

Estate Planning Newsletter – 02.21.22

Section 1.01 Join Us on March 1 for an Estate Planning Webinar!

The Embrace Aging Forum is back in 2022!

We are gearing up for the best Embrace Aging Forum yet! We will back in person this summer. Be on the lookout for more details along with registration information.

In advance of the forum, we are offering a few complimentary webinars. The first will take place on Tuesday, March 1. Dana Perry and Greg Willett of Chambliss will host two special guest panelists — Zach Hurst with The Trust Company and Tracy Wood with Alleo Health. We will cover topics such as self-care for caregivers, why it is important to take care of the caregiver, the impact of financial planning, and ways you can help your adult children get their affairs in order. This will be an information packed webinar that you will not want to miss!

Registration is required for access to the virtual event on March 1, 2022.

Event Details

Date: March 1, 2022

Time: 11:30 AM – 1 PM

[Register](#)

Section 1.02 Hot-Button Questions Answered Regarding Conservatorships

By: [Sally Brewer](#) and [Rebecca Miller](#)

By now, most of us have seen the media coverage and are well aware of Britney Spears' controversial conservatorship case. Spears became "the international face of a movement," which, according to the Wolters Kluwer article "The Year in Review and Trends for 2022," questions "restrictive, protective arrangements like guardianships and conservatorships" and promotes alternatives like supportive decision-making arrangements.

While this may be a hot-button topic in the mainstream media now, our Special Needs Planning team has followed the trends with protective arrangements for years. As a result, there have been notable changes in state laws across the country and in Tennessee. In 2021, court decisions illustrated the concerns raised about protective arrangements.

These developments raise several questions related to how clients approach conservatorships, guardianships, and other arrangements regarding their loved ones' care and decision-making. Here is our team's take on key considerations and commentary on what they have seen in recent cases.

Q: What is a conservatorship?

A conservatorship is a legal proceeding in which a court removes specific decision-making powers from a person 18 years of age or older, usually individuals with disabilities or the elderly. The court appoints a conservator to make decisions for and act in the best interest of the person with a disability. Recent media attention has focused on the negative aspects of a conservatorship, like loss of rights and the opportunity for abuse, but the primary purpose of protecting the vulnerable and the safeguards included in the conservatorship laws have largely been ignored.

Before removing and transferring a person's rights to a conservator, the court first must find by a high standard of proof, clear and convincing evidence, that a person is disabled and in need of the court's assistance. At that point, the court has an obligation to determine the "least restrictive alternatives" that adequately protect the person with a disability. A number of preliminary safeguards are in place to protect the respondent (the person for whom conservatorship is being sought).

1. The respondent and his or her closest relatives must receive notice of the proceedings.
2. The nature of the proceedings and the respondent's rights are explained by a guardian ad litem, who also investigates the circumstances and reports to the court. In addition, the respondent can request an attorney.
3. The qualifications of the proposed conservator are thoroughly investigated by the guardian ad litem before the appointment, and, once appointed, the conservator is subject to oversight by the court, including required inventories and accountings, posting a bond, and restrictions on spending and transferring property.

For the full article on hot-button questions and answers, visit our website by clicking [Read More](#).

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Estate Planning Resources



Annual Contribution Ceiling for ABLE Accounts Rises and More States Add Programs

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[Facebook Rolls Out Disability Avatars](#)

Facebook is introducing new avatar options designed to allow people with disabilities to better express themselves across the platform. Click [here](#) to read more on Disability Scoop.

[Medicare Opens up Access to Free At-Home COVID-19 Tests](#)

The Biden administration says people with Medicare will be able to get up to eight free over-the-counter COVID-19 tests per month, starting in early spring. Click [here](#) to read the full article.
