

Offices in
Suffolk and
Virginia Beach, Virginia
Tel: 757-399-7506
Fax: 757-397-1267
Web: www.oasthook.com



MEMBER



Special needs require special lawyers.

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Editor
Sandra L. Smith,
Certified Elder Law Attorney

PLANNING TO REPLACE THE IRREPLACEABLE PARENT BY LETHA SGRITTA MCDOWELL

Elder law attorneys spend a good part of their time helping families navigate the long-term care system to secure care for a senior. Many families do not realize that elder law attorneys also assist in planning for the families of seniors. Most parents of children with disabilities are aware of the necessity to plan financially for such a child; however, they may not have considered living and care arrangements for their child, regardless of the child's age. Some families realize the need for such planning but do not want to face the parents' inevitable aging and death. Such a "head in the sand" approach can ultimately be traumatic for the child with disabilities.

Recently Oast & Hook has seen several cases in which an aging parent has a medical crisis that leaves this parent in need of long-term care. Prior to needing long-term care, however, the aging parent was the primary care provider for an adult child with disabilities. Once appropriate care is secured for the aging parent, particularly if the care is in a facility, then the crisis of the child's care begins. Oast & Hook has also seen situations in which the aging parent died without a care plan for the child.

In many of these cases, the child has been disabled since birth and has been living with the parent. The parent has always been the care provider, so the adult disabled child may not be receiving any type of public benefits or community services, and this child may not have been involved with any other care providers. When the parent is no longer available, either because of illness or death, the child is not only faced with losing the parent as a primary care provider, the child may also face the dilemma of leaving the only home the child has ever known. Such life changing transitions are difficult for any child, but for the child with disabilities these transitions can be traumatic. When the parent has a medical crisis or dies, some type of transition will be inevitable and necessary.

In some of these situations, families can make temporary arrangements for the adult child with disabilities to live temporarily with the child's other family members until they can find a more permanent solution. It is stressful for the individual with disabilities; this individual is now removed from both the care of the individual's beloved parent and also the individual's familiar environment. This individual is also placed into the chaos of someone else's life.

In the worst case situations, there are either no family members living in the local area, or none who are able to provide adequate care. Therefore, there is an immediate crisis for the child with disabilities for both the short-term and long-term. In order to avoid such a crisis, it is critical for the parent of a child with disabilities to devise a plan for that child's care in the event the parent can no longer be the caregiver.

There are several planning objectives that parents of children with disabilities should pursue. The first objective is to ensure that the child is receiving as many benefits and services as possible. Some available benefits, such as Medicaid waiver programs, have long waiting lists and people may be on the lists for years. There may be programs available in the community through the community services boards as well as local recreation centers. There may also be work programs available through organizations like The Endependence Center and the ARC. Many parents have followed their natural instincts to shield their child with disabilities. In many cases, however, if it is possible for the child to be involved in a sheltered work program or community activities, the child may become more independent than initially thought possible. If the child has a relatively high level of independence, then there may be more community alternatives and housing options available. The parent will also want to ensure that the child's health care benefits will remain intact at the parent's death.

Another planning objective involves assessing housing options in case the parent is no longer available to be the primary caregiver. If the child will be living with siblings or other family members, then in many cases it is a good idea for the child with disabilities to spend time with the potential caregiver's in the caregiver's home before a crisis occurs. This can make the eventual transition easier and more comfortable, and the person with disabilities is more likely to thrive in the new environment. The situation is more difficult if the child with disabilities will not be living with family members if the parent becomes ill or dies. Families should consider transitioning the child to the new environment (such as a group home) while the parent is still available. The parent can then monitor the transition to the new environment and ensure that the child is receiving the care that the parent desires. This also gives the parent the peace of mind that the child will not have to experience the disruption that can occur at the parent's illness or death.

Each family's situation is different; however, they all share one thing in common: the need to adequately plan to transition care for their family members with disabilities. Planning for the inevitable certainly provides the best result for everyone.

The attorneys at Oast & Hook can assist families with their estate, financial, insurance, long-term care, veterans' benefits, and special needs planning issues.

Letha Sgritta McDowell is a partner at Oast & Hook, P.C., and she practices in the areas of long-term care planning, estate planning, estate and trust administration, and business planning. Ms. McDowell is licensed to practice law in Virginia and North Carolina.

Ask Allie

O&H: Allie, we've heard that obesity in pets has become widespread. Please tell us about it.

Allie: Sure! The Association for Pet Obesity Prevention, which works within the veterinary community to combat pet obesity, conducted a survey last year and found that more than half of the cats and dogs in the United States are overweight or obese. Obesity is defined as being 30% above normal weight, and one-fifth of the pets surveyed meet that definition. Most pet families do not recognize this problem; the Association has a chart on its website that will give families an idea of their pet's status. The chart is a good starting point, but families should consult with their veterinarian to determine if the pet is overweight and if a medical condition is causing the condition. The veterinarian can then design the weight loss program, which usually involves diet and exercise. It's important that pets receive mental stimulation as well as exercise. Working with the veterinarian on the right program for the pet can help the pet live a long and healthy life. For more information, visit the Association for Pet Obesity Prevention's website at www.petobesityprevention.com/pet-weight-check. This is a good idea. Time for me to find my laser toy and get some exercise. See you next week!

Announcement

Oast & Hook attorney Sandy L. Smith will give a seminar on veterans benefits at 2:00 p.m., Friday, January 13th at Lighthouse Pointe, 933 Cedar Road, Chesapeake, Virginia 233202 The presentation will include information about veterans benefits and long-term care planning. For more information or to register, please phone Darcee Hale at 757-399-7506.

Distribution of This Newsletter

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled, and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Oast & Hook News*, then please e-mail us at mail@oasthook.com, telephone us at 757-399-7506, or fax us at 757-397-1267.

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