BATTAGLIA & WALTARI
Attorneys at Law

CAROL S. BATTAGLIA *Attorney at Law, A.P.C.*
MARY L. WALTARI *Attorney at Law*
VICKI L. VAUGHAN *Attorney at Law*
CAROL A. RONQUILLO *Of Counsel*
MELISSA S. BOVET *Legal Assistant*

THIRD-PARTY SPECIAL NEEDS TRUST INTAKE QUESTIONNAIRE

Explanation: The purpose of a "special needs trust" (SNT) is to hold money or other assets of a person with disabilities (the "Beneficiary") that would disqualify that person from receiving SSI or Medicaid benefits. Assets held in a properly drafted and administered SNT will not be counted as resources by those programs. Payments made from such trusts directly to the Beneficiary or for the Beneficiary's food or "shelter" (rent or mortgage payments, utilities, property taxes, garbage or sewer fees) will be treated as income to the Beneficiary, and therefore must be limited so as not to exceed the income limits of the SSI or Medicaid programs. Payments from the SNT for any other purposes (for example, home repairs, maintenance or improvements; home furnishings; purchase, repair, or modification of a motor vehicle; therapies; recreation; clothing; entertainment, etc.) will not affect the Beneficiary's public benefit payments.

Third-Party SNT: An SNT may be created by the Beneficiary's parents, spouse or anyone else who wishes to establish a fund for the Beneficiary. Once created, the SNT is in place to receive gifts (made during lifetime or by bequest under a Will) from anyone who wishes to provide long-term assistance to the Beneficiary. The assets in this type of trust will be used for the Beneficiary's needs during his or her lifetime, and the assets remaining in the trust at the death of the Beneficiary will be distributed to the pers ons and in the manner described in the trust (such as other children or family members of the Settlor or charities). This type of trust, called a "third-party" trust, does not have to provide for a ny payback to Medicaid, thus permitting all the trust assets at the death of the primary Beneficiary to be distributed to the designated remainder beneficiaries.

This type of SNT is unlike a "self-settled" trust, into which the Beneficiary puts his or her own money or assets and which, by law, must provide that, at the Beneficiary's death, Medicaid will be first in line to recover from the trust assets the amount Medicaid has paid for the Beneficiary's medical care. Such "self-settled" trusts are created to hold the assets already owned by the Beneficiary or that the Beneficiary is to receive through a lawsuit settlement, inheritance or life insurance settlement.

The information requested in this form is necessary for us to prepare a third-party Special Needs Trust most appropriate for the needs of the Beneficiary. If the Beneficiary owns or is entitled to receive assets in his or her own name.

NOTE: "Beneficiary" refers to the person with disabilities for whose benefit the trust is established. "Settlor" refers to the person or persons who create the trust (sign the trust agreement) for the benefit of the Beneficiary. "Remainder beneficiaries" refers to the persons who are to receive the trust assets remaining in the trust at the death of the primary Beneficiary.

A. Personal Information

1. Settlors:

Name of Settlor: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Date of Birth: _____ Social Security No.: _____

Telephone: _____ Fax: _____ E-mail: _____

Relationship to Beneficiary: _____

U.S. Citizen? Yes No

Name of second Settlor (if applicable): _____

Street Address: _____

City: _____ State: _____ Zip: _____

Date of Birth: _____ Social Security No.: _____

Telephone: _____ Fax: _____ E-mail: _____

Relationship to Beneficiary: _____

U.S. Citizen? Yes No

2. Beneficiary:

Full Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Date of Birth: _____ Social Security No.: _____

Telephone: _____ Fax: _____ E-mail: _____

Gender: Male Female

U.S. Citizen? Yes No

If the Beneficiary is not a U.S. citizen, is he or she a qualified alien?

Yes No Don't Know

Is the Beneficiary an adult? Yes No

If an adult, is the Beneficiary: Competent Incompetent

If not an adult, is the Beneficiary:

a minor expected to be competent at majority?

a minor expected to be incompetent at majority?

Nature of Beneficiary's Disability (brief description)

_____

_____

_____

_____

Is disabling condition expected to last the Beneficiary's lifetime?
Yes No

Is disabling condition expected to increase or decrease in severity?
Yes No

Is institutional care expected? Yes No If so, at what age?

3. Beneficiarys Residence :

Name: _____

Residence Address:_____

Date of Birth: _____ Social Security No.: _____

Telephone: _____ Fax: _____

E-mail: _____

Is spouse disabled? Yes No

[Following Section to be used if Settlor(s) of SNT are not the Beneficiary's Parent(s)]

4. Beneficiarys Parent(s) [If Different From Settlors]:

Father: _____

Address: _____

Telephone: _____ Social Security No.: _____

Mother: _____

Address: _____

Telephone: _____ Social Security No.: _____

If parents divorced, list date, place and case number of divorce (enclose copy of divorce decree):

Date of divorce: _____ Place of divorce: _____

Case number: _____

5. Guardianship /Conservatorship:

Is the Beneficiary the subject of a guardianship? Yes No

If yes, please provide the following:

County_____ Case number: _____

(Attach copy of Decree appointing guardian/conservator, courtorders, and related pleadings.)

Name of Guardian/ Conservator _____

Street Address: _____

City:_____ State:_____Zip:_____

Telephone: _____ Fax:_____ E-mail: _____

Relationship to Beneficiary: _____

Name of Co-Guardian/ Co-Conservator (if applicable):_____

Street Address: _____

City:_____State: _____Zip:_____

Telephone: _____ Fax: _____ E-mail: _____

Relationship to Beneficiary: _____

If the Beneficiary is incompetent and is not subject to a guardianship, is a guardianship required? Yes No

6. Beneficiarys Residence: Owns home/condo Lives with parents

Rents apartment/home

Nursing home Assisted living facility Group home

If in an institution, please list:

Name of Institution: _____

Street Address : _____

City: _____ State _____ Zip_____

Telephone: _____ Fax: _____ E-mail:_____

Name of Contact Person at Institution: _____

7. Beneficiarys Income and Benefits :

Beneficiary currently receives:

Social Security Disability (SSD) payments ($ per month)

Supplemental Security Income (SSI) ($ per month)

Medicare for medical expenses (since date:)

Medi-Cal (Medicaid/Access card) for medical expenses (since date:)

Does Beneficiary receive income or assistance from any other source (such as) Section 8 public housing, etc.)? Yes No If yes, specify:

$ _____ per month/_____ from _____

$ _____ per month/_____ from _____

No Public Benefits

If not receiving SSD, has Beneficiary filed for SSD? Yes No

If yes, date of filing: _____

Has Beneficiary filed for any other public benefits? Yes No

If yes, please describe:

_____
_____
_____
_____
_____

8. Beneficiary Assets:

Beneficiary owns (in sole or part interest):

Residence Automobile Home furnishings Funeral Plan
Burial Plot Life Insurance Other Real Estate (value $)

Checking/Savings/CD/Brokerage Accounts (total $)

Other Assets (list with values):

_____ $_____

_____ $_____

_____ $_____

B. Family Information

[Following Section to be used if Settlor(s) of SNT are Beneficiary's Parent(s)]

1. Settlor's Other Children [if applicable]:

Name of Child_____

Is this child to be a Beneficiary of the Trust? Yes No

Name of Child_____

Is this child to be a Beneficiary of the Trust? Yes No

Name of Child_____

Is this child to be a Beneficiary of the Trust? Yes No

Name of Child_____

Is this child to be a Beneficiary of the Trust? Yes No

2. Beneficiary's Children (If Applicable):

Name of Child_____ Age of Child _____

Is this child a stepchild? Yes No

Is this child blind, disabled, or receiving SSI or another form of government benefits ? Yes No

Name of Child_____ Age of Child_____

Is this child a stepchild? Yes No

Is this child blind, disabled, or receiving SSI or another form of goverrment benefits? Yes No

Name of Child_____ Age of Child _____

Is this child a stepchild? Yes No

Is this child blind, disabled, or receiving SSI or another form of government benefits? Yes No

C. Trust Information

1. TRUSTEE(S): There must be at least one Trustee who is capable of (1) handling the funds of the trust for the benefit of the beneficiary, (2) making trust distributions that follow the complex income requirements of Medicaid and SSI, (3) managing the trust assets within the guidelines of the "prudent investor" standards of California law, and(4) engaging and supervising appropriate investment advisors to invest the trust funds. Also, if there is a court-appointed guardian for the Beneficiary, the court may require the Trustee to file annual accountings of the trust assets and to obtain and file a trustee's bond with the court. It is advisable to name one or more successor Trustees who would serve if the initial Trustee becomes unable to serve. If a family member is to act as Trustee, we strongly recommend that a Trustee experienced in the administration of Special Needs Trusts be named as Co-Trustee. We will discuss this at our meeting.

Initial Trustee Name:_____

Street Address :_____

City:_____ State_____Zip_____

Telephone:_____ Fax:_____E-mail: _____

First Successor Trustee Name: _____

Street Address _____

City _____ State_____ Zip_____

Telephone:_____ Fax:_____ E-mail _____

Second Successor Trustee Name: _____

Street Address:_____

City:_____ State_____ Zip_____

Telephone:_____Fax: _____ E-mail:_____

2. FUNDING

How will Trust be funded?

Trust funded with: the sum of $_____

real estate

If real estate, provide the following:

Street Address _____

City_____ State_____ Zip_____

Single Family Dwelling Townhouse Condominium Apartment

3. Trust Advisory Comittee (ñTACò) (optional)

In some situations, it may be advisable to appoint independent persons (at least two, but no more than five, persons) separate from the Trustee (not the Beneficiary or Beneficiary's spouse or child) to serve as Trust Advisory Committee, which shall only serve when the Settlors are not acting as the Trustees. The responsibility of the Trust Advisory Committee is to advise the Successor Trustee as to distributions that would be in the best interest of the Beneficiary. The Trust Advisory Committee would be given, in the trust document, the authority to remove a Trustee who is not being responsive to the Beneficiary's needs or who is endangering the Beneficiary's public benefits through improper handling of the trust.

Trust Advisory Committee Members:

1) Name: _____

Street Address: _____

City: _____ State _____ Zip _____

Telephone: _____ Fax: _____ E-mail: _____

2) Name: _____

Street Address: _____

City: _____ State _____ Zip _____

Telephone: _____ Fax: _____ E-mail: _____

4. Special Needs Provisions

While the Trustee will have broad and complete discretion to meet the needs of the Beneficiary, the trust can specify particular physical, medical, therapy, care, recreational, travel and entertainment needs to be paid from the trust. SPECIFY BELOW any such needs or services you would want the trust to provide

Attendants / Caretaker services

What kinds of services does the Beneficiary now need that he or she is not receiving?

_____

_____

_____

Equipment (wheelchair, walker, computer talking devices, etc.)

Housing _____

Therapies _____

Travel / Recreation _____

Other _____

5. Distributions After Beneficiaries Death

The SNT should direct that, following the death of the Beneficiary, the assets remaining in the trust will be distributed to named individuals or organizations or held in trust for young remainder beneficiaries (such as grandchildren) until certain ages. If such assets may be left to minor or disabled remainder beneficiaries, it is advisable to leave their shares in trust for them in order to prevent the need for a court-ordered guardianship. You may also allow the Beneficiary to decide who will receive the assets remaining in his or her trust by naming them in his or her Will (if the Beneficiary does not have a valid Will at his or her death, then the assets will pass to persons as otherwise designated in the trust document). Please name or describe below the persons to whom you wish any remaining assets distributed at the Beneficiary's death.

Do you want to allow the Beneficiary to designate who will receive the remaining trust funds in his or her Will? Yes No

Named: **Remainder Beneficiaries and Relationship to Settlor:**

Name: _____

Relationship to Settlor: _____

Name: _____

Relationship to Settlor: _____

Name: _____

Relationship to Settlor: _____

Described: Remainder Beneficiaries, such as "Settlor's surviving children" or a specific charity, including the address & phone number for said charity(ies) if the SNT will recieve any retirement funds we do not recommend naming a charity as a beneficiary:

_____

_____

_____

_____

_____

Do you want the share for any minor child or grandchild to be held in trust for that child or grandchild? Yes No

a. If "Yes", indicate how you would like the trustee to make distributions to or for that child:

to pay for general health, education, maintenance and support for him or her

or

Trustee retains share until age: 30 35 Other_____

Withdrawal Rights: ___% at Age ____; ___% at Age ____; ___% at Age ___

50%at Age _____, 50% at Age _____

All at Age _____

to pay all income to the beneficiary starting after age 21 during term of trust

Other distribution plan:

_____

_____

_____

D. Referral

By Whom Were You Referred To This Office?

Name_____

Street Address: _____

City: _____ State _____Zip _____

Date of Birth: _____ Social Security No.: _____

Telephone: _____Fax:_____ E-mail:_____

Referral is a: Attorney Our Client
Other Professional
Other_____

May we send this person a thank you note? Yes No

I have reviewed the information contained in this questionnaire and verify that it is complete, accurate and correct to the best of my knowledge.

Date:_____ _____
Signature