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GUIDELINES FOR ESTATE PLANNING FOR PARENTS OF A DEVELOPMENTALLY DISABLED CHILD

This Guideline lists considerations we will want to discuss before you decide on a particular Estate Plan. Think about these questions before you meet with us. Bring this handout with you so we can be sure to discuss these considerations.

DISCUSSION WITH ATTORNEY/ESTATE PLANNER

1. What is the approximate size or amount of your Estate? In what form is the Estate - cash, savings, land, family business, etc? How much of the Estate will be left after the death of both of you? How much of the Estate do each of you want to make available for the care and treatment of the mentally or physically disabled child?
2. What other children are in your family and what are their needs - college, special services, etc.?
3. What is the age of each of you and other family members? Is the disabled child a minor or an adult?
4. For what Government benefits (Social Security, SSI, Medicaid, Medicare) is the disabled child eligible? (You should do your own research. It can be very costly to pay an attorney to research entitlements.) As you research these entitlements, find out how these benefits can be terminated or lost.
5. What are the disabled child's disabilities, both physical and mental? What appears to be the child's potential for self support in the future?
6. What are the present and future needs for special services for the disabled child, such as special education, vocational training, etc.? Will these services necessitate placement in a residential facility? If so, will this facility be public or private?

7. What is the general attitude of other family members toward the disabled child? What are your hopes and goals with respect to the disabled child?
8. Please bring to the initial conference the names, ages, birthdates, Social Security Numbers, addresses, phone numbers, and income of the parents, the mentally disabled child, and other children. Be prepared to discuss and bring a list of all assets (such as your home, land, car, bank accounts, stocks and bonds, retirement benefits, and other valuable personal possessions) and liabilities (such as Mortgages, loans, other debts) of the parents and of the disabled child.
9. You should also provide us with insurance policy information, including the policy number, name of company, face amount, type, ownership, and beneficiaries of each policy owned by or insuring the life of either parent.
10. The parents should also bring the following additional information in written form concerning the disabled child:
 - a. degree of disability, with copies of professional, diagnostic reports;
 - b. educational background and level of functioning;
 - c. other physical and/or mental disabilities;
 - d. personality and behavioral traits;
 - e. capabilities and limitations (e.g. ability to read, walk, talk, toilet, dress himself, take a bus, drive a car, make change, purchase items in a store);
 - f. interests (e.g., enjoyment of music, television, radio, bowling, movies, reading, athletics, camping, dancing, swimming, others);
 - g. work history and earnings;
 - h. assets (bank accounts, cash, bonds); Are these assets held in the disabled child's own name? Are any assets in a checking account that require two signatures? Is there more than one name on the Title to any asset?;
 - i. other financial provisions: Has anyone other than you provided for the disabled person through Will, insurance, or in any other way?; and
 - j. personal legal status: Has LEGAL GUARDIANSHIP and/or CONSERVATORSHIP of his person or Estate been established? Are there any plans to do so in the future?

OTHER GENERAL CONSIDERATIONS

1. It is always important that EACH PARENT have a Will. A Will can be used to divide and distribute your Estate as you wish. If you die without a Will, the state laws will determine how your Estate is divided and distributed. These laws do not take into consideration the special needs of your family, so this should be done by having a Will for each parent.
2. Whatever the Estate Plan, review it often, or whenever there are any important changes in the family situation or in the law.
3. There is no absolute rule to follow in deciding whether or not the disabled person should own property other than personal keepsakes. You should investigate the effect on eligibility criteria for governmental benefits and the payment for special services if the disabled person owns property.
4. Be sure your Estate Plan does not result in depriving the disabled child of governmental benefits, such as Social Security or SSI.

FUTURE PLANNING CHECKLIST

This Checklist is included to familiarize you with the major issues and questions that you should consider prior to meeting with us. The Checklist is a useful tool for us so we can be familiar with the issues with respect to which you are concerned.

I. GENERAL INFORMATION

YES NO

- _____ Do you have copies of your current Will?
- _____ Do you have the birthdates and current addresses of your children?
- _____ If divorced, do you have copies of the Divorce Decree and Property Settlement Agreement?
- _____ Are you certain your disabled child's current legal status (do you have copies of Guardianship Orders, etc.)?
- _____ Have you prepared a list of your tangible property (autos, furnishings, etc.) and their values?

_____ Do you have totals of your current savings and checking accounts?
Do you have the account numbers?

_____ Do you have deeds to all of your real property (your home, vacation home, rental property, land, etc.)?

_____ Do you have copies of your Stock and Bond Certificates?

_____ Do you have copies of your insurance policies?

_____ Do you have up-to-date information on any pension plans you have?

_____ Have you prepared a list of your existing liabilities (Mortgage, auto payments, other indebtedness)?

_____ Do you have a list of assets which are actually in the name of your disabled child?

_____ Do you have a list of the governmental benefits and assistance which your child currently receives?

_____ Does your child have a Social Security Number? If not, get one for him.

II. INFORMATION REGARDING YOUR WILL

YES NO

_____ Have you identified someone to serve as Personal Representative of your Estate? Have you discussed this role with the person?

_____ Have you determined what portions of your Estate are to be left to whom?

_____ Have you drafted a Letter of Intent regarding in what manner your disabled child is to be cared for after your death?

_____ Have you drafted a Letter of Last Instructions which outlines funeral arrangements, location of important documents, etc.?

III. INFORMATION PERTAINING TO YOUR DISABLED CHILD'S PERSONAL PROTECTION

YES NO

_____ If your child is a minor, have you considered provisions regarding guardianship after your child reaches age eighteen (18)?

_____ Have you selected a person to act as an advocate or advisor for your disabled child? Have you discussed it with the person selected?

_____ Have you selected alternates to serve for each of the persons mentioned above, in the event that they are unable to serve when the time comes?

_____ Have you discussed this with the alternates?

_____ Have you considered naming an advisor to the above named personal protectors?

_____ Have you discussed this with the proposed advisor?

_____ Have you considered your own need for the assets you intend to transfer into the Trust, your own age and current or future disabilities, and the advisability of creating an irrevocable as opposed to revocable trust?

IV. INFORMATION PERTAINING TO YOUR CHILD'S FINANCIAL PROTECTION

YES NO

_____ Have you determined whether to leave property directly to your child or to a third party?

_____ Have you identified an informal financial manager to handle assets on behalf of the child? Have you discussed this with the person?

_____ Have you selected an individual or financial institution to serve as Trustee of the disabled child's Trust? Have you discussed this with the proposed Trustee?

_____ Have you considered naming alternates to serve for those above,
in the event that they are unable to serve when the time comes?

_____ Have you discussed this with the alternates?

_____ Have you considered naming an advisor to the above named
financial protectors? Have you discussed this with this person?

V. INFORMATION PERTAINING TO FUTURE PLANNING DOCUMENTS

YES NO

_____ Have you determined a secure storage place for the originals of
the Will and related documents?

_____ Have you distributed a sufficient number of copies of all
important documents to the appropriate persons?

_____ Have you written out for the child's future protectors all
information regarding the child's characteristics, behaviors, likes
and dislikes, etc. so that the protectors will be knowledgeable
about him?