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Member, National Academy  
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## EMPLOYERS AND ELDERCARE BENEFITS

Nearly two thirds of family caregivers are employed. Employers are realizing that employees who are also family caregivers are preoccupied and exhausted. A recent survey by MetLife Mature Market Institute revealed that U.S. businesses lose \$33.6 billion a year to absenteeism, employee turnover, and workday interruptions caused by care of aging family members. Many employers now understand that they benefit from higher employee productivity by supporting and educating their employee caregivers about public benefits (Medicaid, Medicare, and Social Security), asset protection, legal tools (such as designations of beneficiary, guardianships, advance medical directives, powers of attorneys, wills and trusts), tax issues concerning the elderly, management of assets and forms of ownership, fiduciary responsibilities when serving as an agent, guardian or trustee for a parent, bill paying and care management. One-quarter of employers surveyed by MetLife have added eldercare benefits to their compensation packages.

At AstraSeneca, for example, employees can receive six hours per year with a geriatric care expert who will provide family assessments, coordinate care with home health or facility providers. The company also provides a referral service, as well as regular meetings and seminars on topics such as Medicare Part D and Alzheimer's disease. IBM also provides discounts for parents of employees such as discounts on long-term care insurance, and as-needed ambulance services. Many employers already provide dependent care accounts that permit employees to set aside up to \$5,000 pre-tax for caregiving costs for children of employees; many of these accounts can now be used to cover caregiving expenses for parents of employees. Some employers allow employees to use their sick days to cope with a parent's needs. Mortgage lender Fannie Mae hired a full-time eldercare consultant in 1999. This consultant talks with hospital discharge planners, helps coordinate additional planning, and even provides grief counseling after a parent dies. A survey of the Fannie Mae employees found that 28% of the employees who sought help from the counselor would have had to leave the

company without the assistance. This would have cost Fannie Mae \$10,000 to \$15,000 per employee in hiring and training costs.

Employers can also provide benefits to their employees for the employees' own long-term care planning. Tax-qualified (TQ) long-term care insurance policies have been available since the the Health Insurance Portability and Accountability Act (HIPAA) was signed into law on August 21, 1996. This law also provides for tax deductions for long-term care insurance.

A TQ long-term care insurance policy is one that meets the following standards:

- Mandates activities of daily living;
- Mandates the loss of two activities of daily living and cognitive impairment as the only ways that policyholders qualify for benefits;
- Disallows cash value long-term care insurance;
- Mandates a 30 day free look period (e.g., the policyholder can return the policy within 30 days for a full refund); and
- Disallows claims payments for claims expecting to last less than 90 days.

HIPAA classified long-term care insurance as accident and health insurance. Therefore, 100% of the premium for TQ policies paid for employees, their spouses and dependents, and retirees and their spouses are deductible to a C corporation as a business expense. The employer's premium payment is not included as taxable income to the individual. There are no discrimination rules for employer provided long-term care insurance.

For self-employed individuals (including sole proprietors, partners, and shareholders with more than 2% of S corporation stock), the premium expense is 100% of the age-based limit. In addition to the business deduction, self-employed individuals may include the remaining percentage of eligible premiums as medical expenses on their personal federal income tax returns.

Long-term care insurance coverage can be an effective tool in employee recruitment and retention; however, long-term care insurance is complicated and requires expert advice to meet the insured's needs. The attorneys at Oast & Hook can assist small businesses in evaluating long-term care insurance proposals, and providing support for and advice to family caregivers. Oast & Hook can assist you with implementing a long-term care insurance program for your company and employees.

### **Announcement**

Oast & Hook attorney Andrew H. Hook will be a featured speaker at the ALI-ABA program entitled "Elder Law: Issues, Answers, and Opportunities," April 26 and 27, 2007, at the Millennium Knickerbocker in Chicago. The program brochure and registration form are available at <http://www.ali-aba.org/aliaba/cm061.htm>

### 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](http://www.oasthook.com).

Oast & Hook is a 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](http://www.specialneedsalliance.com).

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