

Planning for Dependent Children

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Estate Planning for the Average Wealth Client

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PLANNING FOR DEPENDENT CHILDREN

INTERVIEW PROCESS

Interviewing the clients who have a child who may have special needs takes more consideration and thoughtfulness for the planner. It is important to have a good working knowledge on a variety of moral, legal and social considerations before you jump into drafting the plan. Outlined in this paper is a discussion on these considerations and suggestions on how to assist the client in planning for their death when a dependent adult child is in the mix.

Getting to Know the Clients – Asking Lots of Questions

In any planning interview it is imperative that you use an intake form during the client interview. Furthermore, an intake form will help you structure your meeting and ensure that you don't forget to ask a question and will provide the clients with an opportunity to prepare for the meeting. I always provide it to the clients prior to the meeting.

My preference is to begin to ask the clients questions around their family dynamics. How many children do they have? Do the children like each other? Do they have children? Do you like their spouses? Do they make good decisions? You will be able to glean from the clients' family dynamics which may help in shaping the decisions the client needs to make. Never jump to conclusions rather ask probing and open ended questions about their family. Be aware of body language, interaction between the clients, pauses in the conversation, material which they may have brought along, as you may be hitting on a nerve or a concern that you need to discuss. Being friendly, probing and engaged in their family dynamics will assist you in making suggestions and building a plan that suits the clients' particular concerns. Every family with a child who has either failed to launch, has a disability, is not as "successful" as the other children, has yet to launch, whatever the dynamic, demands that certain considerations be addressed in the meeting and perhaps when drafting their plan.

It is not uncommon for the clients to have one child who is a concern for them. In each situation you need to determine the scope of the concern: Does the child have a profound disability? Is it physical or mental or both? Does the child just not 'perform' to the same level as the other children? Is the disability something not well understood yet? Is the child unable to pursue their dreams but perhaps can still be employed? Is the child still at home but there is a concern that they will not 'launch'? Have an open discussion with the client around their concerns for this child at the beginning of the interview as it will assist you in making suggestions on how to plan around their concerns for their child.

Understanding the Financial Picture

After I get to know the clients' family dynamics I most often will turn to asking questions around the financial picture of the clients. I find this useful as it will help you in thinking about how to 'fund' the clients' plan.

You should always have a good working knowledge on all the assets the clients own. Always ask about joint ownership and beneficiary designations on assets. As well, you need to know if the clients have made any beneficiary designations to contingent beneficiaries. Some clients will have recorded contingent beneficiaries on designatable assets to the child who is not disabled or misunderstand the effect on death. You must spend time educating the clients on the 'what if' effect of their current arrangements and understand the reasons 'why' behind the decision they made.

Not only is it good standard practice to understand the clients' financial picture it will also help you in formulating what the parents should consider leaving for the child in their wills. Is the house that the parents live in outfitted to accommodate the child's disability? If so, perhaps the house needs to be gifted to that child. Perhaps the clients have set up a Registered Disability Savings Plan ("RDSP") for that child but there is no successor contributor to the plan. How do we ensure the trustee has authority over the RDSP after the parents die? What if there is no RDSP but your clients want to ensure there is the opportunity to open one upon their deaths for that child. These are some examples of the situations that will be flushed out during the financial discussion and will be essential when discussing how best to allocate the estate between the children.

Another outcome from this line of inquiry is that you will likely need to teach your clients about the concepts of joint ownership and beneficiary designations. It is important for your clients to understand these basic concepts as most clients will likely not have been educated. It is our role to walk the clients through various scenarios such as "what if" one parent dies but the other parent is not on the RDSP as co-contributor. What if the house the parents bought for the disabled child is not in the names of both parents? What if the parents want to treat all the children equally? These questions will be flushed out during this interviewing process.

Discussing the Future

Life is simply not static. The clients may have a trusteeship and guardianship order in place but perhaps a future contingent guardian and trustee has not been addressed in the order. Ensure that you understand what your clients foresee being the future for the dependent child. Perhaps the child has the ability to work but at a job that will never support their needs. Clearly our job is to plan for the future as everyone dies. Ask these soft questions as they will help guide you in the planning.