

ELDER LAW NEWS

Legal power for seniors.

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OAST & HOOK

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



Member, National Academy
of Elder Law Attorneys

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Editor
Sandra L. Smith
Attorney at Law



Oast & Hook Seminar New Law, New Opportunity



Oast & Hook will host a seminar titled, "Recent Developments In Long-Term Care Planning: New Law, New Opportunity" on Thursday, August 24, 2006, at the Chesapeake Conference Center, 900 Greenbrier Circle in Chesapeake. Registration starts at 8:30 a.m. The workshop begins at 9:00 a.m. and concludes at 12:30 p.m. The seminar will be presented by Oast & Hook attorneys Andrew Hook, Sandra Smith, Jennifer Rossetini, and Letha Sgritta. The seminar will explore the changes the Deficit Reduction Act of 2005 (DRA) and the Virginia implementing rules have made to Medicaid planning as well as the new opportunities that they provide to obtain assistance in the payment of long-term care while protecting assets.

Register on or before August 1st for an early registration fee of \$15. The registration fee after August 1st is \$30. A registration form is attached to the end of this newsletter.

TRANSMITTAL #84 UPDATE

Rarely will a story in the *Elder Law News* be out-of-date before it is even published. Yet, that's exactly what happened with last week's issue regarding Transmittal #84 and life estates. Just as Oast & Hook finished reviewing Transmittal #84, we received word that the new Medicaid life estate policy contained in Transmittal #84 has been changed. These changes will be reflected in Transmittal #85 to be issued soon.

The July 14th edition of the *Elder Law News* reported that the most significant non-DRA change to the Medicaid Manual pertains to life estates, otherwise known as life rights. Transmittal #84 provides that for a life estate obtained on or after February 8, 2006, the life rights would not be counted as a resource when the property serves as the individual's principal place of residence, but life rights would be counted as a resource when the property no longer serves

as the individual's principal place of residence. The July 14th issue of the *Elder Law News* detailed the reasonable efforts to sell real property as a method to deal with the effects of this new policy.

On July 12, 2006, the Virginia Department of Social Services issued Broadcast 3822 to all local directors, Medicaid staff, and Medicaid staff in the field. This Broadcast states that a life estate in real property is NOT counted as a resource to applicants or recipients except for persons in the Qualified Working Disabled Individuals (QDWI) covered group. However, funds used to purchase a life estate in another individual's home after February 8, 2006, must be evaluated as an uncompensated transfer unless the purchaser resides in the home for at least 12 consecutive months. If the purchaser resides in the home for less than 12 consecutive months, then the entire amount of the purchase will be considered a transfer for less than fair market value. This policy regarding the purchase of life estates in another's home corresponds with the provisions in the DRA. Transmittal #85 will include further guidance on implementation of this policy, and its provisions will be effective as of July 1, 2006.

The June 16, 2006, issue of the *Elder Law News* highlighted the new documentation requirements for citizenship and identity, and these requirements were included as Medicaid Manual changes in Transmittal #84. These requirements are extremely harsh for elderly or disabled applicants who do not have a passport, birth certificate, or driver's license. Broadcast 3822 clarifies these documentation requirements for citizenship and identity, pursuant to recent guidance from the Centers for Medicare and Medicaid Services (CMS). The new policy states that Medicaid applicants and recipients who declare that they are U.S. citizens and who are enrolled in Medicare or who receive Supplemental Security Income (SSI) have already met the DRA's citizenship and identity requirements. This includes individuals whose SSI has been terminated. Transmittal #85 will contain further guidance on implementation of this change. This is a major change from the DRA and the policies outlined in Transmittal #84, and this change will relieve most elderly and many disabled applicants from the harsh requirements of the DRA's documentation provisions.

The release of Broadcast 3822 underscores the ever-changing landscape of Medicaid and the need for solid planning. It is more important than ever that seniors, persons with disabilities, and their families consult with elder law attorneys to ensure that they plan properly for their long-term care needs. Oast & Hook is committed to keeping current with the changes in the law, and our elder law attorneys are ready to assist families with their planning needs.

Ask the Expert

Mark your calendars to listen to the "Ask the Expert" show on WTAR radio (850 AM) from 8:00 a.m. to 9:00 a.m. on Saturday, July 22nd. Oast & Hook attorney Andrew Hook and Kenneth Wren Jr. from Towne Investment Group will be the guest speakers.

Boomers! Redefining Life After 50

Oast & Hook is pleased to continue its sponsorship of a series on WHRO-TV entitled "Boomers! Redefining Life After 50." This week's episode is "Four Generations: A Family Affair." It will be aired at 4:30 p.m., Saturday, July 22nd.

Oast & Hook

Oast & Hook is an elder law firm. We represent older persons, disabled persons, their families, and their advocates. The practice of elder law includes estate planning, investment and insurance advice, estate and trust administration, powers of attorney, advance medical directives, titling of assets and designations of beneficiaries, guardianships, conservatorships, and public entitlements such as Medicaid, Medicare, Social Security, and SSI, disability planning, income tax planning and preparation, bill paying, account management and reporting, care management, and fiduciary services. We also handle litigation involving these issues, such as will contests and estate administration disputes. For more information about Oast & Hook, please visit our website at www.oasthook.com.

Special Needs Alliance

Oast & Hook is the Virginia member of the Special Needs Alliance, a nationwide network of disability attorneys. As members of this alliance, we assist personal injury attorneys in resolving their cases to enhance the judgments and awards of their disabled clients and to maintain the eligibility of these clients for SSI and Medicaid. We are experienced in protecting the public benefits of persons with special needs and in assisting with the management of their assets. For more information about the Special Needs Alliance, visit its website at www.specialneedsalliance.com.

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 *Elder Law News*, then please e-mail us at eln@oasthook.com, telephone us at 757-399-7506, or fax us at 757-397-1267.

Please visit us on the world wide web at:

www.oasthook.com

Our website contains information about Oast & Hook and an archive of our newsletters and other estate planning, estate administration, and elder law articles in searchable form at.

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OAST & HOOK

Presents:

Recent Developments in Long-term Care Planning: New Law, New Opportunity

Date: Thursday, August 24, 2006

Location: Chesapeake Conference Center
900 Greenbrier Circle
Chesapeake, Virginia 23320

Schedule: Registration: 8:30 a.m. to 9:00 a.m.
Workshop: 9:00 a.m. to 12:30 p.m.

Presenters: Andrew H. Hook, Jennifer Rossettini, Letha Sgritta and Sandra L. Smith

Tuition: Register on or before August 1, 2006, for an early registration fee of \$15.
The registration fee after August 1, 2006, is \$30.

Space is limited, so please register as soon as possible. Walk-in registrations will not be accepted.
No refunds after August 1, 2006.

Registration Form

Please complete this form and either fax it to Oast & Hook at 757-397-1267 or mail to Linda Gerber at Oast & Hook, P.C., at 295 Bendix Road, Suite 170, Virginia Beach, Virginia 23452-1294.

Name: _____

Company: _____

Address: _____

Telephone: _____ Email: _____

Payment Method:

Mail check payable to.

American Express Discover Master Card Visa

Card No: _____ Expires: _____

Cardholder Name: _____

Signature: _____

For more information, please telephone Linda Gerber, Vivian Lane or Jennifer Lantz at 757-399-7506.