



## Practices & Industries

# Special Needs Planning

## Overview

For children and adults with special needs, seniors coping with the aging process or facing the possibility of long-term care, and individuals concerned about medical and end-of-life decision-making, maintaining personal independence and dignity and ensuring financial security are the highest planning goals

For many clients faced with these complex and sensitive personal situations, the legal technicalities of conservatorships, commitments, guardianships, special needs and OBRA 93 trusts, Social Security benefits, and Medicaid can be overwhelming. With profound knowledge and extensive experience in all aspects of special needs, disabilities planning and elder law, our attorneys can provide thoughtful and effective advice to help achieve the personal independence, dignity and financial security crucial to all individuals.

### Children and Adults With Special Needs and Their Families

Through the use of special needs trusts that are fully integrated into the family estate plan, parents and others can provide for a family member with special needs. Whether the special needs individual requires extensive or limited assistance, and if public assistance benefits are or may become necessary, our attorneys will design a plan that meets and achieves their planning goals.

### Special Needs Trust Administration and Investments

Our experienced in-house Trust department is available to work with existing investment advisers or to select new advisers to design and implement an investment strategy to meet the objectives of beneficiaries with special needs. Our lawyers are prepared to act as trustees or counsel to trustees. Moreover, the investment strategies for and administration of special needs trusts as well as guardianships and conservatorships require sensitivity to the circumstances of the beneficiaries, including not only their unique needs but also a thorough knowledge of public benefits programs. Our attorneys and trust administration professionals possess the skill, desire and understanding to assist beneficiaries and their fiduciaries in all aspects of trust administration.

### Individuals With Mental Health Issues

Among the most challenging disabilities that an individual or his or her family can face is having severe, chronic mental health issues. Our attorneys are experienced in providing appropriate estate planning in such circumstances and in advising and representing individuals and families in protective proceedings such as commitments, conservatorships, and related court and administrative proceedings.

### Individuals With Progressive Disorders

When an individual of any age has been seriously injured (as a result of an accident, medical malpractice or any other cause) and a settlement or judgment in the individual's favor becomes available, planning to protect the funds is essential. Under

federal and state laws, individuals can often place their assets in a self-settled special needs trust and qualify for Social Security benefits, Medicaid and certain other benefits. Our attorneys assist individuals, trial counsel and the courts in developing and drafting appropriate trusts and, if requested, assist with trust administration and probate court proceedings.

## **Individuals and Couples Facing Long-Term Health and Personal Care Needs**

Once of relatively little concern to any but the impoverished, Medicaid (or Title XIX) is now recognized as an important planning consideration for all aging individuals. Connecticut, Massachusetts, New York and New Jersey are among the most expensive states for skilled nursing care in the nation, with some facilities charging significantly more than \$10,000 per month. Although the financial costs of skilled care are staggering, the logistics of at-home care often make it an unrealistic alternative. Our attorneys can advise on appropriate Medicaid planning techniques (such as the transfer of assets and creation of income-only trusts) as well as the alternatives, including long-term care insurance. When requested, they also can assist in the preparation of Medicaid applications, with representation at fair hearings and appeals, and in asset protection litigation.

## **Individuals and Couples Facing Medical and End-of-Life Decision-Making**

As medical science pushes the frontiers of human life ever further, medical and end-of-life decision-making have become increasingly complex. While public debate rages over assisted dying and other issues, most individuals wish to remain in control of their own bodies for as long as possible and to provide clear direction to family, friends, physicians and others for when they are no longer able to do so. Our attorneys understand these concerns. They will assist in determining what instructions should be provided and in drafting state-specific documents that, to the greatest extent legally possible, ensure that our clients' wishes are respected and implemented.

## **Children and Adults Who Have Suffered Permanent Personal Injuries**

When an individual of any age has been seriously injured (as a result of an accident, medical malpractice or other cause) and a settlement or judgment in the individual's favor becomes available, planning to protect the settlement proceeds is essential. Under federal and state laws, individuals can often place their assets in a self-settled special needs trust and qualify for Social Security benefits, Medicaid and certain other benefits. Our attorneys assist individuals, trial counsel and the courts in developing and drafting appropriate trusts and, if requested, assist in trust administration and probate court proceedings.

## **Trial Counsel Whose Clients Have Received Compensation for Injuries**

It is important to focus on the planning needed to protect funds when an individual has been seriously injured and receives a significant settlement or judgment. Under federal and state laws, many injured individuals may place their assets in a self-settled special needs trust and qualify for Social Security benefits, Medicaid and certain other benefits. Our attorneys assist trial counsel and the courts by resolving liens, analyzing structured annuity payments, assessing future need for public assistance, and developing and drafting appropriate trusts. We also assist in trust accountings and other probate court proceedings, areas in which trial counsel often have limited experience. Our collegial, supportive role has led many leading trial counsel to rely on us for such assistance and advice.

## **Experience**

*No aspect of this advertisement has been approved by the highest court of any state. Prior results do not guarantee a similar outcome.*

Our experience includes working with:

- Children and adults with special needs and their families
- Individuals handling special needs trusts administration and investments

- Individuals with mental health issues
- Individuals with progressive disorders
- Individuals and couples facing long-term health and personal care needs
- Individuals and couples facing medical and end-of-life decision-making
- Children and adults who have suffered permanent personal injuries
- Trial counsel who need advice regarding liens and other pre- and post-settlement issues