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MEMBER



Special needs require special lawyers.

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PERSONAL CARE AGREEMENTS BY LISA JOHNSON

A recent *Wall Street Journal* article addressed an issue that is becoming a concern for more than 25% of the adult population in the U.S.: Providing voluntary care for elderly or sick family members and friends. This percentage will continue to increase as people live longer because of advances in medical care. The AARP and National Alliance on Caregiving estimate that, on average, family caregivers provide more than 20 hours of care per week over an average span of around 4.3 years.

Family members usually make the best caregivers, often assisting with personal care that the elderly or disabled may not want or feel comfortable receiving from strangers, such as bathing, dressing, and cleaning. Taking care of aging parents or family members, however, can become quite burdensome, forcing caregivers to balance caregiving responsibilities with their jobs and their own families. Some caregivers will have to modify their work schedules or even quit their jobs entirely in order to provide the necessary care for an aging parent. This can be a time of great strain for everyone involved.

An increasing number of families that find themselves in this situation are turning to a useful tool called a personal care agreement or personal service agreement. These agreements are formal caregiver contracts in which adult children or other relatives are hired to provide certain services to the parent for a specified amount of compensation. Services may include such tasks as cooking, cleaning, outdoor maintenance, running errands, transportation, companionship, and entertainment.

There are three requirements for the parent to pay a child for care. They are: (1) the agreement to provide care must be in writing, (2) the payment must be for care provided in the future, not in the past, and (3) the compensation for the care must be reasonable, which means it has to be no more than what

would be paid to a third party to provide the same care. A personal care agreement should include the following basic information:

1. When the care will commence,
2. What specific services will be provided by the caregiver,
3. How often and for how long will the caregiver provide the care,
4. How much and when will the caregiver be compensated,
5. How long will the agreement remain in effect, and
6. A statement that the terms of the agreement can be modified only by mutual agreement of the parties, in writing.

Many individuals use personal care agreements as an alternative to leaving uneven bequests to their heirs. The contracts help reward family members for the significant amount of time, effort, and money they often spend in providing care for an elderly or disabled relative. They can also help reduce the size of an individual's estate and may prevent conflicts between siblings and other family members. In order to prevent conflicts, personal care agreements should be discussed with other siblings or relatives ahead of time so that everyone is aware of the arrangement. The personal care agreement should specify exactly what services the caregiver is expected to provide, and local home-care agencies or geriatric care managers should be consulted to establish the fair market value of those services in ones area.

Families looking to enter into a personal service agreement need to be aware that some states require caregivers to be state-certified in-home care aides. An attorney who is familiar with elder law issues should be consulted to (1) discuss whether this type of agreement is appropriate under the circumstances, and (2) assist with the preparation of the agreement. Failure to consult with an attorney and have a sound, legal, written agreement prepared could lead to disastrous results in these situations.

The attorneys at Oast & Hook can assist clients with their estate, financial, insurance, long-term care, veterans benefits, and special needs planning issues.

Lisa Johnson is an elder law attorney with Oast & Hook. She concentrates her practice in the area of estate planning.

Ask Allie

O&H: Allie, do you have some tips for people living in cities who want to adopt pets, or for people moving to cities who already have pets?

Allie: Sure! A recent article in the *Daily Press* discusses the challenges facing animal lovers who want to have pets live with them in a city. Here are some tips for happy, healthy city pets. First, do your homework on animals and breeds using the internet, the library, or local animal shelters. Next, realistically assess your schedule and the time you will have available to care for a pet. This may help you decide whether to adopt an energetic animal who needs a lot of exercise, or a more mellow animal. Make sure that your landlord or co-op permits you to have pets, and if so, find out what is and is not

allowed before your adopt. If you are moving to a city with a pet who has lived in the suburbs or country, then take time to help your pet adjust to the new environment. Sirens, traffic, or construction could scare an animal who is not used to them. If your pet is troubled by its surroundings, then take time to reassure him. If you have difficulties with having a pet in the city, then ask for help; other dog owners at the dog run, owner groups online, or the agency from which you adopted the pet may be able to help. Time to go and find my mom for a round of laser tag. See you next week!

Announcement

Oast & Hook is proud to announce that it has partnered with TowneBank to offer a series of seminars for seniors and their families. Each seminar will cover issues facing our seniors such as planning for retirement, elder law, Medicare, and long-term care planning. Oast & Hook and TowneBank will present six seminars, and each seminar will begin at 10:00 a.m. and will end at noon. Below is the list of dates and locations. Seating is limited. If you have any questions or would like to register for any of these seminars, then please phone Carol Hernandez at 757-638-6797.

April 6, 2010

TowneBank, First Colonial Banking Center
984 First Colonial Road
Virginia Beach, Virginia 23454

April 20, 2010

TowneBank, Oyster Point Banking Center
1 Old Oyster Point Road
Newport News, Virginia 23602

April 14, 2010

TowneBank, Member Service Center
6001 Harbour View Boulevard
Suffolk, Virginia 23435

April 27, 2010

TowneBank, Great Bridge Community Hall
137 Mount Pleasant Road
Chesapeake, Virginia 23322

April 15, 2010

Harbor's Edge
1 Colley Avenue
Norfolk, Virginia 23510

April 28, 2010

TowneBank, New Town Banking Center
5216 Monticello Avenue
Williamsburg, Virginia 23188

Distribution of This Newsletter

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