MARYLAND VOLUNTEER LAWYERS SERVICE

Securing and Planning for *YOUR Future*

MARYLAND
OLDER ADULT **RESOURCE GUIDE**

MARYLAND VOLUNTEER LAWYERS SERVICE

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www.mvlslaw.org

ABOUT MARYLAND VOLUNTEER LAWYERS SERVICE

MVLS is a non-profit statewide legal services provider established in 1981 to help meet the need for free civil legal services in Maryland. The purpose of our work is to provide justice for all.

Maryland Volunteer Lawyers Service (MVLS) removes barriers to justice through free civil legal help, community engagement, and advocacy for equitable laws.

Our pro bono program serves Marylanders in Central Maryland, the Lower Shore, and Western Maryland. Our program has focused on pro bono assistance–matching one client and one volunteer attorney—and it remains a cornerstone of our work today. Our panel of more than 1,700 volunteers help clients with custody disputes, tax issues, child and adult guardianship, landlord/tenant conflicts, foreclosure defense, criminal record expungements, consumer cases and a broad range of other civil legal problems.

What's Inside?

This resource guide contains helpful information about a variety of topics you or someone you know may have experienced. The information included in this guide is NOT LEGAL ADVICE. We encourage you to read over the fact sheets included in this guide and directly reach out to MVLS to become connected with a pro bono lawyer if you qualify for our civil legal aid services.

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WHY ESTATE PLANNING MATTERS

Estate planning gives YOU the power to say what happens to your assets, property, and with your healthcare.

FINANCIAL POWER OF ATTORNEY

What is Financial Power of Attorney?

- It appoints a person to make decisions about what happens to your property, assets, and insurance while you're still living.

Why is it important?

- Financial Power of Attorney is a simple way to arrange for someone to manage your finances if you become incapacitated (unable to make decisions for yourself).
- Your representative can arrange the payment of everyday expenses, rent, and/or doctors' bills. They can collect government benefits, handle bank transactions, file and pay your taxes, manage retirement accounts, and more.
- They can work with your insurance company to make sure you receive your full benefits.

What else do I need to know about Financial Power of Attorney?

- You can decide what powers to give your representative.
- **Pick someone you trust to manage your finances**.
- Creating a Financial Power of Attorney can give your agent access to all of your financial accounts, so you want to be sure you've picked the right person.
- An attorney can assist you with adding extra protections to limit exploitation.

WILL

What is a Will?

- It names someone to handle your estate.
- It names guardians of any minor kids.
- It says where and to whom your assets will go,and will authorize payment of funeral expenses.

Why is it important?

- If you die without a will, then the state decides how to distribute your assets. State laws usually don't reflect your wishes.
- A will allows your property to be distributed as you desire and allows you to tell the court who you want to raise your children.

DO I NEED AN ATTORNEY?

- There are available templates for the Financial Power of Attorney and Advance Health Care Directive on our website: **www.mvlslaw.org/adv-planning**
- There isn't a standard form for a will
- It's always best to work with a Maryland attorney who can guide you through the necessary decision-making and planning

WHY ESTATE PLANNING MATTERS

ADVANCE HEALTHCARE DIRECTIVE

What is an Advance Healthcare Directive?

- It appoints a **Healthcare Agent**: someone that handles your health decisions if you can't communicate.
- It can also include a **Living Will**: this outlines your medical preferences, which will guide doctors in deciding how best to treat you if you can't communicate.
- It also lets you designate who should make your funeral arrangements and lets you provide guidance about your wishes.

What else do I need to know about Advance Medical Directives?

- The agent must base decisions on your best interests.
- Pick a person that you are close with (usually a family member), who understands your values, and speak with them about what you would want in certain situations.
- You must sign it and have two witnesses. The witnesses cannot be the healthcare agent and at least one witness must not be entitled to any of the estate or any financial benefits.
- Give copies to your healthcare provider and Healthcare Agent you chose.

IS ESTATE PLANNING RIGHT FOR ME?

- Yes! All Marylanders have the right to make determinations about their healthcare, how their bills will be paid, and to decide who should receive their personal belongings.
- These rights apply regardless of your income or assets.
- Think about your family. Making these decisions ahead of time will be a kindness to your family in troubling times when making decisions can be particularly difficult.

AVOIDING GUARDIANSHIP:
THE GUARDIANSHIP PROCESS

When a loved one becomes incapacitated and is no longer able to make decisions about their wellbeing, their finances, or both, it may be necessary to have someone step in and make those decisions on their behalf. Often, people turn to **guardianship** to make that happen.

PETITION FOR GUARDIANSHIP

To successfully petition the court for guardianship, you must show three things:

1. First, you must show the person lacks the capacity to make and communicate sound decisions

- To support your argument, you must provide two (2) certificates from healthcare professionals showing their incapacitation. At least one must be from a physician who has personally examined the person who is allegedly-disabled, and the exams must occur within 21 days prior to filing the petition.

2. You must demonstrate there are no less-restrictive alternatives available for the person

- In other words, you must show that guardianship is the only viable tool for ensuring the dignity and well being of the person alleged to be in need of a guardian.

3. Lastly, you must show that you are qualified to be a guardian

- The court will consider such factors as your relationship to the person alleged to be in need of a guardian, your willingness to serve as the guardian, the person's wishes, and your residence—courts heavily prefer guardians who live close to the person alleged to be in need of a guardian .

Additionally, any other interested parties (some of whom must be notified in your petition) may come forward to contest your application, which can result in unnecessary family conflict. As the petitioner, you must still pay for court fees, pay for attorney's fees, attend mandatory trainings, and more. Despite all of this, the court still gets to decide who will be the guardian of the person alleged to be in need of a guardian .

There is an easier way to make sure you are taken care of by your loved ones that does not involve a court proceeding: an **Advance Healthcare Directive** and **Financial Power of Attorney**.

Guardianship is a lengthy court proceeding by which you petition the court to appoint you as the legal guardian of the person alleged to be in need of a guardian and/or of the person's property. It works, but it's not easy; there are forms, fees, and potential complications at every step.

AVOIDING GUARDIANSHIP:
ADVANCE HEALTHCARE DIRECTIVE AND FINANCIAL POWER OF ATTORNEY

ADVANCE HEALTHCARE DIRECTIVE

An Advance Healthcare Directive is a legally enforceable document which lets you do two things:

1.First, you can appoint a health care agent

- This agent will speak for you and make health care decisions for you when you cannot do so. This person should be the person best qualified to make critical health care decisions on your behalf.

2.Second, it gives the agent specific health care instructions to guide the decision-making

- This is often referred to as a "Living Will." It addresses what you specifically do or do not want done in certain critical situations, such as if death from a terminal illness becomes imminent or if you fall into a permanent state of unconsciousness.
- You can state how strictly you want your agent to be bound by your wishes.
- You can specify whether this power goes into effect immediately or only upon a certain"triggering event."

FINANCIAL POWER OF ATTORNEY

In addition to appointing a health care agent, you can appoint someone to make decisions about your finances and property. To do so, you will need to assign financial power of attorney to someone. By assigning this power, you:

1.Can specify which decision-making powers you grant to the agent

2.Can specify, like the Advance Healthcare Directive, when the power goes into effect

- **CAUTION**: Financial Power of Attorney is a powerful tool and can lead to financial exploitation. Use appropriate safeguards and be very careful about who you choose to be your agent.

Perhaps most importantly, these forms can be done today. Unlike Guardianship, you do not need to wait until incapacitation to start the process. Together, an Advance Healthcare Directive and Financial Power of Attorney can help ensure you will be cared for by those you trust, allowing you to live out your life in safety and dignity.

AVOIDING PROBATE

Plan ahead to keep your assets within your families. If you've done your will, that's great! But your work isn't done.

WHAT IS PROBATE?

A will simply indicates where you want things to go. But there's another step (probate) that details how those items will get to the people you have chosen. Probate is expensive (often several hundred dollars) and takes 6 months to a year to complete. There's steps you can take today to plan ahead and have items go to the people you want to receive them AND avoid the expensive and timely probate process.

The more items that have to go through probate the more expensive the process becomes. This is because your family has to pay fees depending on the size of your estate (the amount of items passing through probate). So you want to pass your things around probate.

EVERYONE NEEDS TO PLAN AHEAD.

GETTING AROUND PROBATE

Here are steps you can take that lets you protect your assets during your lifetime as you continue to be the sole owner of these assets, but when you pass, they pass outside of probate to the people you have chosen to receive them.

Name Beneficiaries: You can pass your vehicle to a family member by making a **vehicle** beneficiary designation. The cost is $20 and can be done at www.mva.maryland.gov/about-mva/info/27300/27300-78t.htm, or at a local MVA office.

Insurance policies, retirement accounts, and pensions will transfer similarly to your designated family or friends with a "payable or transfer upon death." You contact the company and instruct them as to who you would like to receive the benefits after you pass away. This person will be your "beneficiary". You can make these changes online or by calling the company and requesting a form. There should be no cost.

The balance of your **checking and saving accounts** may also pass with a "payable upon death" to a designated person. This is better than sharing accounts because you are able to avoid the financial entanglements.

Houses can pass in the same way by using a **life estate deed**. This will keep the house in your name, and after you pass, it will transfer the house to whomever you name, just like bank accounts. It is a much safer option than adding someone to your deed as a joint owner, making your home vulnerable to their creditors. A life estate deed should be drafted by an attorney, but it is usually cheaper and quicker than probate.

FINANCIAL EXPLOITATION

Financial exploitation is when a trusted person uses that trust to take your money or property for their own benefit. It's different than scams, which are normally committed by strangers often through emails and/or phone calls to trick individuals out of their money.

WHAT DOES IT LOOK LIKE?

Taking money or property without permission
- Forging signatures
- Abusing access to a joint bank account
- Writing and cashing checks not intended for them
- Overcharging/not delivering care-giving services

HOW TO PROTECT YOURSELF

Keep track of all financial transactions
- Ask for receipts and explanations
- Include limiting language in the Financial Power of Attorney
- Avoid isolation
- Talk to trusted friends and family
- Don't let yourself be pressured and rushed
- If being abused, reach out for help
- Avoid joint accounts - don't add people to your savings/checking account or your deed to your house/property

Denying access to money or property
- Coercing or persuading the person to change their will or policies to benefit the exploiter
- Using the person's financial power of attorney to steal from them
- Threatening abuse or abandonment
- Refusing care

How to Minimize Abuse

Plan now, hasty decisions can cause the wrong person to be in charge of finances.
- You can specify in your Financial Power of Attorney that your agent needs to regularly report to another person about the financial transactions they make on your behalf.
- Avoid appointing a person who mismanages their own money or has issues with substance abuse or gambling.
- Tell other trusted family and friends about the Financial Power of Attorney so they can look out for signs of financial abuse.
- Don't appoint hired caregivers or paid helpers as your agent under the Financial Power of Attorney.

WHO CAN EXPLOIT?

- The majority of financial exploitation is carried out by family members or trusted others
- Caretakers, family members, neighbors, friends and acquaintances, attorneys, bank employees,doctors, nurses and others
- People with financial issues, substance abuse issues, or mental health issues are more likely to exploit

It's critical to avoid financial exploitation. Once your funds and property are gone, it's highly unlikely you will be able to get any of it back.

HOW TO SPOT A SCAM

Scams are fraudulent schemes by a dishonest person or company to obtain money or something else of value. Scams are generally performed by strangers. Scammers may contact you via phone, websites, letter, fax, text, email or in-person.

TYPES OF SCAMS

- **IRS scams** – claim that back taxes or other penalties are owed and demand immediate payment.
- **Asset Recovery** – claims to recover lost money from previous scams.
- **Grandparent scam** – claim to be grandchild and in trouble.
- **Computer** – claiming you have a virus on your computer.
- **Romance** – the scammers feign interest to gain your trust and then take your money.
- **Other scams** –
    - Weight loss products
    - Prize promotions, lottery and sweepstakes scams
    - Unauthorized billing for buyer's clubs or internet services
    - Work at home programs
    - Investment Fraud

MORE SCAMS . . .

- **Tax returns** – fraudulent tax preparers that modify your return or keep your tax refund.
- **Debt collectors** – likely scammers if they are threatening to have you arrested, won't verify the debt that you owe, request payment in gift cards, or say they will go after your relatives.
- **Online payday loans** – they are illegal in Maryland, and those companies cannot take any legal action against you.
- **Debt relief service companies** – many are scams that promise to negotiate with creditors to settle or reduce debt.
- **Credit repair businesses** – promises to fix bad credit reports are often scams.
- **Home repairs** – phony home improvement contractors get you to pay upfront and then don't do the work or it's done poorly.
- **Reverse Mortgages** – make sure you meet with a housing counselor and that a reverse mortgage is right for you.

BE AWARE

As we age, our brain begins to change. One of those changes that scammers take advantage of is the **part of our brain that detects scams begins to slow down**. Older adults can continue to be very sharp and still suffer this decline. Think of it as the warning bell that goes off when something doesn't sound right. That warning bell gets quieter and quieter and eventually stops going off as we age. **This is why it is important to talk to others and not let yourself be rushed**.

HOW TO PROTECT YOURSELF

STEPS TO TAKE

- Be cautious – don't send money or give out personal information to an unexpected request.
- Do online searches. Type in the company with words like "complaint" or "scam."
- Don't believe your caller ID. Phone scammers can manipulate the phone number so it appears as a recognizable number.
- Don't pay upfront for a promise.
- Don't wire money or pay with gift cards or prepaid debit cards.
- Talk to someone you trust.
- Don't be rushed into a decision.
- Hang up on robo-calls.
- Be skeptical about free trial offers.
- Avoid identify theft by shredding important documents, check your credit reports regularly, and don't provide personal information to others.
- You can obtain free credit reports at **annualreport.com** or call 877-322-8228
- Think about filing your taxes even if you are no longer required to file. It reduces your risk of identity theft.
- Avoid co-signing on a loan for anyone.
- Do not open suspicious texts, pop-up windows or click on links or attachments in emails – delete them.
- Be careful when shopping online.
- AARP's Fraud Watch Network has Watchdog Alerts that you can sign up for as well as a helpful handbook, available at: **www.aarp.org/money/scams-fraud**.

If you become aware of a scam, report it to the Maryland Attorney General's Consumer Hotline: 410-528-8662. It's critical to avoid scams. Once your funds are gone, it's highly unlikely you will be able to get any of it back.

OLDER ADULT RESOURCES BY COUNTY

Anne Arundel County
Dept. of Aging and Disabilities
Phone: 410-222-4257 www.aacounty.org/aging

Allegany County HRDC
Phone: 301-783-1752 www.alleganyhrdc.org

Calvert County Office on Aging
Phone: 410-535-4606, ext. 132
www.co.cal.md.us/113/Office-on-Aging

Carroll County Bureau of Aging & Disabilities
Phone: 410-386-3800

Cecil County Department of Aging
Phone: 410-996-8172
www.ccgov.org/government/community-services/aging-and-disability-services

Charles County Area Agency on Aging, Senior Programs
Phone: 301-934-0111
www.charlescountymd.gov/cs/aging/aging-and-senior-programs

Frederick County Department of Aging
Phone: 301-600-3520
www.frederickcountymd.gov/54/Senior-Services

Garrett County Community Action Committee
Phone: 301-334-9431
www.garrettcac.org

Harford County Office on Aging
Phone: 410-638-3025
www.harfordcountymd.gov/651/Office-on-Aging

Howard County Office on Aging and Independence
Phone: 410-313-1234
www.howardcountymd.gov

Maintaining Active Citizens MAP - Serving senior citizens in Dorchester, Somerset, Wicomico and Worcester counties
Phone: 410-742-0505 Ext. 109
www.macinc.org

Montgomery County Division of Aging & Disabilities
Phone: 240-777-3000
www.montgomerycountymd.gov/senior

Prince George's County Department of Family Services, Aging & Disability Services Division
Phone: 301-265-8450
www.princegeorgescountymd.gov/1644/Older-Adult-Services

Queen Anne's County Department of Community Services
Phone: 410-758-1040 www.qac.org

St. Mary's Department of Aging
Phone: 301-475-4200
www.co.saint-marys.md.us

Upper Shore Aging, Inc.
Phone: 410-479-2535
www.uppershoreaging.org

Washington County Commission on Aging, Inc.
Phone: 301-790-0275 www.wccoaging.org

Worcester County Commission on Aging
Phone: 410-632-9915 www.worcoa.org

MARYLAND VOLUNTEER LAWYERS SERVICE

INTAKE HELPLINE

Monday – Thursday | 9 am – 12 pm
410-547-6537 or 800-510-0050
or visit www.mvlslaw.org for online intake.

ADDITIONAL RESOURCES:

Maryland Department of Aging
800-243-3425
https://aging.maryland.gov/Pages/default.aspx

Maryland Access Point (MAP) is a partnership between Area Agencies on Aging and their regional Center for Independent Living organization. For more information 410-396-2273 or https://aging.maryland.gov/Pages/maryland-access-point.aspx

For more information for caregivers and assistance on available services including counseling, support groups, education, respite care, supplemental services, and grants please call 410-396-1337.

Volunteer Opportunties:
Retired Senior Volunteer Program | 410-361-9400
Senior Companion Program | 410-361-9405
Long-Term Care Ombudsman | 410-396-3144
State Health Insurance Program | 410-396-4932

Platinum Transparency 2022 Candid.

MARYLAND NONPROFITS STANDARDS FOR EXCELLENCE

MARYLAND LEGAL SERVICES CORPORATION

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