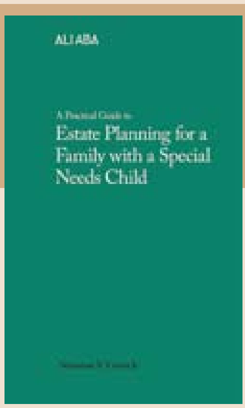
A Practical Guide to Estate Planning for a Family with a Special Needs Child



By Sebastian V. Grassi, Jr., published by American Law Institute–American Bar Association, 2009, soft cover, 202 pages, $159 (free shipping and handling)

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Reviewed by Henry M. Grix

Based in Troy, Sebastian V. Grassi, Jr. is a nationally recognized tax and estate-planning practitioner who is distinguished by the thoroughness and clarity of his legal writing and lecturing. To his latest book, *A Practical Guide to Estate Planning for a Family with a Special Needs Child,* Mr. Grassi brings not only his considerable professional skills but also his profound personal experience. Mr. Grassi and his wife, Elizabeth, a special-education teacher, are the parents of three children; one of them, Laura, is an adult special-needs child with severe cerebral palsy.

Mr. Grassi previously has written two definitive treatises, *A Practical Guide to Drafting Marital Deduction Trusts (With Sample Forms and Checklists)* (http://www.ali-aba.org/aliaba/BK36) and *A Practical Guide to Drafting Irrevocable Life Insurance Trusts (With Sample Forms and Checklists)—Second Edition* (http://www.ali-aba.org/aliaba/BK45). The estate-planning expertise displayed in those two volumes informs his work here. Like its two predecessors, *A Practical Guide to Estate Planning for a Family with a Special Needs Child* is clearly organized and displays a total command of the subject.

Mr. Grassi intends this book to serve as a practical guide that will demystify special-needs planning for practitioners who are not necessarily experts in the field but who may be engaged to assist families confronting the challenges of caring for loved ones with special needs. As Mr. Grassi points out in Chapter 1, there is a significant (and too often underserved) market for special-needs planning because 28 percent of American families have at least one family member with a disability.

A Practical Guide to Estate Planning for a Family with a Special Needs Child is divided into two parts: 17 chapters that present a clear and comprehensive overview of the essential elements of special-needs planning and five appendices that provide special-needs trust forms and practical, detailed commentary by Mr. Grassi and other noted lawyers on technical aspects of planning for a special-needs child.

The book contains a detailed table of contents that sets forth the topics covered in its 17 chapters and in the appendices. Among the critical issues covered are:

- A checklist of 15 issues a lawyer must consider when drafting an estate plan for a family with a special-needs child (Chapter 2);
- An overview in Chapter 3 of government programs structured to assist families with special-needs children, including the "means-tested" programs of Supplemental Security Income and Medicaid and the "social insurance" programs that are unrelated to means testing (Social Security Disability Income and Medicare);
- A checklist of five essential estate-planning documents that parents of a special-needs child should have, including drafting examples that practitioners may wish to add to their general forms of Durable Powers of Attorney (Chapter 5);
- An alert regarding gift, estate, and income tax issues that can arise in special-needs planning (Chapter 6);
- A discussion in Chapter 7 about special-needs trusts created by grandparents or parents for a special-needs beneficiary ("Third-Party Trusts") along with a form of Third-Party Trust Agreement in Appendix 2;
- A discussion in Chapter 11 of special-needs trusts created by the special-needs beneficiary ("First-Party/Medicaid Payback (d)(4)(A) Trust" or "(d)(4)(C) Pooled Account Trusts"), along with a form of Medicaid Payback Trust Agreement in Appendix 3;

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- A poignant and useful discussion in Chapter 17 of the "soft side" of estate planning for the special-needs child, including issues of guilt, depression, marital relations, sibling issues, and even advice about what not to do as a practitioner counseling families with special-needs children;

- A detailed outline about special-needs planning, prepared by noted special-needs planning lawyers Andrew H. Hook and Sandra L. Smith of Portsmouth, Virginia, in Appendix 4; and

- A practical guide to the complicated issues related to retirement benefits and special-needs planning in Appendix 5, co-authored by Mr. Grassi and noted retirement benefits lawyer Nancy H. Welber.

Throughout the book, the reader is offered cautions and practice tips and is directed to other important resources—including government websites, legal publications, and social agencies—that will guide the practitioner through the treacherously technical maze of governmental regulations, income and transfer tax traps, and psychological concerns associated with families dealing with special-needs children. The Michigan lawyer is also alerted to provisions of the new Michigan Trust Code, effective April 1, 2010, that affect discretionary trusts, trust protectors, and other aspects of special-needs planning.

In summary, *A Practical Guide to Estate Planning for a Family with a Special Needs Child* is a focused and practical guide to an important and technical area, made all the more useful by Sebastian V. Grassi's professional expertise and personal insights. ■

Henry M. Grix is a member of Dickinson Wright PLLC, where he has concentrated on tax and estate planning for more than 31 years. He is a past chairperson of the Probate and Estate Planning Section Council, a fellow of the American College of Trust and Estate Counsel, is listed in The Best Lawyers in America, *and has been named "Detroit Area* Best Lawyers *Trusts and Estates Lawyer of the Year" for 2010.*