
**SERIOUS AND NAGGING QUESTIONS
FACED BY PARENTS OF
CHILDREN WITH DISABILITIES**

- 1) Who will care for my disabled child when I am no longer able to do so?
- 2) Will my own medical needs and the catastrophic costs of long-term care deplete my assets so that little or nothing will be left for my disabled child?
- 3) Can my child maintain eligibility for SSI, Medicaid, governmental services, housing subsidies and other need-based public benefits?

The Law Offices of Donald D. Vanarelli has developed a significant expertise in the field of Elder Law, a legal specialty focusing on the special needs and legal problems of the elderly, the disabled and their families. A principal focus of our firm is estate planning for disabled children or adults, and their families.

PLANNING FOR THE DISABLED

Americans are living longer than they did in years past, including those with disabilities. According to one estimate, 480,000 adults with mental retardation are living with parents who are aged 60 or older. This figure does not include adult children with other disabilities and those who live separately, but still depend on their parents for vital support.

When these parents can no longer care for their children due to their own disability or death, the responsibility will fall on siblings, other family members, and the community. In many cases, expenses will increase dramatically when care and guidance provided by parents must instead be provided by a paid professional.

Planning by parents can make all the difference in the life of a child with a disability as well as that of his or her siblings who may be left with the responsibility for caregiving.

**THE CRITICAL COMPONENT:
A PLAN OF CARE**

For a family with a disabled child, estate planning usually involves providing for that child's needs without endangering eligibility for needs-based governmental benefits.

Often, parents make outright bequests to their children in equal shares, but this may be detrimental for a disabled child. An inheritance could disqualify an adult disabled child for governmental assistance. The same result may occur if the disabled child is the beneficiary of a life insurance policy or retirement plan, or if the child owns an account jointly with another.

A trust provides a much safer vehicle for providing funds to care for a disabled heir. The trust will protect assets from the claims of creditors and should, if properly drafted, allow the child to continue to qualify for the governmental assistance so vital to the child's continued well-being.

SUPPLEMENTAL NEEDS TRUSTS

Supplemental needs trusts (also known as "special needs" trusts) allow a disabled beneficiary to receive gifts, lawsuit settlements or other funds and yet not lose eligibility for certain government programs. Such trusts are drafted so that the funds will not be considered to belong to the beneficiary in determining her eligibility for public benefits. As their name implies, supplemental needs trusts are designed not to provide basic support, but instead to pay for comforts and luxuries that

could not be paid for by public assistance funds. These trusts typically pay for things like education, recreation, counseling, and medical attention beyond the simple necessities of life.

Very often, supplemental needs trusts are created by a parent or other family member for a disabled child (even though the child may be an adult by the time the trust is created or funded). Such trusts also may be set up in a will as a way for a family member to leave assets to a disabled relative. In addition, the disabled person can often create the trust him/herself. These "self-settled" trusts are frequently established by individuals who become disabled as the result of an accident or medical malpractice and later receive the proceeds of a personal injury award or settlement. Each public benefits program has restrictions that the supplemental needs trust must comply with in order not to jeopardize the beneficiary's continued eligibility for public benefits.

THE PARENTS' ESTATE PLAN

In order for a plan involving a Supplemental Needs Trust to work properly, the estate plan of the disabled child's parents often must be modified. Any inheritance intended for the benefit of the disabled child instead should be left to the trustee of the Supplemental Needs Trust. Parents also must inform family members who might wish to gift or leave assets to the disabled child at the time of the family members' deaths that they instead must direct all gifts and bequests for the child to the trust. Beneficiary designations on all life insurance policies, IRAs, retirement accounts, and the like must be changed so that the disabled child does not inherit the assets personally and that the proceeds are directed to the Supplemental Needs Trust.

FIRM PROFILE

The Law Firm of Donald D. Vanarelli is a unique law firm providing a broad range of legal services for the elderly, the disabled and their families.

CERTIFIED ELDER LAW ATTORNEY

Mr. Vanarelli is certified as an Elder Law Attorney. Elder Law is the legal practice of representing older or disabled persons and their representatives in financing long-term medical care, nursing home issues, qualifying for Medicare, Medicaid and other public benefits, estate planning, trust administration, probate, retirement benefit disputes and guardianships. Elder Law has been formally recognized by the NJ Supreme Court as a legal specialty through the American Bar Assn's accreditation program.

**FORMER SOCIAL SECURITY
CLAIMS REPRESENTATIVE**

Mr. Vanarelli is a former Social Security Claims Representative. He has years of experience adjudicating claims for Social Security, SSI, Medicare and Medicaid.

REGISTERED GUARDIAN

Mr. Vanarelli is certified as a Registered Guardian (RG) by the Nat'l Guardianship Foundation. An RG serves as a private fiduciary by practicing as an agent under a power of attorney or guardian. The RG certification has not been recognized by the New Jersey Supreme Court.

**CERTIFIED GUARDIAN AND COURT
EVALUATOR IN NEW YORK STATE**

Mr. Vanarelli is certified in New York State as a Guardian and Court Evaluator.

PRINCIPAL ATTORNEY



Donald D. Vanarelli has been a practicing attorney since 1983, admitted to practice law in New Jersey and New York. A graduate of Rutgers Law School, Don practices in areas of elder and disability law, estate planning and probate administration. Before becoming an attorney, Don worked for the Social Security Administration adjudicating claims for benefits under the Social Security, SSI, Medicare and Medicaid programs. Immediately after graduating law school, Don served as Law Clerk to Hon. Herbert S. Alterman, J.S.C., Superior Court, Passaic County. Don is board-certified as an Elder Law Attorney. He is also certified as a Registered Guardian, and practices as a professional fiduciary. He is approved as a mediator by the New Jersey Supreme Court. Don is a past Chairman of the Somerset County Elder Law Committee, and past Secretary of the New Jersey Chapter of the National Academy of Elder Law Attorneys. In addition, Don is a member of the New Jersey Bar's Elder Law Section, the Union County Elder Law Committee and the National Guardianship Association. Don is an accredited member of the NJ Association of Professional Mediators.

Don maintains offices at 242 St. Paul Street, Westfield, NJ 07090 Tel: (908) 232-7400. Don also meets with clients at other conference locations.

OUR COMMITMENT

- ◇ High Quality Legal Services
- ◇ Reasonable Rates
- ◇ Personal Attention to Each Client
- ◇ High Ethical Standards

STAFF MEMBERS

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*Careful
Planning
Makes
A
Difference*

FIRM MISSION

The Law Firm of Donald D. Vanarelli is devoted to helping seniors and the disabled find, get and pay for quality long term care, while preserving assets for family and others. We strive to provide elder law, estate planning and other legal planning services with the highest level of excellence in legal expertise, compassion and sensitivity. Through our publications and seminars, we educate other professionals and our client community about the legal needs of and resources available to seniors, the disabled and their families.

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*Other Conference Locations
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**LAW OFFICES OF
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*Estate Planning
for
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