



McCarthy Law, LLC

**401-541-5540**

[www.mccarthyllawri.com](http://www.mccarthyllawri.com)

Elder Care Law • Estate Planning • Real Estate



# welcome.

We are so happy you're here! We sincerely appreciate your consideration of our firm, and we are honored to serve you.

At McCarthy Law, our staff works very hard to ensure you have the best possible experience. As always, if you have any questions along the way, please feel free to reach out to your attorney or to any one of our staff members. We are all here to help you through what we know can be difficult decisions and trying times.

Thank you and we look forward to serving you!





## Location and Business Hours:

**You can contact McCarthy Law in the following ways:**

**Address:** 461 Main Street, Suite 101, East Greenwich, RI, 02818

**Phone:** (401) 541-5540

**Fax:** (401) 223-6922

**Hours:** Monday - Thursday, 9:00 AM to 4:30 PM

Friday 9:00 AM to 12:30 PM

Saturday & Sunday Closed

**Website:** [www.mccarthylawri.com](http://www.mccarthylawri.com)

**Holidays:** Our office is closed for all Federal Holidays

# Our Practice Areas: *Estate Planning*

## Frequently Asked Questions:

### **What does Estate Planning Entail?**

A person's Estate is made of anything they own or are entitled to. This includes real and personal property, bank accounts, retirement accounts, investment accounts, life insurance policies, etc. The estate planning process involves taking an inventory of your assets and discussing asset protection and distribution options for your chosen beneficiaries. It also includes making decisions regarding your care and who will assist you with things should you become incapacitated in the future. The documents included in an estate plan generally include a Last Will and Testament, a Trust, financial and medical Powers of Attorney, Guardianship Designations, End of Life Wishes, and Final Disposition Instructions.

### **How do I know if I need a Will or a Trust?**

Choosing between a Will and a Trust depends on various factors and personal preferences. A Last Will and Testament take effect after your passing. This document is filed in the Probate Court in the City/Town that you resided in upon your passing. Probate is established if you pass away owning assets in your name alone without a living joint owner or a living beneficiary. Trusts are typically established and take effect during your lifetime. If properly funded a Trust will avoid Probate for your assets. Trusts can help minimize estate taxes, as well as provide creditor sheltering benefits for your beneficiaries. When deciding between the two, an attorney will assist in assessing your property, investments, pensions, and other assets to determine which option best aligns with your priorities.

### **What documents do I need to manage my estate?**

It's usually advised to have a will, a healthcare power of attorney, and a financial power of attorney. While these documents offer good coverage in many cases, every situation is different. To ensure your estate is properly protected and tailored to your specific needs and assets, it's best to talk to an estate planning lawyer.



# Our Practice Areas: *Elder Law*

## **Frequently Asked Questions:**

### **What is Elder Law?**

Elder law is an area of legal practice concerned with issues related to the various and unique challenges people encounter in their senior years. These include social and legal issues as well as important financial concerns, including but not limited to long-term care and Medicaid planning.

### **When should I begin planning for Medicaid?**

It is almost never too early to begin planning for your senior years. The longer you wait to begin our planning, the fewer options you may have available to you. If you have assets that you want to preserve, you should begin your Medicaid planning at least five years prior to applying for Medicaid benefits. However, even if you are within five years of needing care, or have an immediate need, we can still help. Just remember, it is better to review things sooner than later. Even if you are unsure what questions to ask, we will help guide you to provide clarity and a clear path forward.

### **Does Medicaid pay for Assisted Living in Rhode Island?**

In Rhode Island, if you qualify for Medicaid and you are living in an Assisted Living facility that has Medicaid beds available, the Assisted Living may assist you in obtaining a Medicaid Waiver to assist in covering your cost of care. However, Assisted Living facilities in Rhode Island are not required to accept Medicaid, and most require a certain period of residency on a private pay basis before accepting a Medicaid Waiver.

# Our Practice Areas: *Probate*

## Frequently Asked Questions:

### **What is Probate?**

Probate is the legal process of administering a person's estate after they pass, which includes validating the Last Will and Testament, paying debts, taxes and distributing assets. Probate occurs for assets that are in a Decedent's name alone without a living beneficiary or a living joint owner.

### **As the executor of the estate, what do I need to do?**

If you have been named the executor of the estate of a parent or loved one, your main duties are to make sure the wishes of the deceased are honored while also fulfilling the requirements of probate court. You will need to make sure assets are collected, debts are settled, and assets are distributed correctly and efficiently.

### **How long does the probate process take?**

The probate process can be subject to a lot of variables that can extend or delay the process, but generally a probate estate must be open a minimum of 6 months to allow creditors to file a claim against a Decedent's Estate and can often take between 6 months to a year for complete administration of the estate to occur.

### **Do I need a probate attorney?**

If you are involved in the probate process in any way, you should talk with a probate lawyer. Our firm will guide you through every step of the probate process so you can honor the wishes of the deceased, protect an inheritance, and fulfill your obligations.



# Our Practice Areas: *Guardianship*

## Frequently Asked Questions:

### **What is a Guardianship?**

A Guardianship is a court-ordered relationship between a competent adult (the Guardian) and an adult with impaired decision-making capacity (the Ward). In Rhode Island, city and town Probate Courts oversee the Guardianship process and issue such orders. Once a court appoints a Guardian, the Guardian steps into the shoes of the Ward as the primary decision maker. The Guardian of the person may make medical decisions, oversee the residential placement of their Ward (with court approval), ensure that the Ward receives proper professional services, and release medical records and information.

### **When does someone need a guardianship?**

Legal protection may be necessary for some people even after they have entered adulthood. These individuals may have been injured in accidents, are subject to long-term suffering from psychological or physical issue, or have a condition that prevents them from taking care of themselves. A guardianship may be established in circumstances such as these.

### **How does someone obtain a guardianship?**

The first step is to obtain a Decision Making Assessment Tool (DMAT) form, which must be completed by a licensed, treating physician of your loved one. The court will require an original, not a copy, of this document. Upon obtaining the DMAT, the proposed Guardian must Petition the Court. An independent third party attorney, known as a Guardian Ad Litem (GAL), will be appointed to meet with you and your loved one before the court will approve the Petition and establish the guardianship. Please keep in mind, once a Guardianship is established, the Guardian must file an annual accounting with the Court, which also requires an annual hearing.

# Our Practice Areas: *Residential Real Estate*

## Frequently Asked Questions:

### **What can a real estate lawyer do for me?**

By working with a lawyer who has specialized knowledge in real estate, you can have the peace of mind to finalize your Real Estate transaction with confidence. A lawyer will represent your needs and best interests so you can avoid any last minute issues. They possess the legal experience to swiftly and competently address any of your real estate concerns.

### **What happens at a closing?**

The buyer, seller etc. along with their respective agents and closing attorney meet to finalize the property transaction. Documents are reviewed and signed, including but not limited to the Deed and closing statement, closing costs are settled, and the ownership of the property is officially transferred from the seller to the buyer, keys to property are officially handed over to the new buyer.

### **What does the realtor do?**

Searches for property listings that fit your needs, accompany clients to property site, discuss conditions of sale and home, and draw up real estate contracts. They are your advocates.

### **How soon after we close can I move into my new home?**

The contract terms will outline when you can move in after closing, however in most cases it will be immediately after the closing appointment. You will receive the keys and head straight to your new home.



# Our Practice Areas: *Life Care Planning*

## Frequently Asked Questions:

### **What is Life Care Planning?**

Life care planning is not just about drafting legal documents; it's a proactive and compassionate strategy that addresses legal, financial, healthcare, and personal needs of individuals and families, particularly as they navigate the complexities of aging or dealing with disabilities.

### **What is an Elder Care Coordinator?**

An Elder Care Coordinator, or ECC, working in conjunction with Life Care Planning clients of McCarthy. The ECC is responsible for helping clients and the families that care for them find, get, and pay for good care and community resources. The good care can be provided in any setting that client prefers whether it be in their home or at a care community.

### **What is the difference between an Elder Care Coordinator and a Care Navigator?**

The main difference is that the Elder Care Coordinator is part of a team that provides legal, financial and health support as a person ages. A care navigator, although an important service, is only working to solve one piece of a person's aging needs.

# Our Practice Areas: *Client Care Plans*

## Frequently Asked Questions:

### **What is a Client Care Plan?**

Our Client Care Plans are a preventative maintenance program for your Estate and Life Care Plans. These resourceful solutions resolve the uncertainty regarding who is accountable for keeping your Estate and Life Care Plans up to date. The Client Care Plan establishes a continuous partnership between you and the McCarthy Law team, in which we share that responsibility. Through our partnership, we can ensure your plan remains current, so it serves your family as intended when needed.

### **Who can participate?**

Our Client Care Plans are exclusively offered to clients who have or will utilize our law firm to craft and develop their Estate Plan and/or Life Care Plan. As we can only be accountable for work we've completed, participation is limited to clients for whom we prepared their Estate Plan.

### **Membership Pricing?**

**Landmark Care Plan** - \$995 Annually

**Legacy Care Plan** - \$1795 Annually

**Life Care Plan** - Starting at \$4,500 Annually

McCarthy Law will continuously seek enhancements and additional benefits for our clients. It is our goal to ensure that your membership will always remain valuable. Considering all the benefits received, it's an outstanding value. Moreover, it's an exceptional value when compared to the alternative - having an outdated Estate Plan that fails to meet the needs of you and your family in critical moments. If you would like more information regarding our Client Care Plans please contact us directly.



# Attorneys-At-Law

**Education:**

Roger Williams University  
School of Law  
Juris Doctor  
*Bristol, Rhode Island*

North Dakota State  
University  
Bachelor of Science  
Public Relations and  
Advertising, Management  
Communications  
*Fargo, North Dakota*

**Bar Admissions:**

Rhode Island  
Massachusetts

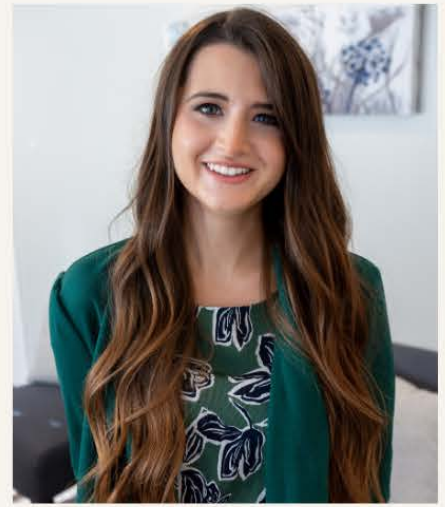
**Education:**

Roger Williams University  
School of Law  
Juris Doctor  
*Bristol, Rhode Island*

Marist College  
Communications and  
Criminal Justice  
*Poughkeepsie, New York*

**Bar Admissions:**

Rhode Island  
Massachusetts  
Connecticut

**Education:**

New England Law | Boston  
Juris Doctor  
*Boston, Massachusetts*

New England Law | Boston  
Certificate in Compliance  
and Risk Management  
*Boston, Massachusetts*

**Bar Admissions:**

Rhode Island

# Our Team



**Stacy Hanson**

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**Tanya Anderson, B.A., CCM,  
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*Elder Care Coordinator*

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**Jennifer Wheelahon**

*Client Engagement Manager*

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# Our Team



**Cheryl Dragon-Masse**

*Paralegal*

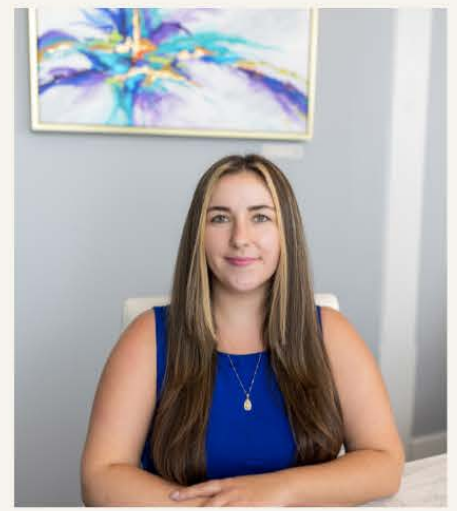
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**Emma Swanson**

*Client Concierge*

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## Communication Policy



Please reference our contact sheet for individual staff member email addresses and who to contact regarding your matter.

***Attorney Contact Policy:*** If you are trying to connect with an attorney, they may be unavailable but we will be happy to schedule a call for you and/or transfer you to one of our Paralegals who can answer any questions regarding your matter.

**Please note:** If you call outside of our office hours, an answering service will answer your calls, and we will contact you as soon as our office reopens on the next business day. We will do our best to respond to your request for communication as soon as possible upon return, and return all phone calls and e-mails within 24 hours. Our office is closed for all Federal Holidays. We value work/life balance, and generally do not expect our attorneys and staff to work and/or check e-mails on weekends/holidays. If you have an emergency, our answering service will reach a member of our staff. Please do not e-mail emergency requests as they will not be seen until the next business day.



# What to expect:

Allow us to explain what to expect during the following processes:

- Estate Planning
- Medicaid Planning/Elder Care Law
- Probate
- Real Estate matters
- Life Care Planning

The legal realm has a lot of moving parts, but please know that we are doing what we can to ensure fast and expedient results. Refer to your engagement letter for clarification of our scope of engagement in your legal matters, and related fees and invoices.

If your legal matter is billed as a flat fee, please be aware that the remainder of the flat fee is due when the client receives their drafted documents for review. If your matter is billed hourly, please be aware that our office bills bi-monthly via email or mail and invoices are due within 5 days. Payments can be made via check and/or credit/debit card, or electronic check.

Everything discussed is confidential. Please be open and honest about your finances, needs, and concerns. If you don't provide us with all relevant facts and information we may not be able to properly advise and assist you.

# Estate Planning Expectations

Estimated case timeline: 4 to 8 weeks

Client(s) will have had a meeting with the attorney and have chosen their chosen Estate Plan structure. During this meeting, the attorney will quote the client(s) a price for their Estate Plan and an engagement letter will be sent to the clients for their signature. A retainer of one-half is due at the time of signing the engagement letter. The other half is due when the client(s) receive their drafted documents via email.

- Our office will need client(s) to complete the confidential questionnaire in order for our staff to draft your Estate Planning documents.
- It is essential for the client to name a Trustee/Executor, Financial Power of Attorney, Healthcare Power of Attorney and a Guardian if the client(s) has minor children.
- The client(s) will meet with the attorney for a Draft Review of their Estate Plan documents. During this meeting, the attorney will review the client(s) documents with them. Any changes, updates and finalization that the client wishes to make to their documents will be discussed and completed during this time.
- Our staff will then finalize your documents after your draft review and our Legal Secretary will be schedule a time for you to come to our office to sign your Estate Plan documents.

# Probate Client Expectations

Estimated case timeline: 6-12 months minimum

- Clients will be billed at the hourly rate for the staff person handling the matter. Please reference your engagement letter for your specific billing rates.
- Clients **must** bring an **original** Death Certificate and an **original** Will if the decedent had such an instrument.



- Our staff will draft the petition and related documents to open the Estate of the decedent. The client(s), normally the person named as Executor/Administrator, will be scheduled to come to our office to sign the opening probate documents. There will be a filing fee with the court to open the Estate.
- If the decedent has any property in their name alone at the time of their death, an inheritance tax lien will need to be filed to take the decedent's name off the property. The filing fee for the ITL form is \$50.00, and is due to the R.I. Division of Tax.
- Once the Estate is opened in the decedent's name, the Estate must remain open for a minimum of 6 months. During this time, all assets must be collected and all outstanding debts must be settled. After completion of the Estate Administration process, only then can assets be distributed to the beneficiaries.
- Please see enclosed letter to client regarding probate administration process for more information.
- The Executor/ Administrator will be appointed by the court and receive a Certificate of Appointment which our office will receive and mail to the client(s). When the client(s) receives the Certificate of Appointment, the client will then be able to go to a bank- any of their choosing- and open an Estate Account. The accounts the decedent had at the time of their death can now be closed and the proceeds from those accounts should be put into the Estate Account. These funds should not be distributed until you are directed to do so; and should only be spent for all Estate Administration expenses. Any fees, bills, invoices for the decedent can be paid from that Estate Account.
- Towards the end of the Estate Administration, our office will schedule a time to meet with the client(s) at our office to begin the probate closing process. There will be closing probate documents the client(s) will need to sign and that will need to be filed with the court to close the Estate.

- There will also be documents the beneficiaries must sign. If they fail or refuse to do so, a full accounting must be completed and filed with the Court, which will require an additional hearing and may significantly delay the time for closing the Estate. There will be a filing fee with the court to close the Estate.
- Once the Estate has been closed, our office will let the client(s) know and the client(s) can then distribute the funds that have been held in the Estate Account to the Beneficiaries and close the account.

## Real Estate Closing Expectations

Information we need:

- Buyer/seller names and contact info/realtor contact info .
- Buyer's attorney's contact info.
- Fully executed P&S Agreement.
- If you are signing on behalf of someone else (Power of Attorney, Guardianship, Court of Appointment), will need additional information.
- If there is a mortgage or home equity line, a mortgage statement must be provided to that we may obtain the payoff information.

If you have a realtor:

We will coordinate with the realtor to obtain the final water bill/ and schedule the smoke inspection and obtain the smoke certification which is required prior to the closing.

If you do not have a realtor:

- Clients will be responsible for submitting final water meter readings to our office.
- Our office will schedule the smoke inspection with the local fire department – the cost is \$30.00. Client is responsible for payment and to be available to walk the fire department through the property. Payment is expected at the time of the appointment.
- These both need to be completed (5-10 days before closing).



If you are signing out of state:

We will send you the closing docs at least the day before. Please confirm if you would like the docs emailed or mailed. Signing instructions will be included. You will need to execute the docs before a notary. Notaries are available at banks, government offices, select UPS locations or mobile notary services. Upon execution, the docs will need to be overnighted back to our office with tracking.

If you are signing at our office:

Please be prepared to come to the closing with a photo ID. If there is cash needed to close, we will let you know the day of. These funds must be provided via wire transfer or certified Bank Check. We will walk you through the closing documents.

After signing:

We will email you copies of the fully executed settlement statement and let you know when the deed is officially on record. You can expect distribution of your proceeds after the deed is recorded

## **Guardianship Client Expectations**

- The client(s) will need to obtain a DMAT (Decision Making Assessment Tool) from a licensed physician in order to determine whether a guardianship is necessary.
- Once a DMAT has been obtained and it is clear a guardianship is needed, the proposed guardian will petition the court. the court will appoint said guardian to the client(s). The guardian may be a family member or the court may appoint an attorney or social worker if they see fit.
- The guardian will need to obtain all bank accounts, annuities, life insurance, mortgages, etc. of the client(s). There will be an annual accounting required with the court every year. A hearing is required annually upon filing of the accounting. The court will decide if the guardianship is still needed and may continue or if the guardianship is no longer needed it may be terminated.
- Our office will be communicating with the guardian of the client throughout the entire guardianship.

# Life Care Client Expectations

When initial enrollment is completed, you can expect that the office will call to schedule an appointment for you to meet with the attorney and the Elder Care Coordinator for an annual estate plan review. The Elder Care Coordinator will also then schedule a time to meet with you and any involved family members in your home to complete an initial home assessment which includes discussion of any care needs that may be helpful. In addition, a complimentary home safety assessment will be completed by Oakley Home Access to identify any further equipment needs that could help the seniors remain independent in their home.

After the initial assessment by the ECC, you can expect a home visit, at minimum, every 90 days.

What happens if I go to the hospital?

If you go to the hospital, please contact the office if you are able or ask a loved one to contact us. The law firm can provide copies of your power of attorney or living will, if needed. The ECC will work with the hospital staff to help coordinate your care after discharge and help you and your family select a rehab facility if one is needed.

Can I call the ECC if I have a problem?

Yes! The ECC is responsible for the coordination of the client's community or facility based care needs. The ECC functions as the point of contact for the family and assists in coordinating services as a person's care needs change. The ECC is available to help you and your family navigate through the healthcare system at each step.