SPEAKER NOTES

Introducing Full Circle Fiduciary

Summarized by Thomas T. Thomas

Those of us preoccupied with worry about the future for our loved ones need to know as much as possible about the services out there. The speaker at our September 23 informational meeting, **Jennifer Winship, LCSW, CLPF,** is the founder of Full Circle Fiduciary, which offers comprehensive Bay Area trust administration services. These include fiduciary services, trustees and special needs trusts, conservatorship, insurance, and care navigation. They also solve complicated medical, disability, housing, and special needs problems.

Winship has a background in social work and is a professional fiduciary. She has worked in mental health case management and has experience in crisis intervention and in navigating mental health resources and public benefits, patient's rights laws, community resources, conservatorships and guardianships, and housing and placement resources. Her practice focuses on the beneficiary and their quality of life.

Because the issue is so important to NAMI members, her presentation mainly covered special needs trusts (SNTs), which is a legal arrangement that holds money and assets for a person with a disability so that they can get extra financial support without losing public benefits like Medicaid or Supplemental Security Income (SSI).

A trust is a legal arrangement in which a person or agency holds and manages assets. The trust document explains the trustee's authority, how the trust is to benefit the beneficiary, and how and when the trust will terminate.

A trustee is a person or organization that holds legal title to assets in a trust and manages them for the benefit of the trust's beneficiaries.

A professional fiduciary is a certified professional, regulated by the state, who manages the financial, legal, and personal affairs of individuals who often can no longer manage their own. Professional fiduciaries are generally licensed and bonded. A professional fiduciary often serves as a trustee.

In the planning stage of creating an SNT, here are some issues to consider:

- This is a complicated type of trust, and you want to hire a lawyer to write it.
- Fiduciaries are not lawyers. You should consult with a lawyer—or two.
- Hire a lawyer who knows and understands SNTs.
- The trust you write is the doctrine the fiduciary must follow; so make sure it clearly says what you intend and checks all the legal boxes.
- Do **not** use AI. You cannot afford for the trust to be done incorrectly. If you do it incorrectly, it is expensive and time consuming for your beneficiary to correct later.

An SNT can be named any number of things and accomplish your goal of passing your estate, funds, properties, and resources to your disabled loved one while preserving their public benefits, insurance, and resources. Decide on a name for the trust that will sit well with the beneficiary. Many beneficiaries might be opposed to the name “special needs”; so talk with your lawyer and get creative about the name but be very intentional about the contents.

How can a fiduciary be helpful as the trustee for a special needs trust? SNTs have a lot of rules, and the beneficiary has a disability. So the fiduciary trustee can:

- Help the beneficiary, manage the trust, and the pay the bills from the trust.
- Step in as a neutral third-party, knowing all the resources and rules.
- Help preserve the family relationship by not burdening other family members with becoming the trustee of the SNT.
- Help with accessing services, consulting with professionals, and accessing resources.
- Have a difficult conversation with your loved one.
- Help you decide when and if you want to disclose to the beneficiary that you’ve created an SNT.

You can create and fund an SNT anytime. The trustee can start to manage the SNT for you anytime; so you can remove the financial relationship between you and your loved one. An SNT and a trustee can give you peace of mind.

Some of the rules of SNTs include:

- The SNT is a third-party entity and is not considered an asset of the beneficiary.
- The trust must only be used for the sole benefit of the beneficiary.
- The SNT can hold cash, investments, and real property (and cover related expenses) as well as businesses or rental property.
- There are a lot of methods by which the beneficiary can access and use the funds. For example, bills can be paid directly to the vendor on behalf of the beneficiary, or funds can be loaded on an internet or a prepaid debit card (like the True Link card).
- Some items purchased by the trust on behalf of the client can become the individual’s asset (like a car—with considerations for trust liability).
- The trustee is the decisionmaker for the trust and has a legal duty to serve the best interests of the client.
- The trustee is responsible for following the trust rules regarding investments and disbursement as well as taxes related to the SNT.

Some interesting facts about SNTs:

- SNTs don’t have dollar limits, and funds are invested.
- SNTs don’t require any proof of disability.
- SNTs have flexibility with name and labels so you can be creative naming them.
- SNTs allow you to have a lot of influence in the planning process and include your wishes during estate planting.
- SNTs are often regarded as “difficult” for the beneficiary to access but that is not accurate. A smart fiduciary knowledgeable about the rules can help the beneficiary access everything they need within the regulations.
- SNT’s prevent your loved one from being targeted as the result of undue influence.
- SNTs are permitted by Social Security for people collecting SSI.
- SNTs preserve eligibility for MediCal (healthcare) and In-Home Supportive Services (IHSS).

• SNTs preserve subsidized housing eligibility.

For more information about SNTs and how a professional fiduciary can work with you and your loved one, contact Jennifer Winship at https://fullcirclefiduciary.com.