



Planning For the Care of Loved Ones with Special Needs



Why Doesn't Everyone
Have Proper Planning?

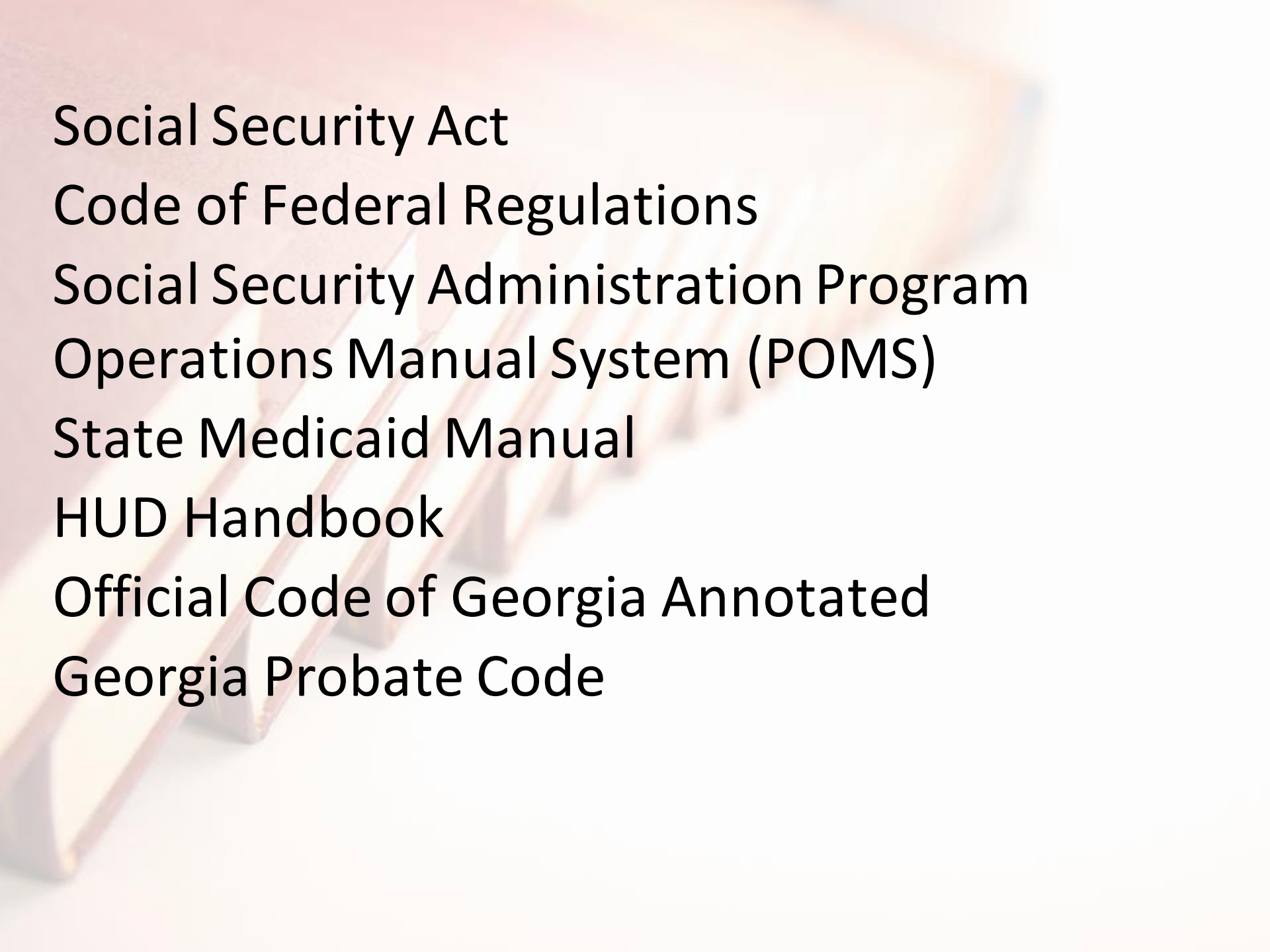






Procrastination
is the thief of time.





Social Security Act

Code of Federal Regulations

Social Security Administration Program

Operations Manual System (POMS)

State Medicaid Manual

HUD Handbook

Official Code of Georgia Annotated

Georgia Probate Code

Agenda

- Guardianship
- Powers of Attorney
- Supplemental Needs Trusts
- Questions and answers

The image features two hands, one on the left and one on the right, holding a white banner. The hands are positioned as if they are supporting the banner from below. The banner is a horizontal strip that spans across the middle of the image. The background is a solid, light blue color. The word "GUARDIANSHIP" is written in a bold, blue, sans-serif font on the banner.

GUARDIANSHIP

What is Guardianship?

A photograph of a judge with a white beard and hair, wearing a black judicial robe. He is sitting at a wooden desk, leaning forward with his right hand holding a wooden gavel. To his left is a brass scale of justice. In the background, there are two flags: the United States flag and the South Korean flag. The judge has a serious expression and is looking directly at the camera.

The court may appoint a guardian for an adult only if the court finds the adult lacks sufficient capacity to make or communicate significant responsible decisions concerning his or her health or safety. O.C.G.A. § 29-4-1(a)



Who Can Serve as
Guardian?

Who Can't Serve?

(b) No individual may be appointed as guardian of an adult who:

(1) Is a minor, a ward, or a protected person;

(2) Has a conflict of interest with the adult unless the court determines that the conflict of interest is insubstantial or that the appointment would be in the adult's best interest; or



Order of Preference

(1) An individual nominated by the proposed ward;

(2) Spouse or an individual nominated by the adult's spouse

(3) An adult child of the proposed ward

(4) A parent or an individual nominated by a parent

(5) A guardian appointed during minority

(6) A guardian previously appointed



Procedure

1. Petition - signed by two petitioners or doctor's affidavit
2. Initial Finding - probable cause
3. Evaluation - *physician, psychologist or licensed clinical social worker*
4. Judicial Review of Evaluation and Pleadings
5. Hearing - *clear and convincing evidence*
6. Court selects individual who will be in the best interests of the ward

When Do I Need Guardianship?

1. Poses a danger to self or others
2. Need to make medical decisions
3. Need to prevent marriage

Rights Removed by Guardianship

(a) Unless the court's order specifies that one or more of the following powers are to be retained by the ward, the appointment of a guardian shall remove from the ward the power to:

(1) Contract marriage;

(2) Make, modify, or terminate other contracts;

(3) Consent to medical treatment;

(4) Establish a residence or dwelling place;



What's a Conservator?

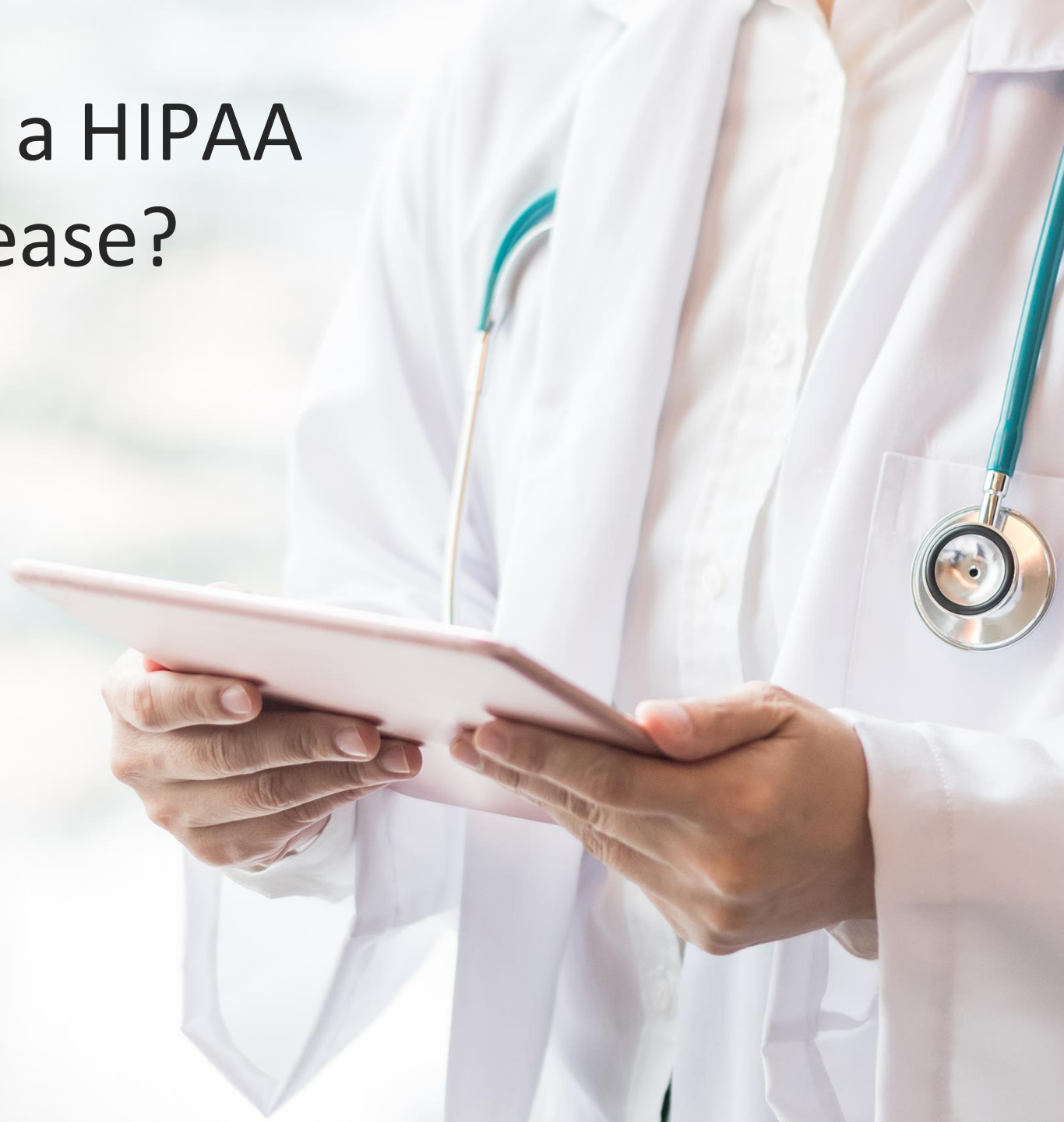


What's a Power of
Attorney?

What's an Advance Directive for Healthcare?



What's a HIPAA Release?





Why special planning?

What Benefits Are Available to Special Needs Loved Ones?

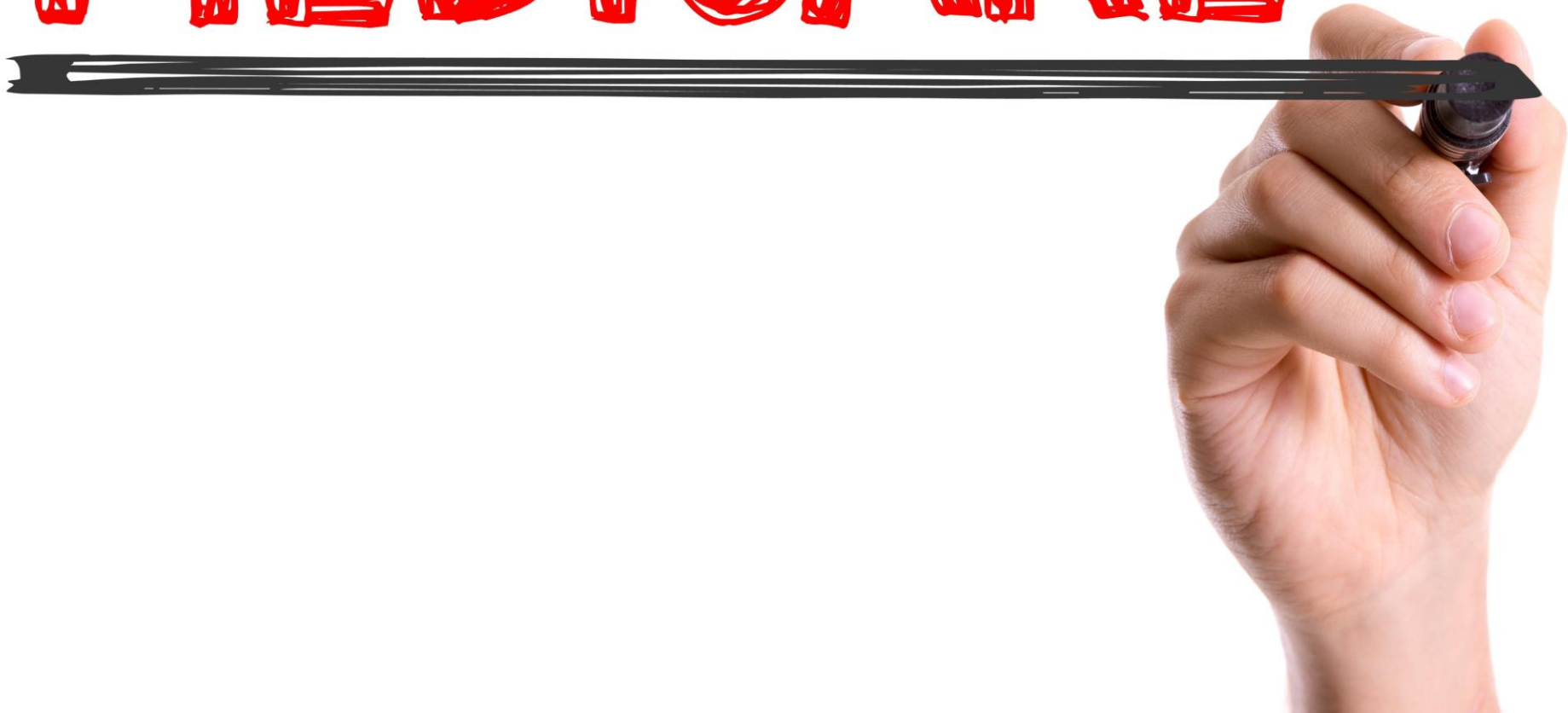
- Entitlement Programs
- Means Tested Programs

Social Security Disability Form

<input type="checkbox"/> (Sponsor's SSN)	<input type="checkbox"/> (SSN or ID)	<input type="checkbox"/> (SSN)	<input type="checkbox"/> (ID)	OTHER	1a.	I.D. NU	
NAME (Last Name, First Name, Middle Initial)	3.	MM	DD	YY	SEX	4.	NAME
ADDRESS (No., Street)	6.	M					
STAT							



MEDICARE



ent Programs Don't Require Special P



Means Tested Programs





MEDICAID

A pair of gold-rimmed glasses is positioned at the top of the page, resting on a document. The document features a green and blue area chart on the left and a blue and yellow bar chart on the right. A silver and black pen is visible in the bottom left corner. The main text is printed in a large, bold, black serif font, slanted upwards from left to right.

Supplemental Security Income
SSI

Estate Planning for Special Needs



3 Basic Options





Disinherit



Leave to Siblings







Special Needs Trusts

Special Needs Trusts



Special Needs Trusts

Holds inheritance or litigation proceeds



Created By

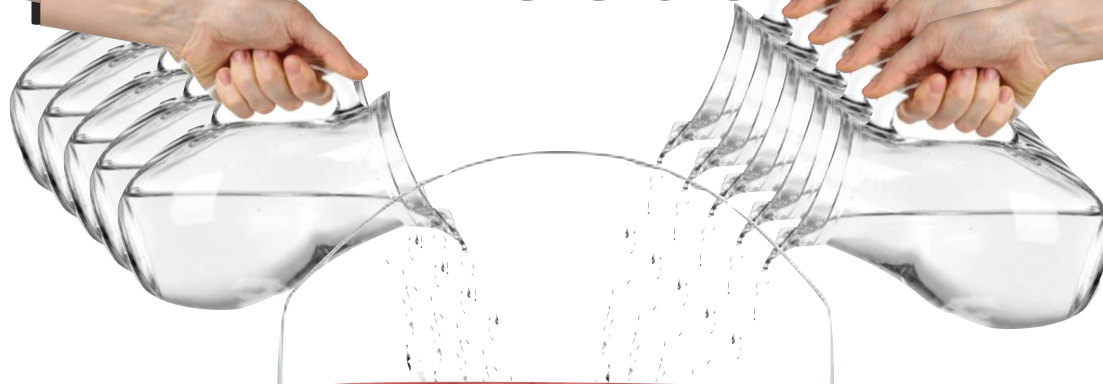


Special Needs Trusts



MEDICAID PAYBACK PROVISION

Special Needs Trust



Pooled
First
Party
Trust
(d4(c))

Social Needs Trusts



Special Needs Trusts



Third Party
Supplemental
Needs Trust

Stand Alone
Testamentary
Living Trust



Special Needs Trusts



Revocable or Irrevocable

Estate Tax Planning Opportunity

ACHIEVING A BETTER LIFE EXPERIENCE



ABLE ACT

HEALTH QUALIFICATIONS

Onset of disability prior to age 26
and already receiving SSI/SSDI

AUTOMATICALLY ELIGIBLE



ABLE ACT

HEALTH QUALIFICATIONS

OVER 26?

Must prove onset of disability prior to age 26



ABLE ACT

HEALTH QUALIFICATIONS

Proving Onset of Disability Before 26
Requires a Doctor Certification*

** Individual Programs Establish Certification Qualifications*



ABLE ACT

HEALTH QUALIFICATIONS

"Self-certification" simply requires an individual to agree to the following statements during enrollment:

- The individual has a written, signed diagnosis from a licensed physician (*note*: individuals do not have to provide us with a copy of the diagnosis during enrollment, but a copy of the diagnosis must be available upon request); *and*
- The individual is either:
 - (1) blind, within the meaning of the Social Security Act, or
 - (2) has a medically determinable physical or mental impairment that results in "marked and severe functional limitations"

Examples of qualifying conditions that result in "marked and severe functional limitations" can be found in the Social Security Administration's disability Blue Book. See Part A for adults and Part B for children. A condition will also qualify if it is equal in severity to one of the conditions found in the Blue Book.

ABLE ACT

(ACHIEVING A BETTER LIFE EXPERIENCE)

Annual Contribution Limit	\$15,000
Max Account Balance (SSI)	\$100,000
Max Account Balance (Medicaid)	\$462,000

TAX DEFERRED



ABLE ACT

(ACHIEVING A BETTER LIFE EXPERIENCE)

Qualified Disability Expenses

Education

Housing

Transportation

Employment Support

Health and Wellness

MEDICAID PAYBACK

Georgia STABLE Accounts

<https://www.georgiastable.com/>

Able Act vs. SNT

- AA Account Limited to \$100k for SSI purposes
- AA Account Requires Medicaid Payback
- AA Account is limited to receiving \$15,000 / year (2018)



Comprehensive Estate Planning



- Supplemental Needs Trust
- Living Trust with provisions for other children / beneficiaries
- Pour-Over Will
- Power of Attorney
- Advance Directive for Health Care
- HIPAA Authorization
- Standby Guardianship



**DO OR DO NOT.
THERE IS NO TRY!**

Questions?



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