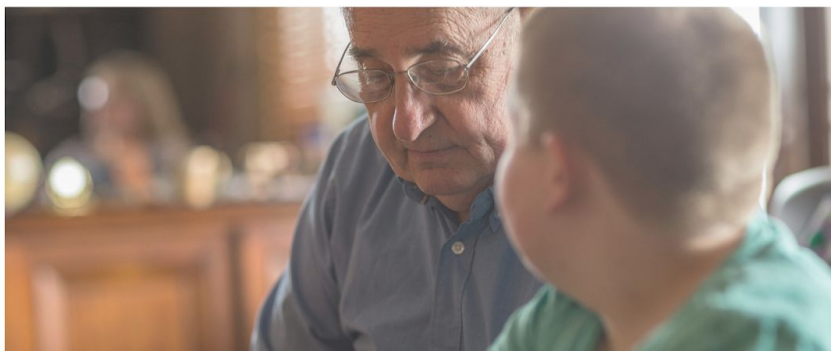
VA applications are processed by the local **Veterans Service Office (VSO)**. The VSO officer can provide a list of documents needed to file the application and can process the application on your behalf. They can also help to obtain certified copies of military records as needed. They generally will not be able to advise you about asset protection strategies related to VA benefits.

Legal Planning and Asset Protection Strategies

An **elder law attorney** is a lawyer who addresses a wide range of issues related to aging and disability. Some elder law attorneys may focus exclusively on estate planning documents and may not plan for TennCare or VA benefits. If you plan to apply for one of those benefits, it is important to find an attorney who is experienced in TennCare, VA, or both. They can assist with applications and also help with asset protection strategies, such as how to keep your home.

You may wish to locate a *Certified* Elder Law Attorney (CELA). A CELA is a lawyer who is a certified specialist recognized in elder and special needs law by the National Elder Law Foundation, the national organization that certifies attorneys in the areas of elder and special need law. A CELA has demonstrated that they know your legal problems and can help you.





Meet the Elder Law of East Tennessee Team

Elder Law of East Tennessee attorneys and staff take a comprehensive approach to the long-term care challenges of aging and disability. Unlike traditional elder law and estate planning firms, we have a full-time staff of care coordinators, enabling a "care first" approach that puts the client's physical, cognitive, and emotional needs at the center of all financial and legal planning strategies.

Elder Law of East Tennessee collaborates with health care and financial planning professionals to coordinate plans and achieve the best results for the client and his or her family. Practice areas include:

- Life Care Planning
- Crisis Planning
- Elder Care Protection Planning
- Estate Planning
- Incapacity Planning
- Asset Protection
- Special Needs Trusts
- Medicaid and VA Planning
- Probate
- Conservatorship

Since its founding in 2010, Elder Law of East Tennessee has been a member of the Life Care Planning Law Firms Association (LCPLFA), a national network of elder care law advocates. The Life Care Planning model originated in Tennessee. More information is available at www.lcplfa.org.

Elder Law of East Tennessee attorneys and staff are passionate about providing education and information throughout East Tennessee. The team takes an active role in the community by speaking to other professionals and community groups about elder law, public benefits, and long-term care topics.

Intake Call

Start by speaking with Emma our Intake Specialist. This will allow us to better understand your situation and how we may be able to help.

To get started contact our office Monday through Friday between 8:30 am to 5:00 pm.
865-951-2410

Consultation

A two hour meeting with an elder care attorney at which time you will review your options for providing the best care for you and your loved one.

This meeting will conclude with the attorney's recommendations for next steps.

Plan Options

If our team can assist you and your family, a customized plan will be prepared for your review.

Our most comprehensive and popular plan is our Life Care Plan.

Ask about our new Elder Care Protection Plan.

Meet Our Attorneys

Attorney Amelia Crotwell, CELA, founder of Elder Law of East Tennessee, serves as the managing partner of the firm, guiding strategic planning and growth to help reach more families in East Tennessee. Amelia has helped families with long-term care and special needs challenges for almost 20 years. She practices primarily Life Care Planning and special needs trusts, but also lends her experience to questions of elder law, wills and trusts, Medicare, Medicaid planning, trust administration, probate, and veterans benefits planning. She has been certified as an Elder Law Attorney by the National Elder Law Foundation since 2011 and is the president-elect of the Life Care Planning Law Firms Association. She also takes an active role as a member of the Special Needs Alliance, where she serves on their strategic planning committee. She is a member of the National Academy of Elder Law Attorneys and the Tennessee Bar Association. Ms. Crotwell earned her J.D., summa cum laude, from the University of Tennessee College of Law, and since 2018 she has enjoyed teaching Elder Law as an adjunct professor at the University.

Attorney Julia Price, JD works closely with clients and families who are facing imminent care transitions and who may be worried about how to find and pay for needed care. Because of her background in Medicaid and VA benefits, Julia is especially well equipped to assess clients' financial and care situations and determine how to obtain eligibility for benefits to pay for care in a facility or at home. She stays on top of changes in the law, advocates for clients with benefits agencies, ensures that the necessary legal documents are in place to prepare for current and future decision-making, and finds ways to maximize assets so that the elder gets the best possible care in the most suitable location. Julia earned her J.D. from Tulane University Law School in 2010 and has been with Elder Law of East Tennessee since 2015, becoming a partner in 2018. She is a member of the Life Care Planning Law Firms Association and is the past-chair of the education committee. She is accredited by the VA and is also a member of the Tennessee Bar Association, the Knoxville Bar Association, and the National Association of Elder Law Attorneys.

Attorney Bailey Schiermeyer, JD assists elders, individuals with disabilities, and their families with planning for the legal and financial challenges of aging and long-term care situations. She advises clients about the best strategies for dealing with current crises and planning to avoid future crisis situations. As a solution-driven and empathetic person, Bailey is excited by the opportunity to meet clients' needs and help them reach desired outcomes. Her analytical skills and patience serve her well as she helps clients navigate unique challenges and achieve their goals. In 2019, Bailey was awarded the ABA's "On the Rise- Top 40 Young Lawyers" Award by the American Bar Association. This program provides national recognition of ABA Young Lawyers Division Members who exemplify a broad range of high achievement, innovation, vision, leadership, and service to the profession and their communities. Bailey earned her J.D. from Regent University School of Law in 2014 and joined Elder Law of East Tennessee the same year, becoming a partner in the firm in 2018. She is accredited by the VA and is also a member of the Tennessee Bar Association, the Knoxville Bar Association, and the National Association of Elder Law Attorneys.

Attorney Patricia "Patty" Crotwell is a nimble legal professional with 23 years of litigation, commercial, employment, and compliance experience in both corporate and private practice environments. She has done a little bit of everything, including running her own small retail business – life experiences that help her form connections with her clients at Elder Law of East Tennessee. In June 2019 she joined the team part-time as an Elder Law Attorney. At ELET she practices Estate Planning, drafts Medicaid and Social Security appeal briefs, manages Probate matters, and works with the leadership team to develop new service lines for the firm. Her versatility, tenacity, technical skill, and broad background of experiences and knowledge are tremendous assets to the firm and its clients. Patty is a skilled self-starter who educates herself quickly, asks the right questions, and works efficiently to get results for her clients. She communicates clearly with all kinds of people and problem solves effectively in a variety of situations.

WHAT IS LIFE CARE PLANNING?

Life Care Planning is a holistic approach to helping elders, individuals with disabilities, and their families tackle legal, financial, and health care challenges by combining traditional legal services, like Estate Planning and Asset Protection Planning, with creative care planning services. We work to customize a comprehensive plan that serves as a roadmap to help the family meet the inevitable challenges of caring for an aging family member or person with a disability. We assess the individual's specialized needs and then give them and their families the guidance they need to secure the best long-term care available. In Life Care Planning, our primary goal is to promote the long-term good health, safety, and well-being of the elder or person with disability.

That's what **Life Care Planning** is all about: helping people find, get, and pay for long-term care. A Life Care Plan offers assurances and restores peace of mind for the whole family.

GET TO KNOW OUR PROCESS

INTAKE CALL

Speak with our Intake Specialist to allow us to better understand your situation and how we may help.

Start here.

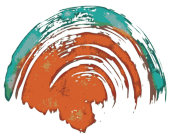
CONSULTATION

A two hour meeting with an elder care attorney at which time you will review your options for providing the best care for you and your loved one. This meeting will conclude with the attorney's recommendations for next steps.

PLAN OPTIONS

If our team can assist you and your family, a customized plan will be prepared for your review. Our most comprehensive and popular plan is the **Life Care Plan.**

(865) 951-2410



Elder Law
OF EAST TENNESSEE

ELDER CARE PLANNING • SPECIAL NEEDS PLANNING
ESTATE PLANNING • VA BENEFITS • MEDICAID

ELDERLAWETN.COM | INFO@ELDERLAWETN.COM |

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1907 N. ROAN STREET, SUITE 406, JOHNSON CITY, TN 37601 | (423) 301-6551

NAELA National Academy of Elder Law Attorneys
TENNESSEE BAR ASSOCIATION
KBA Knoxville Bar Association
Life Care Planning Law Firms Association
MEMBER Special Needs Alliance
Special needs require special attorneys.