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OAST & HOOK'S SHRED DAY IS COMING!

One excellent way to help protect your personal information from falling into the wrong hands is to shred unneeded documents. Oast & Hook has partnered with Stealth Shredding to provide free document shredding from 9:00 a.m. to noon, Saturday, May 7th to all of Oast & Hook's clients and friends. The event will take place at Oast & Hook's Harbour View office, and all shredded paper will be recycled. Just show up with your old records, and Oast & Hook will gladly assist you. Come meet Oast & Hook's attorneys and staff, and enjoy free parking, hot coffee, and snacks.

Although this shredding service is free, Oast & Hook encourages donations to the 2011 Suffolk Rockin' Relay for Life that will take place on May 13th at the Bennett's Creek Park, 1000 Bennett's Creek Park Road, Suffolk, Virginia 23435. For more information or to make an online donation, please visit www.relayforlife.org.



NATIONAL HEALTHCARE DECISIONS DAY

National Healthcare Decisions Day is on April 16th. In Virginia, the Health Care Decisions Act provides the specifics of the Commonwealth's advance directives law. It is estimated, however, that only about 15% of all Virginians have executed an advance directive, and less than 50% of severely or terminally ill patients have an advance directive. One of the primary goals of National Healthcare Decisions Day is to encourage hospitals, nursing homes, assisted living facilities, continuing care retirement communities, and hospices to participate in a nationwide effort to provide clear and consistent information to the public about advance directives.

All adults in Virginia have the right to prepare an advance directive in order to put their wishes regarding medical care in writing. There are two components to the advance directive. The first component is the living will. This permits an individual to state what kind of life-prolonging treatment the individual wants or does not want if he or she is in the dying process, and the individual is unable to express his or her wishes. Life-prolonging treatment includes using machines, medicines, and other artificial means to help individuals breathe, eat, get fluids into their bodies, have a heartbeat, and otherwise stay alive when the body cannot do these things on its own. Medications used to keep an individual comfortable are not considered life-prolonging treatment. Life-prolonging treatment will not help an individual recover. Another way to look at the living will is that if an individual is in the dying process, then the individual does not want artificial means to prolong this process, but the individual might want pain-relieving medications to be administered, even if it accelerates the dying process.

The other component of the advance directive is often called a power of attorney for healthcare. This allows an individual to appoint an agent or agents to make medical decisions for the individual if the individual becomes incapable of making medical decisions. The document can specifically tell the agent what kind of care the individual does or does not want. For example, the document can give the agent the authority to work with a physician in order for the physician to enter a do not resuscitate order (DNR) on the individual's behalf, but the advance directive itself is not as a DNR order. The agent can only make medical decisions if the individual's physician and another physician or licensed clinical psychologist examine the individual and determine in writing that the individual cannot make medical decisions for himself or herself. As soon as the individual is capable of making medical decisions again, the decision-making authority of the agent ceases.

It is important for people to put their wishes in writing, because oral advance directives can be created only if an individual has a terminal condition and can tell his or her wishes directly to his or her physician. Unfortunately, many terminally ill individuals may no longer be competent to discuss their wishes with their physicians. Putting the wishes in writing reduces confusion about the patient's desires, and it also establishes clear lines of authority for decision-making. This is important for blended families in which there may be second spouses and adult children from prior marriages, and for younger couples where conflicts can arise between parents and spouses. Everyone 18 years of age or over should sign an advance directive; it is not just for the elderly.

Anyone 18 years of age or older can be named as an agent in an advance directive; the agent does not have to be a Virginia resident. An alternate agent should be named in case the primary agent is unavailable to serve. Advance directives must be witnessed by two individuals 18 years of age or older; the agents should not witness the document. Advance directives do not need to be notarized; however, the advance directives that Oast & Hook prepares for its clients are notarized in case these advance directives need to be used in other states. Although a Virginia advance directive is designed to be valid in any state, an individual who spends a considerable amount of time in another state should prepare an advance directive for the other state. Advance directives can also be registered with the U.S. Living Will Registry or Docubank.

Copies of an advance directive are valid. For this reason, Oast & Hook recommends that its clients keep their original advance directives in a secure place, and let their agents know where these advance medical directives are located. They should give copies of their advance directives to their primary care physicians and all specialists. They should also give copies to each agent, and discuss their wishes with their agents. They should keep a copy of their advance directives in the glove compartments of their vehicles and place one on the side of their refrigerators. It is also a good idea to take a copy of the advance directive when traveling. Oast & Hook provides its clients with wallet cards stating that the client has executed an advance directive, and listing the names and telephone numbers of the client's agents. The Oast & Hook advance directive also includes a privacy act waiver, also called a Health Insurance Portability and Accountability Act of 1996 (HIPAA) waiver, which permits the agent to talk immediately with the physicians or review medical records, even if the physicians have not declared the client incapable of making medical decisions. This is helpful for seniors when their children do not know if they need to act as the agent for their parents and the only way they can decide is to talk with the parent's physicians.

Oast & Hook is pleased to participate in this year's National Healthcare Decisions Day. Oast & Hook attorney Sandra Smith will participate in a program on Friday, April 16th at Westminster Canterbury on the Chesapeake Bay. Ms. Smith will be discussing surrogate decision making and other estate planning issues.

The attorneys at Oast & Hook assist their clients in the preparation of advance directives as part of their estate, financial, and long-term care planning process. Some useful websites are the U.S. Living Will Registry at www.uslivingwillregistry.com and National Healthcare Decisions Day at www.nationalhealthcaredecisionsday.org.

Ask Allie

O&H: Allie, we've heard about a great sanctuary for cats in California. Please tell us about it.

Allie: Sure! Lynea Lattanzio owns and operates The Cat House on the Kings, a sanctuary and adoption center located on 12 acres along the Kings River in Parlier, California, southeast of Fresno. In less than 20 years, Ms. Lattanzio has rescued more than 18,000 cats and 5,000 dogs, and she has spayed and neutered 40,000 animals. The cats roam free at the sanctuary in colonies; a 6-foot-high fence keeps the cats in and predators out. Some live by the river, some live in the garage. There are also three-level cottages on the property. Senior cats have their own housing, and kittens live in a kitten quarantine until their immune systems develop. There are two intensive care units for ailing cats. The sanctuary has a staff of 14 and about 40 volunteers who keep the cats fed, litter boxes scooped, and the sanctuary clean. Ms. Lattanzio also coordinates with the local SPCA and helps educate people on proper care for their cats. She is really a great friend to cats in her community! Time to enjoy the spring weather from the safety of my favorite window. See you next week!

Announcements

Oast & Hook will hold its quarterly Social Workers and Administrators Breakfast on Wednesday, May 4th, at the Virginia Beach Central Library, 4100 Virginia Beach Boulevard, Virginia Beach, Virginia 23452. The topic is "Powers of Attorney and Surrogate Decision Making." Registration begins at 9:00 a.m., and the presentation begins at 9:30 a.m. Questions will be answered from 11:00 a.m. to 11:30 a.m. The breakfast is designed to be an educational opportunity for area professionals who work with seniors, the disabled, and their families. Seats are limited, so please register early for this breakfast by phoning Jennie Dell at 757-967-9702 or e-mailing her at dell@oasthook.com.

Oast & Hook is pleased to announce that its blog has been selected as one of the LexisNexis Top 25 Estate, Probate, and Elder Law Blogs for 2011. The honored blogs contain a wealth of information for estate planning and elder law practitioners, with timely news items, practical information, expert analyses, tips, frequent postings, and helpful links to other sites. Voting for THE top blog has begun and will last several weeks. To vote for Oast & Hook's blog, please visit www.lexisnexus.com/community/estate-elderlaw/blogs/topblogs/archive/2011/03/31/the-lexisnexus-top-25-estate-planning-and-elder-law-blogs-of-2011.aspx.

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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 format.

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