

## Parents Are Hard To Raise S02 E73.mp3

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**Announcer:** [00:00:37] The law is a complex affair filled with twists and turns, pitfalls and loopholes that can have dire consequences. Which is why, when it comes to matters that affect our aging parents, not just any lawyer will do.

[00:00:52] This week on Parents Are Hard to Raise Diane's special guest attorney Amos Goodall, president of the National Elder Law Foundation is here to tell us what to look for when seeking elder law counsel.

**Diane:** [00:01:17] Welcome to Parents Are Hard to Raise. Helping families grow old together without losing their minds. I'm elder care expert, Diane Berardi.

[00:01:26] If I were to list all the qualifications of this week's special guest we have no time left in the show. So let me just say, he is a certified elder law attorney, practicing in Centre County Pennsylvania, with the firm Steinbacher Goodall and Yurchak, where he's been practicing elder law since 1976.

[00:01:45] In 1979, he was admitted to the bar of the United States Supreme Court. Since 1992, the prestigious law directory Martindale Hubbell has recognized him as a pre-eminent attorney. And this year Philadelphia Magazine named him a super lawyer in elder law, as they have every year since the category was created. He is a Fellow of the National Academy of Elder Law Attorneys and currently serves as president of the National Elder Law Foundation. Attorney Amos Goodall welcome to Parents Are Hard to Raise.

**Amos Goodall, Esq.:** [00:02:18] Thank you.

**Diane:** [00:02:18] Oh you're welcome.

[00:02:20] And we're so happy to have you, because we have so many questions. Our listeners and myself... For us as adults, and for our parents.

[00:02:32] So I think the first question everyone wants to know is what is a certified elder law attorney?

**Amos Goodall, Esq.:** [00:02:40] Well, I'm glad you asked that question. There are a lot of lawyers who have chosen to hold themselves out as elder law practitioners, but the certification means that the attorney has gone through a fairly exacting process to demonstrate that he or she has knowledge and experience in this field.

[00:03:01] The National Elder Law Foundation has been certified and testing attorneys for the last 25 years. There is a rigorous process that an attorney would have to go through to become certified. For example, there is a six and a half hour examination that has about a 35 percent pass rate. It's one of a number of things that attorneys have to do before they become certified.

**Diane:** [00:03:27] Now, I was reading that not every community has certified elder law attorneys. So how would one go about finding one where they live?

**Amos Goodall, Esq.:** [00:03:40] Well, my organization the National Elder Law Foundation maintains a directory. Our website isn't NELF.org And on that directory one can locate the attorneys near wherever one is. There are about 500 certified attorneys in the United States. And for folks who are not particularly computer literate, they can find their way to the Elder Law Foundation Web site or at least get the phone number they can call our executive director and she'll help them.

**Diane:** [00:04:13] OK, that's wonderful because people just assume a lawyer is a lawyer and they just go to the phonebook and find someone in their town so...

[00:04:25] So if we go on that Web site we'll be able to find a certified elder law attorney. Perfect.

**Amos Goodall, Esq.:** [00:04:30] You would. And I have to be honest to say that not... That there are good lawyers who do not have the elder law certification. And so if you have friends if you have other people who have gone to lawyers or if you have your own family lawyer it would be good to talk to them to see who else in your neighborhood they might they might recommend. But the gold standard is this Elder Law certified certification.

**Diane:** [00:04:58] Now what age should someone see a certified elder law attorney?

**Amos Goodall, Esq.:** [00:05:03] Well I usually say that if you're old, if you think you make get old someday, or if you know someone who is old, you should at least think about an elder law attorney.

[00:05:13] I mean, the things that we do... We talk about we do estate planning. We do capacity planning. We do fiduciary right we talk about as you Representative. One of the things we're best known for is a public benefits advice. And we do all these same things for families with children with special needs.

[00:05:29] So look at, in our history... One of the things we talk about are living wills for example. And if you look in our history there are three young women who were struck down in the prime of their lives. KAREN QUINLAN, Nancy Cruzan and Terry Schiavo were all young women and all of whom would have benefited by the chance to have expressed what their wishes would be, and also to have those wishes carried out. Wouldn't it be better if their families were supporting them rather than fighting amongst themselves as to what should happen.

**Diane:** [00:06:00] Right definitely. You know, when I talk to families, there's so many families that they don't have any planning documents, you know they don't have anything. And I was reading that powers of attorney, those are one or two of the most important pieces of paper people should have... of planning documents that people should have. Could you tell us about powers of attorney?

**Amos Goodall, Esq.:** [00:06:31] Sure. Well and the power of attorney is a document where you say what you want to have happen or where you authorize someone to say what should happen if you can't say it.

[00:06:44] So you write a power of attorney and you say, I want my wife, I want my husband I want my friend to make decisions for me in these areas. And we usually recommend. There are. Every case is a little different but we usually recommend that the power of attorney be as broad as possible, that give as much authority to the person that you trust as possible, so that person can make decisions for you.

[00:07:11] Each state has rules relating to powers of attorney and it's important that the power

comply with the rules in each state.

[00:07:19] You can you certainly download the power of attorney over the Internet. But you have no idea if it's valid in your state and you have no idea if you fill it out properly.

[00:07:31] For the cost of having an attorney prepare a good power of attorney you have a lot of comfort and you can be sure that what you want to have happen actually will be.

**Diane:** [00:07:43] Now should a person have a medical and a financial?

**Amos Goodall, Esq.:** [00:07:49] Well those are two different types of decision making. And sometimes those are combined in the same documents. Sometimes there is both the medical and legal power of attorney. Sometimes those are in different documents. But one should have someone to make decisions for them when they can't both and they're in the business area and in the medical area.

[00:08:13] For example, when I was writing my own living will and medical power of attorney, I didn't want to burden my children, I wanted to name my wife as my primary decision maker. But I didn't want to burden my children with that if something if something had happened to her and a decision need to be made for me. So I talked to my law partner and said, you know would you be the number two person on this? And her answer was Well, let me understand Amos if you're dead I get this practice right? Well I'll do that in a second. And that was exactly the kind of person I wanted in that role for me. [laughing]

[00:08:49] And how about the term "durable power of attorney"?

[00:08:54] The term "durable" as is often bandied about. Under the old common law a power of attorney ceased to exist when...or ceased to give authority when you lost your capacity. And of course, that's why we want them.

**Diane:** [00:09:11] Right.

[00:09:13] So attorneys began to write powers of attorney and say they are durable and now in most states, powers of attorney are durable, they do last beyond your incapacity unless they say they don't.

[00:09:27] However, most lawyers put it but put the word in there anyway, sort of like a belt and suspenders.

**Diane:** [00:09:35] Does everyone need a Will?

[00:09:39] That's... You know, most people actually do need Wills. What I say to folks is that everyone has an estate plan. In Pennsylvania the legislature has created an estate plan for everyone, it's called the law of intestate succession. However that plan may not be what people want. So for example, if I'm married and most clients who are in a happy marriage, typically a first marriage, say I want everything to go to my spouse when I die. And if they're in a second marriage they may say I want everything to my spouse. They may say I want something go to my spouse my children. They may want it all to go and trust for their spouse. None of those things that I just mentioned, all to my spouse in a first marriage or trust for my spouse in a second marriage, none of those things are part of the legislatures estate plan. The intestate estate plan. So if you want to say what's going to happen to your things after you die, you need to do an estate plan.

[00:10:38] And there's so many different wrinkles that an attorney can help with. For example, do you have a child who has special needs? If you don't have a will and the property all goes to the child, will that impair their ability to receive benefits? If you have a larger state that goes to a child, will it be tied up in some sort of court supervised account, when it could should be being used for the child when the child is being raised.

[00:11:09] All of those things are addressed in a will. They're not addressed in the legislature this intestate estate plan.

**Diane:** [00:11:15] I see. Amos, one of the things I'm asked all the time is "am I responsible for my elderly parents medical bill, or will inherit my parents debt. But before we get to that, if you're a woman or there's a woman in your life, I'm going to tell you something that you absolutely need to hear.

[00:11:39] I Want to tell you about my friend Katie. Katie is a nurse and she was attacked on her way home from work. She was totally taken by surprise. And although Katie is only 5 feet tall and 106 pounds she was easily able to drop her 6 foot 4, 250 pound attacker to his knees and get away unharmed.

Katie wasn't just lucky that day. She was prepared.

In her pocketbook, a harmless looking lipstick, which really contained a powerful man stopping aerosol propellant.

It's not like it was in our grandmother's day. Today just going to and from work or to the mall can have tragic consequences. The FBI says a violent crime is committed every 15 seconds in the United States. And a forcible rape happens every five minutes. And chances are when something happens, no one will be around to help.

It looks just like a lipstick. So no one will suspect a thing. Which is important since experts say, getting the jump on your attacker is all about the element of surprise.

Inside this innocent looking lipstick is the same powerful stuff used by police and the military to disarm even the most powerful, armed aggressor. In fact, National Park rangers used the very same formula that's inside this little lipstick to stop two-thousand pound vicious grizzly bears dead in their tracks. It's like carrying a personal bodyguard with you in your purse or your pocket.

Darkness brings danger. Murderers and rapists use darkness to their advantage. We all know what it's like to be walking at night and hear footsteps coming at us from behind. Who's there? If it's somebody bad, will you be protected? Your life may depend on it.

My friend Katie's close call needs to be a wake up call for all of us. Myself included. Pick up a lipstick bodyguard and keep it with you always.

**Announcer:** [00:13:41] You're listening to Parents Are Hard To Raise. Now, thanks to you, the number one elder care talk show on planet earth. Listen to this and other episodes on Apple Podcasts, Google Podcasts and on demand, using the iHeart Radio App.

**Diane:** [00:14:03] I want to welcome our new listeners in Louisiana... Lake Charles, Shreveport and Mandeville. In Arkansas... Springdale, Pine Bluff and Rodgers. And in Michigan... Grand Rapids, Traverse City, Grand Haven and Farmington Hills. Welcome and thank you so much for listening.

[00:14:23] We're here with Amos Goodall, who's a certified elder law attorney and he currently serves as president of the National Elder Law Foundation.

[00:14:32] So, Amos, there is this question that I get all the time. "Am I responsible for my elderly parents medical bills?"

**Amos Goodall, Esq.:** [00:14:41] Well, unfortunately there's not a clear answer to that question, or at least it varies state by state.

**Diane:** [00:14:46] Okay.

**Amos Goodall, Esq.:** [00:14:46] In Pennsylvania for example, we have a law called a filial responsibility law that says that under some circumstances children are responsible for the necessary bills of their parents. Necessaries would include such a thing as a nursing home bill.

[00:15:05] Now that law does not apply if the person is a Medicaid beneficiary, is receiving Medicaid. But it would apply if the person is in a nursing home, perhaps, and doesn't qualify for Medicaid for some reason, and the children might have to pay that.

[00:15:25] The other part of your question was do children inherit their parents' bills. No they don't. You may have an independent... Some independent liability. For example, to a nursing home. But if you're if your father dies and he owes a big bill to his landlord, that doesn't come to you.

**Diane:** [00:15:42] Okay. So if someone, let's say in Pennsylvania, has a parent in a nursing home, and maybe they're not...the parent is not Medicaid, and their parent's money I guess has run out... Is that what you're saying, that we would...

**Amos Goodall, Esq.:** [00:16:03] Well, you know, that's why you need to talk to a certified elder law attorney. The situation you just posited... the Person is in a nursing home, perhaps a nursing home that accepts Medicaid, and their money runs out, then they're probably going to qualify for Medicaid. Most everyone in this country under those circumstances would qualify for Medicaid.

[00:16:21] Now if they don't apply. If the children have taken their money you know give me the power retries transferred all the money to to the children. And so therefore the parent would qualify for Medicaid and then that's the situation that might occur. And that's when the children might be liable.

[00:16:41] And it's often unfortunate that if an out of state parents this has somehow been convinced to transfer money to and out of state child and the parents in the state and needs a nursing home. The local children might end up paying.

[00:17:00] Wow. I know that it's a tricky issue and people get worried. You know, people don't understand and that's why you definitely have to see a certified elder law attorney.

**Amos Goodall, Esq.:** [00:17:14] Right. Because, you know, there are things that you can do to minimize that from happening.

**Diane:** [00:17:21] OK.

**Amos Goodall, Esq.:** [00:17:21] Are there strategies. And each case is going to be a little bit different.

**Diane:** [00:17:25] Right.

**Amos Goodall, Esq.:** [00:17:25] But that's... we're trained to try to help folks under the circumstances.

**Diane:** [00:17:30] Now how about a spouse. Am I responsible to pay for my spouse's care?

**Amos Goodall, Esq.:** [00:17:36] Generally the answer to that is yes. Again there are some exceptions. And a certified attorney can talk about exceptions. But, generally if you're talking about a nursing home bill, the spouses just is obligated to pay as the children might be. Even more so than the children in fact.

**Diane:** [00:17:56] OK. I guess so. Yes.

**Amos Goodall, Esq.:** [00:18:00] And in most states, when one is seeking Medicaid, all or most of the what's called the Community spouse... the Spouse at home... all or most of that spouses assets, resources, money can be counted to determine whether the person qualifies for Medicaid.

**Diane:** [00:18:20] Really?

**Amos Goodall, Esq.:** [00:18:22] So, each general rule I've said has has exceptions. And there are strategies to deal with those. But that's why it's important to talk to a lawyer to help to do that.

[00:18:35] There are many agencies that will help a family apply for a nursing home qualification. The trouble is that the people who are doing it who are not lawyers may not be familiar with the strategies. And in fact, they may be more interested in preserving the rights of the nursing home than they are the rights of the client.

**Diane:** [00:18:58] Exactly.

[00:19:00] Now what happens to me if my spouse needs to go to a nursing home and we have to apply to Medicaid and we own a home?

**Amos Goodall, Esq.:** [00:19:10] Well, in most states... In all states a home is exempt up to a certain amount and that varies. There are several different numbers. But the home is considered an exempt resource. Now if you're living in a 10 million dollar Taj Mahal home that might not be an exempt resource but if you're living in a 10 million dollar Taj Mahal home you probably ought to be paying privately for your nursing home care.

[00:19:35] So the home is exempt. When the two... When either one of the spouses is still alive. What happens though in many states is that when the second spouse dies, if that second spouse has received Medicaid benefits, the state may have a claim against the home or against anything else any other property that the second spouse has.

[00:19:57] So they don't lose it, because one of them goes into the nursing home. But they may not, if they haven't taken some proactive steps earlier, not have it available to pass to their children.

**Diane:** [00:20:14] Okay.

[00:20:14] What Is a DNR?

**Amos Goodall, Esq.:** [00:20:17] DNR stands for Do Not Resuscitate. There are in the area of end

of life basically medical decision making. There are three kinds of documents that people can look at. The first document is called, I call a "Living Will" its advanced directive for healthcare.

[00:20:37] This where the client sits with the lawyer and says these are the things that I want to have happen at the end of my life. I'm perfectly healthy now, but if for example, I have advanced Alzheimer's I don't want to use heroic means to keep me alive. That would be something that would go into a living will.

[00:20:59] A DNR is an order issued by a doctor that says Do Not Resuscitate. Do not administer cardiopulmonary resuscitation to this person whom I have issued this order. So if you have, you might have a living will that you just signed and have a heart attack and be lying on the floor holding a living will in your hands, and an emergency crew came to see what they should be doing, in most states that living will wouldn't apply. It doesn't apply in an emergency situation. A DNR would. They would see if they if you had a valid DNR they would undoubtedly comply with it. A DNR deals with as I said cardiopulmonary resuscitation, breathing and heartbeat.

[00:21:55] The other type of an order and again it's a DNR and a POLST, a physician ordered life support order... P O L S T... is issued by the doctor, not by the not by the patient, the client and the lawyer. And the POLST order allows the client to be more definitive. I mean it has a section dealing with cardiopulmonary resuscitation, but it also talks about other medical interventions. And so if you have a... if you are of advanced age, if you are have an advanced illness, the sort of lay standard for a POLST order is: would the doctor be surprised if you died within a year.

[00:22:44] If you're in that situation and you and your doctor think it's appropriate, you can say for example, if I have, if I'm breathing and I have a pulse, but I can't say anything, I can't make myself understood, I want comfort measures only. I want treatments to prevent pain and suffering only. Don't take me to the hospital. Don't do anything heroic. Just keep me comfortable. You could be more specific you could be have a greater intervention and say I want some limited treatments. I want I.V. fluids for example. Or you could say I want the full boat. Take me to the hospital and do everything.

[00:23:22] Right.

[00:23:26] Does a DNR expire after a certain period of time?

**Amos Goodall, Esq.:** [00:23:29] As far as I know, a DNR doesn't expire. But I suggest that if a patient has if a client has a DNR and is getting to be an old document, it would be a good idea to talk to the doctor again, because the client's circumstances would change.

**Diane:** [00:23:46] OK.

**Amos Goodall, Esq.:** [00:23:47] I suggest that it's not it's not something that you just should ignore or you should keep after it.

**Diane:** [00:23:55] These documents, wills, powers of attorney, do they have to be updated?

**Amos Goodall, Esq.:** [00:24:01] Well, what I usually tell clients is that you should take a look. You should come into the office and we should take a look at your documents. Any time there's been a major change in your life. If you've moved. If you've had another child. If you got married, get divorced, etc. We should take a look at the documents. And also, suggest that they come at about every time there's a presidential election.

[00:24:28] Not because of who may who might or might not be elected president, but that starts them thinking about it about every four years, and by the time they get around to it, it's been about the fifth year and you should have looked at about every five years.

**Diane:** [00:24:43] Okay. So That's important.

**Amos Goodall, Esq.:** [00:24:45] It is. Now, I should also say that a number of insurance companies, a number of banks, a number of other institutions, say that a power of attorney goes stale. They say it's an old arbitrary we don't have to honor it. And in many many states, the legislatures have passed laws saying that's not so. That if the power of attorney is valid, it never goes stale. It's always should be honored. So if you have somebody that has been suffering from dementia for ten years and couldn't write an updated power of attorney, the old one should still work.

**Diane:** [00:25:21] Okay. Yeah, you hear that.

**Amos Goodall, Esq.:** [00:25:23] It really should.

**Diane:** [00:25:24] Okay perfect.

[00:25:27] Amos, could you tell us the Web site again for the National Foundation...

**Amos Goodall, Esq.:** [00:25:37] Sure. it is NELF.org.

**Diane:** [00:25:37] And We'll put on our resource section. And we'll also include the phone number as well.

**Amos Goodall, Esq.:** [00:25:43] I'll give it to you now. it's 5 2 0- 8 8 1- 1 0 7 6.

**Diane:** [00:25:53] Perfect. And we will have that information in our resource section.

[00:25:57] I really hope this episode helped you with something you may be going through at the moment. Please keep e-mailing your questions and comments and tell me as much as you can. Because what you share can help someone else.

[00:26:09] You can reach me at [Diane@ParentsAreHardtoRaise.org](mailto:Diane@ParentsAreHardtoRaise.org) Or just click green button on our home page.

[00:26:14] Subscribe to our show and iHeart Radio. iPhone users can also subscribe on Apple Podcasts. And Android users on Google Podcasts.

[00:26:23] I would love it if you share this episode with your family co-workers and friends. Episode number 73.

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[00:26:41] Our New York producer Joshua Green. Our broadcast engineer is Well Gambino. And from our London studios, the melodic voice of our announcer "Miss Dolly D."

[00:26:51] We're all about helping each other and Parents Are Hard To Raise, and one of the ways

you can help someone else find our show is to give it a high rating.

[00:27:00] Thank you so much for listening. And Thank you, Amos. This was really important information.

[00:27:07] Till then... May you forget everything you don't want to remember and remember everything you don't want to forget.

[00:27:14] See you again, next week.