

Limited Conservatorships and Special Needs Trusts

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Benefits

➤ Peace of Mind

➤ Security

➤ Protection

➤ Costs



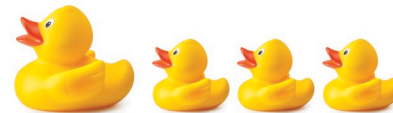
Limited Conservatorships and Special Needs Trusts

- ☞ What is a Conservatorship?
- ☞ What is a Limited Conservatorship?
 - ☞ When is a Limited Conservatorship needed?
 - ☞ Why is a Limited Conservatorship needed?
- ☞ Other Types of Conservatorships
- ☞ Alternatives to Conservatorships
- ☞ What is a Special Needs Trust?
- ☞ Types of Special Needs Trusts?



What is a Conservatorship?

- A court proceeding that is meant to assist individuals with their personal or financial needs.
- Best interest of the conservatee.
- Least restrictive means.



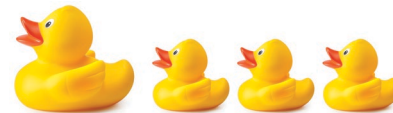
What is a Conservatorship?

➤ Conservator:

- The person who assists the individual who is in need of a conservatorship.

➤ Conservatee:

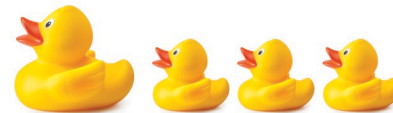
- The person who requires assistance in his/her personal or financial needs.



What is a Conservatorship?

➤ Conservator of the Person

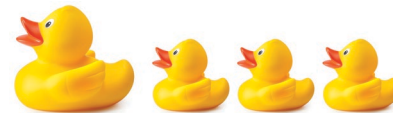
- Manages and monitors personal needs
 - Living situation
 - Health Care
 - Meals
 - Clothing
 - Personal Care
 - Housekeeping
 - Transportation
 - Recreation



What is a Conservatorship?

➤ Conservator of the Estate

- Manages and monitors finances
 - Collect income
 - Devise budget
 - Pay bills
 - Invest
 - Enter into contracts
- Record Keeping
- Inventory and Appraisal
- Bond
- Accounting



What is a Conservatorship?

➤ Conservatee's Rights

- Receive and control salary
- Make or change a will
- Marry
- Receive personal mail
- Receive visits from family and friends
- Be represented by a lawyer



What is a Conservatorship?

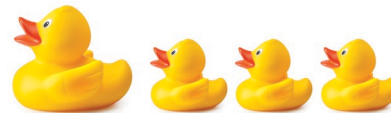
➤ Conservatee's Rights

- Ask to change conservator
- Ask to end conservatorship
- Vote
- Control personal spending money
- Make own medical decisions
- Enter into business transactions



Establishing a Conservatorship

- Qualifying to serve as conservator
- Filing the petition and accompanying documents
- Notice
- Court Investigator
- Regional Center report (limited conservatorship)



Establishing a Conservatorship

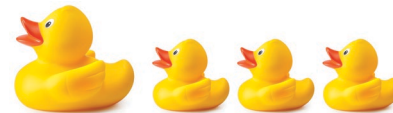
- Declaration of Capacity
- Appearing at hearing
- Appointment
- Bond
- Order and Letters



Establishing a Conservatorship

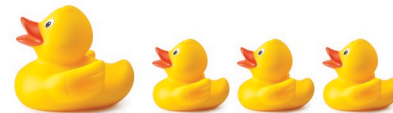
➤ What can't the conservator do?

- Gift property
- Borrow funds
- Compensation
- Charge interest on loans
- Commingle assets



What is a Limited Conservatorship?

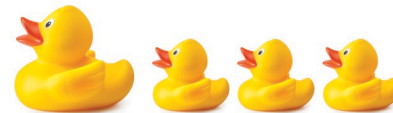
- A limited conservatorship may be set up for adults with developmental disabilities who cannot fully care for themselves or their property.
- Goal is to maximize independence and self-reliance.
- Powers must be specifically ordered.
- Report from Regional Center.



What is a Limited Conservatorship?

➤ Developmental Disabilities:

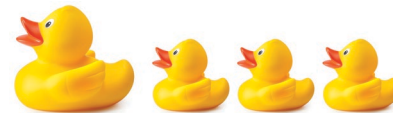
- A disability that originates before the age of 18, is expected to continue indefinitely, and constitutes a substantial handicap.
- Examples include:
 - Autism Spectrum Disorder
 - Intellectual Disability
 - Epilepsy
 - Cerebral Palsy



What is a Limited Conservatorship?

➤ Limited Conservator of the Person

- Manages and maintains personal needs:
 - Deciding residence
 - Access to confidential records
 - Consent to medical treatment
 - Assist in education decisions
 - Restrict right to make contracts
 - Marriage
 - Control social and sexual contacts



What is a Limited Conservatorship?

➤ Limited Conservator of the Estate

- Managing and maintaining finances:
 - Collect income
 - Pay bills
 - Invest
 - Locate and take control of assets
- Inventory and Appraisal
- Bond
- Accounting



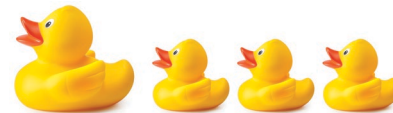
When is a Limited Conservatorship needed?

- When the child reaches the age of majority or 18.
- The child is unable to provide for his/her personal needs.
- The child is unable to provide for his/her financial needs.



Why is a Limited Conservatorship needed?

- To maintain behavioral services.
- To monitor and manage the child's finances.
- To assist in medical and education decisions.
- To facilitate and ensure the child receives maximum self-reliance and independence.



Ending a Limited Conservatorship

- The limited conservator dies.
- The limited conservatee dies.
- A general conservator is appointed.
- A judge ends the limited conservatorship.



Other Types of Conservatorships

➤ General Conservatorships

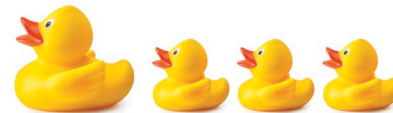
- A general conservatorship is established for adults or younger people who have been deemed incapacitated and who cannot manage their own finances or care for themselves.
- General powers are provided unlike Limited Conservatorships.



Other Types of Conservatorships

➤ General Conservatorships

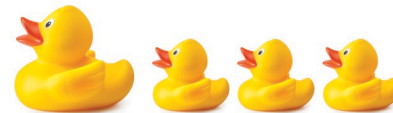
- Conservator of the Person:
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Other Types of Conservatorships

➤ General Conservatorships

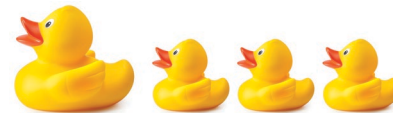
- Conservator of the Estate:
 - Collecting income
 - Paying bills
 - Investing
- Inventory and Appraisal
- Bond
- Accounting



Other Types of Conservatorships

➤ Temporary Conservatorships

- A Temporary Conservatorship is established in order to meet conservatee's immediate needs.
 - Temporary conservator of the Person
 - Temporary conservator of the Estate
- A permanent conservatorship is still required.



Other Types of Conservatorships

➤ Lanterman-Petris-Short (“LPS”) Conservatorships

- LPS Conservatorships are established for the following conservatees:
 - Gravely disabled
 - In need of treatment but are unwilling or incapable of accepting it voluntarily
 - Are recommended for conservatorship by the professional in charge of LPS evaluation or treatment facility



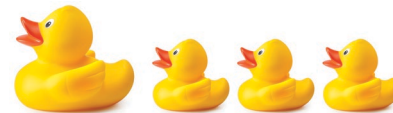
Alternatives to Conservatorships

- Power of Attorney for Financial Matters
- Power of Attorney for Health Care
- Living Trust
- Assignment of Education Decision Making Authority
- Representative Payeeship



What is a Special Needs Trust?

- A Special Needs Trust allows for a disabled beneficiary to continue receiving his/her government benefits while also benefiting from the funds held in the trust.
- Established to maintain disabled beneficiaries' specific needs, lifestyles and/or future in the event the parent or guardian passes away.



What is a Special Needs Trust?

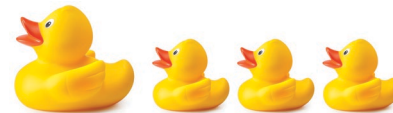
- Take some time to decide on your trustee.
 - An individual you trust.
 - An individual who knows and understands the beneficiary.
 - An individual who cares about the beneficiary.
 - Trust protector?



What is a Special Needs Trust?

➤ Advantages

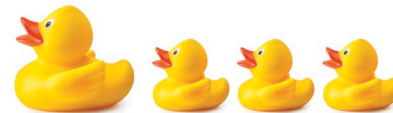
- Preserves the eligibility of the disabled beneficiary for “needs-based” government benefits, while simultaneously allowing for the beneficiary to benefit from trust distributions to supplement public benefits and address his/her special needs.
- Can be used to receive inheritance funds, gifts, or proceeds from a settlement on behalf of the disabled person, in order to avoid disqualifying from government benefits.
- Assets held in the Trust cannot be reached by creditors.



What is a Special Needs Trust?

➤ Qualifications:

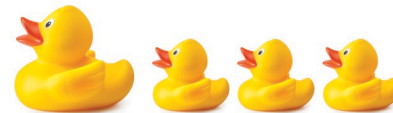
- Person has a developmental disability
- Person is receiving or is eligible for government benefits
 - Social Security Income (“SSI”)
 - Medi-Cal
 - In-Home Supportive Services (“IHSS”)
- Third party wants to make a provision for the disabled person (Third Party Special Needs Trust)



What is a Special Needs Trust?

➤ Generally used to pay for:

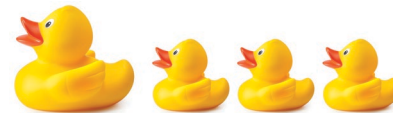
- Personal care
- Vacations
- Home furnishings
- Out-of-pocket medical/dental expenses
- Education
- Recreation
- Vehicle
- Physical rehabilitation



Types of Special Needs Trusts

➤ First Party Special Needs Trusts (Self-Settled Trusts)

- Trust is funded by beneficiary's assets
- Assets may be acquired by:
 - Personal injury award
 - Retirement plan
 - insurance policy
 - Inheritance
- Irrevocable



Types of Special Needs Trusts

➤ Third Party Special Needs Trusts

- Trust is funded by someone other than the beneficiary
 - Usually by a family member or close friend
- Assets may be acquired by:
 - Inheritance left to Special Needs Trust
 - Life insurance left to Special Needs Trust
 - Gifts made to Special Needs Trust
- Irrevocable or revocable



Thank You!!

➤ Questions?

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