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BABY BOOMER'S GUIDE TO NURSING HOME CARE

Many Baby Boomers are confronted with helping their elderly parents arrange and pay for nursing home care; however few Boomers know much about nursing homes. Where can they turn to quickly obtain unbiased and plain English information? The National Senior Citizens Law Center, (www.nslc.org) recently published *The Baby Boomer's Guide to Nursing Home Care* (the "Guide"). The authors, Eric M. Carlson and Katherine Bau Hsiao, are nationally recognized experts on nursing homes.

The Guide contains nine chapters covering the following subjects:

- Eldercare options including in home care, assisted living facilities, continuing care retirement communities and nursing homes;
- Choosing a nursing home;
- Paying for nursing home care including Medicare and Medicaid;
- Admission process and agreements;
- Moving In: transition and safeguarding resident property;
- Quality of care including care plans and no discrimination against Medicaid eligible residents;
- Health care decision making including health care directives;
- Eviction rules and bed hold policies; and
- Resolving problems.

Oast & Hook decided to put the Guide to three tests. The first test was the frequently asked question about whether a nursing home can discriminate against Medicaid eligible applicants or residents. The Guide correctly states that nursing homes have the discretion to admit or reject applicants. Medicaid reimbursements account for about 60% of total nursing home revenue, and 94% of nursing homes are certified to accept Medicaid applicants. The Medicaid rate is the lowest reimbursement rate, and, as the Guide points out, nursing homes may admit private payment residents before

Medicaid residents. The Guide also correctly states that, once admitted, all residents are entitled to the same quality of care and the same staff attention regardless of how their bills are paid.

The second test was to research a client question concerning the right of a son to visit his mother in a nursing home outside of normal visiting hours. The Guide correctly states that a resident's family member must generally be allowed to visit the resident at any time, assuming that the resident wishes to be visited by the family member at that time.

The third test is a question posed at a recent ALI-ABA elder law conference. May a nursing home discharge for non-payment a resident who has spent down the resident's funds and has a pending Medicaid application? The Guide does not have the answer, but the author, Eric Carlson, e-mailed Oast & Hook the answer. The federal government's State Medicaid Manual, in appendix PP, states: "A resident cannot be transferred for non-payment if he or she has submitted to a third party payor all the paperwork necessary for the bill to be paid. Non-payment would occur if a third party payor, including Medicare or Medicaid, denies the claim and the resident refused to pay for his or her stay."

The Guide correctly answered two of Oast & Hook's three test questions, and the Guide's author supplied the answer to the third question. Oast & Hook recommends the Guide to anyone with family members requiring nursing home care; however, the Guide can also be a useful reference for elder law attorneys, social workers, nursing home staff, and discharge planners.

At 191 pages, the Guide is relatively short, and it is written in plain English question-and-answer format with practical advice concerning frequently asked questions and problem areas. The price of the Guide is \$13.45, and it can be ordered at www.nslc.org/publications/manuals.

Ask the Expert

Mark your calendar to listen to the "Ask the Expert" show on WTAR radio (850 AM) from 5:00 p.m. to 6:00 p.m., Tuesday, December 12th. The guest speakers will be Oast & Hook attorney Andrew Hook and Bryan Mesh, the Executive Vice President of the Beth Sholom Home of Eastern Virginia.

Speakers

If you are interested in having an elder law attorney from Oast & Hook speak at an event, then please call Jennifer Lantz at 757-399-7506.

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.

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.

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