

Compliments of
Mackay Dressler
707-769-9975
www.mackaydressler.com

PUTTING ON THE BRAKES

*How to Help Older Drivers
Make Safe Driving Decisions*



ABOUT THE FIRM

Mackay Dressler Law has been providing quality estate planning for our clients since 2005. Bridget Mackay opened her original practice in 2005 and Miranda Dressler joined the practice in 2017. Bridget and Miranda are both members of the Sonoma County Bar Association, Marin County Bar Association, and our firm is the only American Academy of Estate Planning Attorneys firm in the Sonoma-Marin area. Together, they have over 30 years of legal experience. Our firm exclusively practices in Estate Planning, Trust, and Probate Administration.



Everyone deserves to be understood, to feel comfort and find peace of mind. Caring about you and your family is at the heart of everything we do. We believe your family deserves our singular attention to their needs by providing legal services with the highest integrity and quality that address your unique wealth and succession strategies. Life is a series of transitions, some we plan for and some we don't. Our clients are prepared for all of life's transitions and are never alone when dealing with the toughest times life has to offer. We believe every family deserves a smooth, supported transition, whatever form it takes.

FOLLOW US ONLINE



www.facebook.com/BridgetMackay



www.youtube.com/BridgetMackaylaw



www.instagram.com/PetalumaAttorney

CONTACT US

Mackay Dressler
19 Keller St
Petaluma, CA 94952
(707) 769-9975

www.mackaydressler.com
contact@mackaydressler.com

MACKAYDRESSLER
LAW FIRM

HOW TO HELP OLDER DRIVERS MAKE SAFE DRIVING DECISIONS

Karen had been concerned about her father's driving for quite a while, but she was hesitant to say anything to him. Dad had always been such a strong man...so fiercely independent. And his independent spirit had not changed, even as he aged and his health began to fail. So far, Karen's guilt at the thought of taking away her father's independence had outweighed her better judgment. Tonight, however, was the last straw. Karen and her husband, John, had been visiting at Dad's house when they'd decided to have dinner at Dad's favorite restaurant. Not surprisingly, Dad had insisted on driving. The normally quick five-mile trip turned into a seemingly endless white-knuckle ride for Karen and John.

With Dad at the wheel, the car crept along at half the speed limit. More than once, Karen held her breath as the car drifted dangerously close to oncoming traffic. Each time Dad approached a curve, he used his turn signal. Fortunately, he did not run any stoplights. However, he did stop at a green light, raising the ire of other drivers, who honked their horns in frustration. The other drivers' reactions only served to anger Karen's father, and he muttered and cursed under his breath most of the way to the restaurant.

When they finally reached their destination, Karen and John agreed on two things: first, Karen would drive home, and, second, it was time to talk to Dad about his driving.

RECOGNIZING THE PROBLEM

Maybe you're in a situation like Karen's. Someone close to you is getting older – perhaps they've even been diagnosed with Alzheimer's or another form of dementia – and you're not quite sure when they should stop driving. Maybe you're the one who is getting older, and you're having some doubts about your own driving skills, or your family members have expressed concerns about your ability to drive safely.

Unfortunately, there is no hard and fast rule that determines when an older person should limit his or her driving, or give up driving altogether. It is true that people's driving skills tend to decline with age. However, this does not mean that all elderly people should have their car keys taken away.

Driving skills vary widely from one individual to another. Because the ability to drive is central to functioning as an independent adult in our society, many times a senior who is having difficulty with driving won't admit the problem, even to him- or herself. But driving with any kind of impairment poses a great threat – to the impaired driver, to his or her passengers, and to others on the road. This is why it is so important for the friends and family members of elderly drivers to be aware of changes in their loved one's health, mental abilities, and level of driving skill.

What signs should you be aware of? The following are indicators of unsafe driving. If your loved one exhibits one or more of these signs, it is time to have a talk about limiting -- or even eliminating -- his or her driving. And if you notice these changes in yourself, it may be time to voluntarily change your driving habits:

- Driving too fast or too slow
- Difficulty maintaining lane
- Bumping into curbs
- Problems making turns
- Frequently getting lost in familiar areas
- Stopping for no reason
- Getting frequent tickets
- Frequent fender benders or near misses
- Being easily distracted while driving
- Ignoring or misinterpreting road signs or traffic signals
- Becoming easily frustrated or angry
- Becoming easily confused or frightened
- Responding slowly to traffic signals or other drivers, or to pedestrians or cyclists
- Having difficulty turning the steering wheel quickly enough to respond in an emergency situation
- Relying on passengers in the car to look for pedestrians or oncoming traffic

An excellent indicator that the time has come for your loved one to stop driving is if you no longer feel safe riding with him or her -- or if you no longer feel that your child is safe riding with him or her.

What if you have not had the opportunity to observe your loved one behind the wheel? If you notice that he or she is having difficulty with simple tasks like following recipes or is losing track of their daily routine, you may want to talk to your loved one about limiting or stopping driving. The mental abilities needed to complete these tasks are necessary for safe driving.

HAVING THE CONVERSATION

Think back to the day you first got your driver's license. Do you remember the sense of pride and independence you felt? Now, imagine you had to give up the ability to drive...right now. Today. How would you feel?

You might feel a little trapped, a little like your status as an adult was being taken away. You'd likely experience a range of emotions, including anxiety. Without your car, how would you get to all the places you want – or need – to go every day?

Driving represents freedom in our culture. Not only does the ability to drive mean that you can go where you want to go when you want to go there, it also means you can get to your destination without having to rely on others...and without feeling like you're being a burden.

Losing the ability to drive is an emotional issue. An elderly driver might become defensive, react with sadness or depression, or even get angry when you suggest that it's time to hand over the keys. That's why it is important to approach this issue with sensitivity, and to have a plan before you begin a discussion about his or her driving abilities.

CHOOSE THE MESSENGER

Sometimes, *who* delivers the message is just as important as *what* is said. Put some thought into which person in your loved one's life is best suited to approach this delicate topic with sensitivity and honesty. Also, think about the people your loved one most respects and is most inclined to listen to.

Many elders are most likely to accept the message when it comes from a close family member like a spouse or an adult child. However, some people are more likely to admit their own limitations and agree to stop driving after having a conversation with their doctor or another caregiver, or even their attorney, financial advisor, or another trusted professional.

You and your family know your loved one best, and this places you in a unique position to decide who should initiate the conversation.

PREPARE FOR THE CONVERSATION

After you have decided who should have the conversation with your loved one, it's time to prepare for your talk.

In most families, this responsibility falls to a spouse, an adult child, or another family member. While you don't want to follow a script, you should have a plan for how you'll start the conversation, what concerns you'll raise, and how you might respond to any objections. This can help you approach the conversation with confidence. It can also reduce frustrations for both parties, and help to make the conversation a success.

THINK ABOUT WHAT YOU WILL SAY

Everyone has their own concerns when it comes to an elderly loved one's safety on the road. Before you bring up your concerns, take a few moments to organize your thoughts and decide how best to express them to your loved one. For example:

- *Are you concerned about car accidents?* A car accident can have far-reaching consequences. An accident can mean injury or death for your loved one or others on the road. It can also mean traffic tickets, lawsuits, and financial hardship. No one wants to cause other people harm or be a financial burden on their family members. If your loved one is hesitant to change their driving habits, helping them think through all the possible consequences can serve to nudge them toward making a responsible decision.
- *Do you worry about your loved one getting lost?* This is a valid concern, particularly with Alzheimer's patients. You might focus your conversation on your loved one's safety, and how you would feel if they became stranded in a place they didn't recognize.

The key is to approach the issue firmly but sympathetically – and without being overly dramatic. Often, it helps to focus on issues other than the driver's age. For instance, you can talk about health or safety concerns, road conditions, or increased traffic in your area.

It also helps to start the conversation with a question, like, "Dad, how do you feel about driving in this bad traffic we've been having?" Or, "Mom, what did the doctor say about driving while you're taking your new medication?" Then, *listen* to the response and respond accordingly. Remember, the point is to have a conversation with your loved one, not to lecture them.

THINK ABOUT TIMING

The timing of your conversation can be important, and often events arise that act as natural conversation starters.

One of the easiest moments to start a talk about your loved one's driving abilities is after he or she has voluntarily made small changes. For instance, what would you do if your mother started to make a point of leaving family functions and other events early, so that she could be off the road before dark? Rather than cajole her into staying for a few extra minutes, treat this situation as an open door. Compliment your mom on her decision, and see if you can help her find other means of after-dark transportation. Then, check back periodically to see how she feels about her daytime driving. If her comfort or skill behind the wheel declines, you've already started a dialogue, and you are in a position to help her transition away from driving.

Sometimes a doctor's appointment can create a golden opportunity for talking to your loved one about driving safety. New medications, or even a change in the dosage of an existing medication, can have an impact on a person's motor skills or ability to process information. Asking your loved

one what the doctor said about the effects of the medication on his or her driving can be a gentle way to approach the topic.

Scary moments can also lead to productive talks about a loved one's driving skills. In the best case scenario, your loved one will stop driving before his or her impairment causes an accident. However, accidents and near misses are clear signs that your loved one's driving habits need to change. As uncomfortable as it may be, this is a prime opportunity to start a conversation about road safety.

THINK ABOUT ALTERNATIVE TRANSPORTATION

Part of talking to your loved one about limiting or stopping driving is to help him or her think through how to manage without a car. How will your loved one get to doctors' appointments, take care of the grocery shopping, make it to hair appointments, and get out to see family and friends? Consider the following options:

- *Family and Friends.* Can you enlist nearby family members and friends to drive your loved one to appointments, help him or her run errands, and just make sure your loved one continues to get out and about?
- *Public Transportation.* Does your area have a public transportation system your loved one could use for some of his or her transportation needs? Often, seniors can take advantage of discounted fares.
- *Other Services.* Check with local senior services agencies and volunteer organizations. In many areas, there are transportation options – particularly for older people who need to get to medical appointments or other important activities.

BE PATIENT AND DIPLOMATIC

The conversation may be emotionally charged for a number of reasons. We've already discussed how difficult it can be to change your driving habits, let alone give up driving altogether.

In addition, if the driver you're worried about is your parent, you both might be uncomfortable with the role reversal that is taking place. After all, your mom or dad has been giving you advice and guidance for many years. Many parents find it difficult to be the recipients of their children's advice, even when the advice is good.

Do your best to keep the tone of the conversation positive, and remember that you may need to have more than one talk with your loved one before you reach a resolution you're both satisfied with.

Also, remember that your loved one may not be facing an all or nothing decision. For instance, maybe driving at night is the real problem. In this situation, perhaps your loved one can limit his or her driving to daylight hours rather than giving up driving altogether.

WHAT IF THE CONVERSATION DOESN'T WORK

What happens if you have a discussion – or even several discussions – with your loved one, and they won't agree to stop driving? In this situation, there are a number of steps you can take.

CALL IN REINFORCEMENTS

This approach is similar to staging an intervention for an alcoholic. If your loved one won't listen to you (or to the person your family has chosen to have the initial discussion), it may be appropriate to gather a group of concerned family members, friends, and health care workers. Think through the people in your loved one's life that he or she respects – those your loved one is most likely to listen to. Together, you may be able to lovingly, but firmly, convince your loved one that it is, indeed, time to stop driving.

TALK TO THE DOCTOR

You may be able to have your loved one's doctor initiate a conversation about driving. Some doctors will even write a no-driving "order" or "prescription" so that a patient will take the situation seriously. Keep in mind, however, that in most states doctors are not required to take steps to keep unsafe elderly drivers off the road. In California, doctors must report drivers with dementia to the appropriate state agency. In a handful of states, doctors must report drivers with epilepsy. Therefore, the doctor's willingness to participate in this way depends on his or her policies as well as his or her assessment of the situation.

CONTACT THE DMV

Every state has an office where a family member, doctor, or certain other concerned individuals can report a person whose driving abilities are of concern.

Each state has its own rules concerning who is eligible to make a report, and each state has its own procedures for investigating reports and determining whether to revoke a driver's license. Generally, when a driver's abilities are in doubt, the state licensing agency can require the driver to retake one or more portions of the driving test or require the driver to submit to a physical or mental examination.

After the driver undergoes the required evaluations, the licensing agency determines whether he or she is fit to drive, and can suspend or revoke the driver's license if it deems this a necessary step. Sometimes, the licensing agency will allow the driver to continue driving, but with restrictions. For example, the driver might not be allowed to drive at night, or might be limited to driving within a certain distance from home, with glasses or other assistive devices, etc.

In California, people who are concerned about an elderly driver's road safety can request a Driver Reexamination to the DMV.

No state will revoke a person's driver's license just because he or she has reached a certain age. However, some states put restrictions on driver's license renewals for older drivers. Some have shorter renewals than younger drivers, and in some states, they treat all drivers the same, regardless of age. A couple of states loosen the restrictions on older drivers.

In California the law is as follows: **Drivers over 70 must renew their driver's license in person at the DMV every five years.**

SPECIAL CONCERNS FOR ALZHEIMER'S PATIENTS

Keeping a loved one with Alzheimer's disease off the road can be particularly challenging. One day, he or she may agree to stop driving, and the next, he or she may forget all about being impaired.

Because Alzheimer's is a progressive disease, the ideal approach is to confront the topic of driving in the early stages of the disease and help your loved one take incremental steps, slowly transitioning away from driving. You'll also want to help your loved one find alternate means of transportation and get accustomed to using them. This can include enlisting family members and friends to help out with transportation needs, taking advantage of public transportation if it is available, and checking with local senior services agencies and volunteer organizations to see what transportation services they offer.

You can also help your loved one prepare for the progressive nature of the disease by arranging to have groceries and meals delivered, and making sure your loved one has a rich social life at home, with friends and family stopping by on a regular basis. Reducing the need to drive can help reduce the temptation to drive.

Of course, everyone is not in an ideal situation. What do you do if your loved one's Alzheimer's disease has progressed to the point that he or she is unsafe to drive, but he or she refuses to stop driving? Or, what if your loved one agrees to stop driving, but later forgets and ends up behind the wheel after all? Sometimes, not even a suspended or revoked driver's license will help in this situation.

At this point, it's time to take away the keys. Or, if necessary, take away, hide, or disable your loved one's car.

If your loved one lives alone and will consent (or if you have the legal authority to do so) you may consider selling the car. If this is not an option, you might be able to move the car to an out-of-the way location – perhaps a family member's garage – so that your loved one will not have easy access to it.

If you cannot sell or hide the car – or if your loved one lives with an unimpaired driver who needs access to the car – you can make sure that the car simply doesn't start when your loved one puts the key in the ignition. There are several ways to temporarily disable a car. Two of the simplest are to disconnect the battery or to disconnect the coil wire (the wire that connects the distributor to the coil). Your mechanic can show you how to disconnect and reconnect the wire.

This way, the car won't start for an impaired driver, but an unimpaired driver can quickly reconnect the wire and use the car.

Of course, your loved one can still call a mechanic to have the car fixed. This is why it's a good idea to place a note under the hood asking mechanics to call a designated family member or caregiver before making repairs to the car. You can then explain the situation to the mechanic and keep your loved one – and other drivers and pedestrians – out of harm's way.

THE BOTTOM LINE

If you have a loved one who should no longer be on the road, don't be afraid to take the necessary steps to keep him or her from driving. Considering the safety, legal, and financial issues, this is one topic you and your family cannot afford to avoid.

ABOUT THE ACADEMY

This report reflects the opinion of the American Academy of Estate Planning Attorneys. It is based on our understanding of national trends and procedures, and is intended only as a simple overview of the basic estate planning issues. We recommend you do not base your own estate planning on the contents of this Academy Report alone. Review your estate planning goals with a qualified estate planning attorney.



The Academy is a national organization dedicated to promoting excellence in estate planning by providing its exclusive Membership of attorneys with up-to-date research on estate and tax planning, educational materials, and other important resources to empower them to provide superior estate planning services.

The Academy expects Members to have at least 36 hours of legal education each year specifically in estate, tax, probate and/or elder law subjects. To ensure this goal is met, the Academy provides over 40 hours of continuing legal education each year. The Academy has also been recognized as a consumer legal source by *Money Magazine*, *Consumer Reports Money Adviser* and Suze Orman in her book, *9 Steps to Financial Freedom*.
