

SPECIAL NEEDS PLANNING

If you are a parent who has a child with special needs, it is important to know your options when it comes to managing the medical and financial well-being of your child. Most providers of services, including physicians, dentists, and school personnel, do not question a parent's authority when the parent is in charge of his or her minor child and the parent is making decisions, recommendations, and participating in all of the areas where a child needs to be represented. Until a child reaches the age of 18, parents have the legal authority to make decisions (medical, financial, etc.) for the child. However, once your child turns 18, your legal relationship changes. In Texas, the minute your child turns 18, he or she is considered an "adult," presumed to be "competent," and therefore responsible for making his or her own decisions. *The minute your child turns 18, your parental legal authority ceases.*

At this point, one option worth exploring is becoming your child's legal *guardian* so that you can continue to make the important medical and financial decisions on behalf of your child. With a Special Needs individual who is considered medically incapacitated or disabled, a **guardianship** is a crucial legal tool that allows you to continue caring for, and making decisions for, your adult child. There are two types of guardianships: 1) guardian of the person; and 2) guardian of the estate. A guardian of the *person* is in charge of the adult child's care and custody. A guardian of the *estate* is in charge of the child's property and finances. Because a guardianship is a court-supervised proceeding, there are specific rules regarding all areas of guardianship. This is why it is so important that you take the time to speak with an Estate Planning or Elder Law attorney who is an expert in this area of the law.

Parents of children who have been diagnosed with disabilities or special needs are often confronted with unique and unfamiliar issues that result in many questions. One question we hear regularly is: **How do I plan for my child's future after I am gone?**

Estate Planning is essential for parents with special needs children - whether those children are minors or adults. The need for such Estate Planning is important to secure the future of the child when the parent dies. If the parent of a special needs child does not plan properly, assets may go directly to the child, leaving him or her in jeopardy of losing public and other benefits. A Special Needs Trust, for instance, allows parents to leave funds to the child in a specially-drafted trust for the child's benefit. This will ensure that the funds are properly managed for the child's lifetime. And provided that the trust is properly drafted and administered, the trust funds will not be countable, which helps to preserve your child's eligibility for public benefits such as SSI and Medicaid.

This document was developed by HAIMAN HOGUE, PLLC, a Christ-based law firm where we believe our integrity is all we have and that none of our clients come to us by coincidence.

Contact is: (469)893-5337 or info@haimanhogue.com.



Attorneys & Counselors at Law
Faithfully Serving God & Our Clients