

ELDER LAW NEWS

Legal power for seniors and the disabled.

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VIRGINIA LEGISLATIVE REPORT

As the adage goes, there's good news and there's bad news. The good news is that the Virginia House of Delegates has carried over House Bill 1215 to the 2005 session. As previously reported in the *Elder Law News*, had this bill passed it would have imposed a six-year record retention requirement, harsher penalties for transfers and more restrictive Medicaid eligibility requirements for low and middle income senior citizens and the disabled. The bad news is that HB 1215 will be considered by the Virginia General Assembly in 2005. Therefore, in the coming year, please advise your state delegate and senator that House Bill 1215 is poor public policy, and encourage your delegate and senator to vote against the passage of this bill.

This country does have a long-term care crisis. Many elderly and disabled Virginia citizens cannot afford to privately pay for the cost of long-term care which, in southeastern Virginia, can cost \$50,000 per year and more. For an average nursing home stay of two and a half years, the private payment cost can exceed \$125,000. Due to this high cost of nursing home care, more and more people are turning to the Medicaid program for assistance. This crisis is putting additional pressure on our state budget which is already beset with problems.

What can be done both to insure that Medicaid assistance is available to the elderly and disabled who need help, and also to minimize the cost to the state? The *Elder Law News* recommends that you encourage your state delegate and senator to vote in favor of Senate Bill 266.

Senate Bill 266 requires the state to establish a long-term care partnership plan when authorized by federal law. The long-term care partnership plan must: (1) encourage the purchase of private long-term care insurance as the primary source of funding long-term care for the participant; (2) disregard for Medicaid eligibility the assets equal to the benefits payable by the long-term care insurance policy; (3) provide that the long-term care insurance is the primary payor and (4) that, only after such insurance benefits are

exhausted, Medicaid services will pay for the participant's long term-care services. When authorized by federal law, this program will encourage senior citizens without pre-existing conditions and with sufficient income to pay premiums to purchase long-term care insurance. As a result, this program should produce in a savings to the state Medicaid program.

Senate Bill 266 was approved by the Senate on February 3, 2004, by a vote of 40-0. The bill is now being considered by the Health, Welfare and Institutions Committee of the House of Delegates. The *Elder Law News* recommends that you contact your state delegate and senator by calling (800) 889-0229 and expressing your support for this bill.

Oast & Hook

Oast & Hook is an Elder Law firm. We represent older persons, disabled persons, their families, and their advocates. The practice of Elder Law includes estate planning, estate and trust administration, powers of attorney, advance medical directives, guardianships, conservatorships, and public entitlements (Medicaid, Medicare, Social Security, and SSI), disability planning, estate, gift and income tax matters, bill paying, care management, and fiduciary services. We also handle litigation involving these issues, such as will contests and estate administration disputes. For more information about Oast & Hook, please visit our website at www.oasthook.com.

Oast & Hook is the Virginia member of the Special Needs Alliance, a nationwide network of disability attorneys. As members of this alliance, we assist personal injury attorneys in resolving their cases to enhance the judgments and awards of their disabled clients and to maintain the eligibility of these clients for SSI and Medicaid. We are experienced in protecting the public benefits of persons with special needs and in assisting with the management of their assets. For more information about the Special Needs Alliance, visit its website at www.specialneedsalliance.com.

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