

## AREAS OF PRACTICE

### ELDER LAW

ASSET PROTECTION  
MEDICAID PLANNING  
NURSING HOMES  
HEALTH CARE DECISIONS  
LONG TERM CARE  
PLANNING  
MEDICAID APPLICATIONS

### ESTATE PLANNING

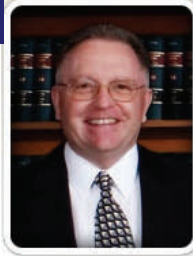
WILLS  
LIVING TRUSTS  
DURABLE POWERS OF  
ATTORNEY

### ESTATE AND TRUST ADMINISTRATION

PROBATE  
ESTATE AND GIFT TAXES  
ASSET MANAGEMENT  
TRUST ACCOUNTINGS AND  
FIDUCIARY TAX RETURNS

### TAX AND BUSINESS PLANNING

CORPORATIONS AND LLC  
ACQUISITIONS AND  
DISPOSITIONS  
BUSINESS SUCCESSION  
PLANNING



**DONALD W.  
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*ESTATE & ELDER LAW  
ATTORNEY, CPA*

Don has practiced law for thirty three (33) years and concentrates his practice in the areas of Estate and Trust Administration, Estate Planning, Elder Law, Financial Retirement Planning, Business Formation and Succession Planning. He is a member of Wealth Counsel©, National Organization of Estate Planning Attorneys, Elder Counsel (a National Organization of Elder Law Attorneys), and National Academy of Elder Law Attorneys (NAELA).

Don is also a member of the New York Bar Association and Indiana Bar; a member of the Taxation Section and the Trusts and Estates Sections of the American and New York State Bar Associations and the Elder Law Section of the New York State Bar Association, having served as a member of its Executive Committee.

In addition, Don is a Certified Public Accountant in the State of New York, a member of the American Institute of Certified Public Accountants, and a member of the New York State Society of Certified Public Accountants.

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**MEDICAID  
PLANNING  
&  
LONG TERM CARE  
ASSET PROTECTION  
IN  
NEW YORK**

**THE SOUTHERN TIER'S  
PREMIER  
ELDER LAW, ESTATE PLANNING  
& SPECIAL NEEDS  
ATTORNEY**

**NEW YORK MEDICAID**

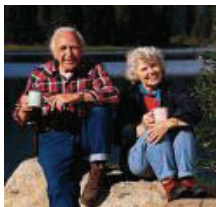
**MEDICAID IS A JOINT FEDERAL & STATE PROGRAM. Medicaid covers Long Term Care (“custodial care”) which is not covered under Medicare or Medicare Supplemental Insurance. Unlike Medicare, this program has asset and income eligibility requirements.**

**WHO CAN QUALIFY?**

Those 65 or older, blind or disabled individuals, or children under age 21 who meet the Medicaid income and asset eligibility requirements may qualify for Medicaid. Others may qualify by meeting the public assistance standards of eligibility.

**ELIGIBILITY**

A Medicaid applicant may have non-exempt assets up to \$13,800 (for 2009, adjusted annually), and a separate burial fund of up to \$1,500; or can prepay a funeral in any amount, subject to certain requirements.



**HOMESTEAD**

A primary residence is exempt for purposes of Medicaid eligibility under certain conditions

**LIVING TRUSTS**

Irrevocable Living Trust can be created so that the assets will not be considered available for purposes of Medicaid eligibility, subject to the transfer penalty rules. There are special Trusts which can be set up for an individual who is disabled which do not create a transfer penalty.

**TRANSFER LOOKBACK PERIOD**

There is a sixty (60) month lookback period for purposes of Medicaid eligibility for assets transferred on or after February 8, 2006.

**TRANSFER PENALTY RULE**

There is a period of ineligibility for nursing home care under Medicaid based on the transfer of assets for less than full consideration, subject to certain exceptions. The penalty period may be shorter than the lookback period.

**SPOUSAL ALLOWANCES**

A community spouse will be able to retain a certain level of resources and monthly income, and, at the same time, have an ill spouse qualify for nursing home care under Medicaid.

**MONTHLY BUDGET**

The Medicaid recipient’s monthly income over a certain level must be used to pay for care, before Medicaid will pay the unpaid balance.



**DONALD W. MUSTICO**

**We Can:**

- **INFORM** you of the Medicaid rules
- **ADVISE** you on how to protect your assets
- **IMPLEMENT** a plan with the appropriate documents, such as Durable Power of Attorney, Trusts and Wills
- **REPRESENT** you in a Guardianship proceeding, if needed
- **PREPARE and SUBMIT** your Medicaid Application
- **REPRESENT** you before the local Medicaid agencies
- **ASSIST** in hospital discharge and nursing home placements

