



### Autism Resources Fair 2025

#### Transcript of Guardianship and Special Needs Planning with Christine Matus

00;00;07;21 - 00;00;29;36

**Christine**

Wendy, and really thank you, all of you, for being here today on a Saturday. That's a big deal. And, I hope you also enjoy all the resources that were provided at the fair. You know, believe it or not, I was here when it first started eight years ago. Basically nine years ago. And I am so excited to see how much it's grown.

00;00;29;41 - 00;00;52;39

**Christine**

You know, more and more families need resources, and that's really one of the main reasons why we love what we do. We love giving information. We love giving education because for us, knowing what are the options, what are the [...] what's the good information that we need? That's the hardest part. You know, I've always felt that knowledge is power, but it's an incomplete thought.

00;00;52;44 - 00;01;18;49

**Christine**

Knowledge is power - when you use it. You know, we can collect as many resources and information as possible, and we can stack it up on our desk. But if we don't use it, then it's really useless. So I'm hoping today my goal is to give you some actionable items so that you can help form some protections, some type of plan for your family or a member that you know, and you walk out today with some semblance of action plan.

00;01;18;56 - 00;01;41;02

**Christine**

So what I'm going to be doing today, I'm going to educate. I want to make sure that you get a working understanding about some valuable tools for our families. And those tools can consist of things called trusts and things called guardianships, and a sprinkling of other tools involved that I'm going to be excited to share with you, especially because you're here today.

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**Christine**

You're spending this time. My dad always said that, you know, if you walk away from a workshop or a seminar with even one new thing, totally worth it. So I always say, we set that as our goal, you know, so

this is what we're going to be talking about today. So you are in the right place. You are here when we're talking about a loved one who has special needs.

00;02;02;55 - 00;02;24;22

**Christine**

We're also worried about: what are we going to do about the future? What are we going to plan? What should we be thinking about? And if we're worried about certain types of benefits, namely Medicaid and SSI, those are really important things that we should know about. How do we get it? How do we keep it? And so my goal is to make sure that you get an understanding

00;02;24;47 - 00;02;25;36

**Christine**

what it is.

00;02;25;41 - 00;02;43;49

**Christine**

And I'll share with you a lot of the things I'm going to be talking about today. We've done full workshops on those one topic. So I'm going to be giving you a nice 30 ft thousand view. So you have an idea of what it is, and then the details we can work through either in the Q and A or A 1 to 1, whatever you feel like doing.

00;02;44;00 - 00;03;00;05

**Christine**

But again I want to be your resource. I want to be that hub for you, to give you the resources and answers that I think we're thinking about or you heard about. So a little bit about me. I always say one of my most important jobs is I'm a mom. My husband was here like, how about a wife?

00;03;00;08 - 00;03;16;06

**Christine**

I'm like yeah okay, that too! We got to throw that in. But that is really one of my big jobs. And this is a photo of my family. And as you can see, I have two beautiful girls. My oldest is Emma. She's here. And Juliana. Well, she really doesn't like this type of weather's not going to fit her.

00;03;16;21 - 00;03;40;54

**Christine**

And she's one of the big reasons as well as my daughter why I do what I do. Juliana was born with down syndrome and recently diagnosed with autism. And so as a result, I decided to dedicate a large portion of my practice to helping families in my shoes, helping families navigate what do we do with a loved one, with special needs, and making sure we give them the best life possible?

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**Christine**

I always say, you know, when people ask me like, so what do you do? And I always tell them, I protect assets for families, especially those with special needs, so that they can have a lifestyle that they deserve. That's the purpose. That's where I feel I was born to be doing. And it's also important for me that we recognize the balance of having family members involved who are typical, and that there is a lot of dynamics that are involved and that we have to recognize.

00;04;08;15 - 00;04;27;41

**Christine**

And so I really try to bring that personal touch to everything I do. And I'm always constantly thinking like, oh, what could you know? What should you have that's important to you? Because I know it's important to me. And I am also the owner and founder of the Matus Law Group. I'm very proud that this firm has been around for 22 years.

00;04;27;52 - 00;04;46;52

**Christine**

I've been a lawyer for 30. This is where people say, what, you don't look it, you know, this, but this is really where I feel that I'm so excited because we have such a mission and we have such a vision of how we want to help all the families that we come across. One of the things I was going to share with you is, my husband will take credit for this joke,

00;04;47;04 - 00;05;08;28

**Christine**

So my husband is from Holland. I'm Filipino, so my kids are jalapenos. So that's one way to recognize us. And I always love that joke. And then when everyone laughs he goes that was my joke. So anyway. But yeah. So we're very proud. We consist of four attorneys, four dedicated, strong attorneys who are very, very well versed.

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**Christine**

They are at the top of their game, and it is not very easy to work with me because I have high expectations of everyone. But they've survived and they've been with me a long time. Chris Gorski is the other attorney, a lead attorney our firm. She's here today as well, and I'm just so proud of each member of my firm.

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**Christine**

And we have a staff of 14 people. So again, our emphasis is helping families to make sure that they have that peace of mind and making sure we get the answers that you need. So I'm just curious out of everyone here has anyone heard of a special needs trust? Just probably show of hands. If you've heard of it, you don't have to answer what it is, but I'm curious.

00;05;50;03 - 00;06;10;48

**Christine**

Okay. Good, good. So this is going to be great because not only will I probably reaffirm what you probably know, but maybe there's a lot of us who have an idea of what it is, and we're going to learn something new. Learning something new is always exciting. So this is a very important tool that we should become familiar with, and that we should recognize what are these terms.

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**Christine**

So before we even talk about a special needs trust, I think the big question is like what is a trust? What is that? And a lot of times we hear what this term is, but sometimes it's hard to conceptualize what it is. In the big picture. A trust is just a tool. That is it. And it's a financial tool.

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**Christine**

And I always like to picture it, when Chris and I always talk about this, we like to picture it as a box. We create containers. So a trust is a container and it can hold certain things. And believe it or not, there are so many different types of trust. So depending on your goal, depending on what you want to achieve, we can basically create a trust that can hold this container of items and carry it to your goal.

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**Christine**

That is really that it's a container, it's a box. And when you hear the word trust, any trust, whether it's special needs, long term planning, split support, I mean, the list can go on and on. It basically has three main elements. And I'm going to tell you I'm very proud of all of you here today, because after today you're going to know these terms and you're going to know what they're talking about.

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**Christine**

And when you throw those words around, people are like, oh my gosh, you must be the expert. So every trust, no matter what type of trust we talk about, has three parts, right. So we have first something called the grantor. That's the person also known as creator also as trustor. Or you don't really hear some of those you'll hear them interchangeably.

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**Christine**

But grantor you're creating this tool and typically you're the one putting things in the tool. Right. So the grantor. The second thing is known as trustee. And who is that? That's really the manager. That's a person designated to handle the things in the box. Right. They're the manager. And then the last element is called the beneficiary.

00;08;07;21 - 00;08;38;48

**Christine**

Who benefits from this. Who are we doing this for? And again, depending on the type of trust we can have certain people that have dual roles. And we can have certain people that can only have one role. So it really depends on the type of trust and what kind of goal we're trying to accomplish for them. And so for your reference, if you're dealing with this and you're trying to find out what to do, these are the first three things that you're going to have to think about when we're talking about a trust.

00;08;38;48 - 00;09;04;24

**Christine**

And when we talk about special needs, these are the questions you're going to think about. Who's going to be the grantor, who's going to be the trustee and who am I doing this for. Those are very popular questions that you can start thinking about. And I think this gives you a head start because if you don't have a trust and you're thinking of having one, these are the things that are going to be discussed during a what they call an initial meeting, right.

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**Christine**

They're going to say, this is what it does and these are the good things. But then they're going to say, have this thought about these roles? who are they going to be? So now you have time to think about it. And if you have a trust already in place, good to revisit. Who do you have in those places?

00;09;21;36 - 00;09;46;25

**Christine**

Do you keep in contact with them? Are they still the right person for that role? You know, and and those are things that you really always constantly have to review because we want these documents fresh. We want these kind of tools in workable order and effective. Okay. So that's a good start. So when we narrow down what we're talking about, what kind of box that we're talking about.

00;09;46;39 - 00;10;11;07

**Christine**

And today we're talking about the special needs trust. That's the name. And I'll give you a little bit of history. You know, before 1993, if we wanted to leave a loved one for with them, with assets and they had special needs, the problem was that there was only a certain amount of assets we could leave them and we'll go into that a little bit more.

00;10;11;12 - 00;10;33;26

**Christine**

But there was a basic scenario that we may not be able to leave them things because it might disrupt certain benefits, or they might not be able to handle it. So what was the solution before 1993? A lot of people will say, well, then I will disinherit them, I will remove them, and I will have another loved one promise to take care of them.

00;10;33;39 - 00;10;53;51

**Christine**

And making sure that I know mom gave me this amount of money. But mom told me this half is really for my brother/my sister, and we just hope that everybody's in a good mood and remembers that. And we'll keep to the oral promise. Bad plan, right? That's a bad plan. So finally, 1993. And quite honestly, it's really not that long ago.

00;10;53;53 - 00;11;14;36

**Christine**

But I always try to be grateful. I'm always trying to think of the present and save let's be grateful that we did get this new law in effect 1993. And that's when they first allowed these types of tools to say, you know what? We're going to have some type of exception allow you to create a tool so you could leave something to your loved one.

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**Christine**

So that's one thing. So there's a little bit of background, but a special needs trust. It's a tool where the purpose is that we're putting certain assets in this box for certain things. It could be the house, it could be money, cash. That's it really depends. And everybody's different. And we put it in that box. Why? Because we want to make sure our loved one with special needs gets it without any interference, without any complications.

00;11;42;35 - 00;12;02;04

**Christine**

that could happen if we didn't have a plan. So we're looking for a loved one with special needs, and we're thinking of assets that we want them to have. That's simply put, right? So you heard me say that we want to qualify for certain benefits and probably all of you have heard it's so important that we got to protect the benefits.

00;12;02;04 - 00;12;21;55

**Christine**

We got to make sure to keep the benefits. We don't want to get disqualified from the benefits. But the good question is like what? What benefits are we talking about? So to begin with, there's really three types of benefits we should be familiar with. And they have categories. So there's benefits called means tested benefits and then there's benefits called entitlements.

00;12;22;07 - 00;12;46;12

**Christine**

And then there's other benefits, When we are talking about our loved ones with special needs. And we're talking about the benefits like SSI and Medicaid. Those are considered means tested. Why? Because in order to get those, you can only have a certain amount of assets in your name. You can only have a certain amount of means. So that's the important thing, right?

00;12;46;17 - 00;12;58;35

**Christine**

Does anyone know in order to qualify for SSI or Medicaid. And we're just going to use even numbers. What's the most amount of assets they can have in their name? Does anyone have a figure? Ma'am in the blue.

00;12;58;39 - 00;12;59;38

**Audience Member**

\$2,000

00;12;59;45 - 00;13;06;37

**Christine**

\$2,000? That's correct. I wish I had a prize for you. I'm sorry. You know. I'm going to say good job.

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**Christine**

But yes, it's \$2,000. You don't want to hear me go on my little rant that they haven't changed that number in decades. I think they created that number in 1993. But here we are. So this is what we're dealing with. There's always been speculation that they're going to raise that number. They're going to adjust it. I haven't seen it.

00;13;24;44 - 00;13;48;07

**Christine**

So at this point this is what we're dealing with. In order to get SSI and Medicaid, we cannot have more than \$2,000 in our name. And I think all of us realize that is a very low number. And what happens if we have a loved one that say, if something happens to me, we want to leave them an inheritance and more than likely, we may be wanting to leave the more than \$2,000.

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**Christine**

But then we're thinking, my goodness, if I do that, they're going to lose SSI, they're going to lose Medicaid. What's the solution? There's a tool for that. And that's what we're going to go over. The other benefits you may hear about they're called entitlement benefits. You have SSDI and Medicare. So as we know these are the type of benefits that you get because of an achievement that you've had.

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**Christine**

If you had certain types of work credits, a work history, you will get this SSDI, which is a disability type of insurance. And if you reach a certain age, you'll get a health insurance. Medicare, right, because we turn a certain age, has nothing to do with your assets that you've accumulated, but to a certain type of achievement that you achieve an age or work credit, then we have other benefits that you may have heard about.

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**Christine**

Section eight and Veterans Benefit. So section eight is a housing voucher type of program. And it is somewhat based on, income and assets. And it provides for housing. And then you have your veterans benefits, benefits given to those who served the military and that they have achieved that. And their family members also will get certain type of benefits.

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**Christine**

And that's something I have to say that I've come across, that maybe a lot of people aren't aware about the type of veterans benefits that are out there, so that's something to look into if you qualify for that, because they do give a lot of good things. But today we're going to be talking about trying to protect those means tested benefits: SSI and Medicaid.

00;15;16;11 - 00;15;37;36

**Christine**

All right. Are we with me so far? I just want to make sure. Okay, that's a lot of information. So when we're talking about special needs trust this tool, the question says, well who's the grantor? Who's the creator? Who's the trustor? Who can start this? And so here are the people who can. And I'm just going to start from the bottom up.

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**Christine**

Typically if there's no planning sometimes you have to go to court for it or you'll have a legal guardian. You'll have a grandparent who can do it, a parent and then only recently the special needs individual can also create it - depending on the type of trust. And again, this is all part of the evolution of everyone's understanding and knowledge about special needs.

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**Christine**

Because believe it or not, they have created these tools. And they said, okay, here are the people who can create it and they would leave out the special needs individual because they would stereotype and

think that, well, you're special needs. You probably wouldn't have the capacity to do this. You probably don't know how to create this. And again, we know those are broad strokes and that is not true.

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**Christine**

We are all different. And so thankfully they realize that that is also an element we can add. And again it was only recently in 2018. But anyway we are here today and being grateful. So good we could do that. So those are who can create it, right? But it begs the question when we talk about a special needs trust, are there different kinds?

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**Christine**

And when we talk about the trust we have to be aware that trusts fall into two categories. You know, we have different types. So it's kind of like to me, I like to compare it to cars. We have different makes and models. But typically you can have a car and you can have a truck. So just same thing with a trust.

00;17;02;21 - 00;17;25;31

**Christine**

We'll have something called into an irrevocable trust and we'll have a revocable. And I think a lot of times and this is again just in broad strokes, a 30,000ft view of when you hear these terms. Because sometimes people hear like, oh, I didn't realize there's revocable, you're irrevocable. What does it mean? So when we're talking about it in the irrevocable trust, and also, I'll share with Chris, irrevocable.

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**Christine**

So tomato tomato that does not roll off my mouth. So I'm always going to say you're irrevocable. But those are the types of trust that for the most part, there are certain things that become a little more complicated to change. Right? I never want to say it's unchangeable. I know there's a lot of misconception with people back online, and they see that word

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**Christine**

'irrevocable' and for whatever reason, they'll say, that sounds terrible. Can't change it. I don't want it. But it's not entirely true. The law has evolved and has made certain ways that we can change certain terms of these trusts. But, you know, you always want to make sure you understand why we're changing things and how we change things.

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**Christine**

And because of these categories, it allows you to achieve different things. When we say a revocable trust, it means a little bit more flexibility, more flexibility than the first category. And again, the benefits for those types of trusts are different. But I'm sharing that with you today and not to go into the details of what are the exact benefits are

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**Christine**

But just to make you feel comfortable that when you see these terms, they're not scary, right? Because I know sometimes you look at these things online, sadly, what we find online isn't always true. Or there

again, created for the general public and not for your certain situation. So again, when we look at these terms, I want you to feel comfortable about them, okay.

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**Christine**

So special needs trust. Believe it or not, there are different types. And the misconception is that we think there's one one size fits all. And I might be able to look up and download a form I can find online. And we really don't want to do that because first you need to find out which is the right type for me and for my family and for my purposes.

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**Christine**

So I'm going to go over what the three types of special needs trust that you should be aware of. And again, all of you today are really going to have a leg up over a lot of people because not only do everyone not familiar with what makes a trust, what are the three elements, but they didn't even know that there's different types of special needs.

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**Christine**

Trust me, the more you know, the more you'll feel better about making your decisions and knowing what are the best things for my family. All right, so when we talk about special needs trust, there is a type that's called first party special needs trust. Now when you hear these names of the trust about these, a lot of these trusts are named because of where the money is coming from.

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**Christine**

When we hear first party special needs trust, it is a tool that we create. It's a box, and the assets that go in that box have already belonged to our loved one with special needs. It's their money already. So what's an example of that? Well, here's one. Sad to say, there was some type of car accident, a personal injury action, and as a result, there was a lawsuit.

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**Christine**

And now there's a settlement and there's a large settlement, and our loved one with special needs was involved in that. So that would be considered their money. And that's first party. And then the issue is that that money from that settlement would go to them. But if they received it, they might lose benefits. What do we do? We create a first party special needs trust to put that settlement in there.

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**Christine**

And why is it their money? It was their injury, their pain and suffering, their lawsuit. The settlement is their money. So we put it in a first party special needs trust. And what do we have to be aware of in this first part? It is critical that we understand this with a first party special needs trust, the good thing is the money that you put in there will not disrupt those means tested benefits.

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**Christine**

And I'll share with you some stories. Sadly, you know, this is such a specific niche type of law that a lot of other practitioners aren't familiar with. And so we've had many people who were involved in car accidents, and then they come to us later, they'll tell us about the car accident and I'll ask them. I'll say, oh, so what?

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**Christine**

What happened to the money? And they say, well, we spent it. And I was like, oh, okay. And they say yeah we spent it because, you know, we couldn't qualify for benefits. We took the settlement money, but now we have no more money. We ran through the settlement and now we need to apply for benefits. And I'm always thinking like, oh my goodness, you didn't have to do it that way.

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**Christine**

If we had the trust, we could have had the benefit of both worlds. We could have had the settlement money, and we could have had the bet, you know, the benefits, SSI and Medicaid. So again, it's all about educating. And one of the things Chris and I are always trying to do is also educate the legal community just so they know, so that when they're helping clients, they're triggered saying, oh, you know what?

00;22;31;43 - 00;22;51;14

**Christine**

If you're receiving these benefits and you're special needs, I think we need to talk to someone like us to make sure we're not ruining, you know, everything with benefits. So good to know. Now, one of the hallmarks of a first party special needs trust we need to be aware of, and this is very, very, very important. So we need to, take note of this.

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**Christine**

Any money left in that trust, and if our loved one with special needs dies and there's money left in this first party tool, the government takes it. And that's something we have to be aware of. There is a clawback. There is a pay back with the state and we have to be aware of that. So that is what is unique about the first party special needs trust.

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**Christine**

That takes me to third party. So this is another type of special needs trust with a third party, again we're asking the question, where does the money come from? Now in a third party the money that's put into that box is coming from another source, not our loved one. It doesn't belong to our loved one with special needs.

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**Christine**

It's coming from another source. It's coming from a third party. Ta da! I like when it comes together. So that's how you see the difference. And so what's examples of that? Well, if I wanted to leave an inheritance to my loved one, to my daughter Juliana and Emma, sadly, if something happens to me, 50% goes to Emma, 50% goes to the special needs trust of Juliana and is third party because it's it's my money now I'm going to be giving it to them.

00;24;08;59 - 00;24;36;52

**Christine**

And one of the good things about this third party trust is that other people can contribute to it. Right? We can have grandparents contribute to it, friends, neighbors, things like that, because it's their money now and they're contributing to it. So that's third party. And now here really the big thing to know in a third party special needs trust. Again, if our loved one passes away and there's money left in a third party special needs trust.

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**Christine**

The government is not involved, they are not involved. You can designate: where does that make the money go? It can go to another sibling. It can go to a charity. It can go to whoever you want. And that's very, very, very important. So a lot of times we'll have families that say, wow, so Chris, if we do no planning and if I die and now we have an inheritance, will my child automatically lose all their benefits?

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**Christine**

Not necessarily. Chris and I have had families that come to us and they'll say so sadly, Chris, my parents passed away. They left an inheritance to me and my brother. But if my brother receives, he's going to lose his benefits. What do we do? So Chris and I said, we can create a tool. We can create a trust, a special needs trust.

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**Christine**

But this is the bad part. I say bad, but this is the change. It's a first party trust. Like why? Because now the parents have died and that money is already the child's. It should have been their's. It's their's already. So now we have a first party and now we have what? The government involvement. Now we have the pay back.

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**Christine**

So one of the big recommendations we've always said is that if you have an inkling, if you feel that maybe we may need to do some planning, I encourage all of you to do it while you're alive. Then we eliminate that pay back because now you created it. A lot of times families come to us and they're just saying that I'm not really sure if I'll need it because I'm not sure of the condition for that, you know, change as we go on.

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**Christine**

And you're right. But I always feel that, you know what? At a certain point you have to make a decision, and I rather you do something than nothing. Because what are we risking? Government interference, you know, and so we really need to think it through. And again, all of these tools are unique to our family. So, you know, you really need to really get to sit down and just think it through and talk with people who do this a lot day in and day out, so they can help you think it through.

00;26;38;25 - 00;26;56;53

**Christine**

I always say, you never know what you don't know. I mean, that's the whole thing. So you just want to just be educated and hear more. But if there's anything I can have for you when you walk out today is that if you're thinking about it, it's really a good idea to get the information and perhaps take the action now while you're alive so we can avoid the payback.

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**Christine**

Okay, now the third other trust is called a pooled trust. Now, these types of trusts are typically run by nonprofits. And why do we have that? Well, sometimes it really depends on a couple of things. We may not have someone in mind to be the trustee, like who's going to manage it. And I have to say that those are the big questions that we often get typically when we create these special needs trust.

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**Christine**

And I'll share the one that I have for my own daughter. My husband and I are the trustees. But then if we're not here, who's the alternate? Juliana is not an adult yet. Although she'll be in October, but it's still too early. So we have my brother and he's going to be the alternate trustee. And then the nice goal would be that as we evolve, do we, you know, switch names and things like that.

00;27;46;04 - 00;28;05;39

**Christine**

And again, that's why you always want to have your plan reviewed. Take a look at who's involved. Things change. People move. You know, maybe even their own health changes. So you want to make sure you reflect an effective role of trustee in that role okay. But in pooled sometimes we're in a situation where some go I don't have a brother.

00;28;05;39 - 00;28;28;53

**Christine**

I don't have a sister. There are other solutions that we can suggest, but one may be a pooled trust. So it's an organization that will step in and they will be the trustee when you're not around. The issue is also how much we're putting in that box. Sometimes it's an amount that we say that, you know, what it might be a good amount that this type of nonprofit can handle.

00;28;28;58 - 00;28;50;04

**Christine**

But we have to be aware. So the way they do it, it's pooled because the nonprofit will take different families and it's in one pot. But each family has a sub trust, right. The sub account. So that's why it's pooled all at once. But they know that, you know, the Smith family has this much and the Jones family has this much.

00;28;50;09 - 00;29;11;50

**Christine**

And they keep records. But we also have to be aware that they have and they have to pay back to the state. Each pooled trust organization works differently. Some will say if one love one passes away, then the government has to be paid back, and then the pool trust organization takes the rest, and then some don't work like that at all.

00;29;11;50 - 00;29;30;55

**Christine**

Some will say, okay, you know, the loved one passes away. We're not involved, but the government will probably have a pay back. So you do have to research that and ask them those hard questions. Say if they passed away, if there's money left in our sub trust, where does it go. So you need to find out what's the best solution for your family.

00;29;31;10 - 00;29;49;59

**Christine**

And if you can designate an alternate what is a beneficiary, right. Who's going to receive it? Even more better. All right. So those are things to be aware of. So look at all of you. You know about the three different types of trust. And you know about the three important rules that consist of a trust. So good job good job.

00;29;50;04 - 00;30;10;47

**Christine**

I wanted to add and this was just probably a bonus for all the when you hear about able account. Able account is an additional type of tool that has also come into fruition quite recently in 2014. And so just to go over what it is, right, it's another tool. It's another tool for our families where we can put assets in there.

00;30;10;52 - 00;30;32;40

**Christine**

It won't affect our benefits as SSI and Medicaid, but it does have some nuances to it. It's set up similarly like the 529 college plans that a lot of us have heard about, where the money that we take out for our child will not be taxed, will not be considered as income tax. There's the tax, situation, a tax benefit of that.

00;30;32;40 - 00;30;56;17

**Christine**

Okay. But what we have to be aware with the Able account, every state has their own, just like the 529s. New Jersey has a very good plan. And you can open that up online. You go online, you open it up. So it's kind of like a digital account that I think we're all used to. I remember when, I had opened up, it was ING before and it switched to Capital One and it was all online and just explaining it.

00;30;56;17 - 00;31;08;40

**Christine**

I was talking to my parents about it. They're like, well, where's the bank? Where do we go? I said, it's on the computer. Yeah, but how do you deposit? Well you scan it. Like what? You know, I know now we're used to it. But prior to that, I remember I was getting nervous, like, oh, I don't know, it sounds funny too.

00;31;08;45 - 00;31;28;38

**Christine**

So. But so that's a similar thing with the able account. Right. So it's a tool, a financial tool where we can put money in it and it won't disqualify our loved ones with special needs. Now one of the things you have to be aware of is that how we use the money is a little bit different from trust, right?

00;31;28;43 - 00;31;48;10

**Christine**

With money that are put into a trust, typically there's a little bit of finite rules we have to be aware of. It depends on who the money is for. And it's always for our loved one with special needs. So they are the ones to benefit. And we also have to be looking at when we're looking at trust money, what are the benefits we have?

00;31;48;15 - 00;32;12;45

**Christine**

Because if you're receiving SSI money, typically SSI money is to pay for your shelter. And if you have money from a trust, they typically don't want you to use trust money and SSI money to pay for shelter. What's shelter? Your mortgage? Your rent? And if you pay for your cable bill, phone bill, cell phone bill that is not considered a shelter so that can pay for it.

00;32;12;50 - 00;32;38;56

**Christine**

But what they don't want is, the government, as I say, they don't want you to double dip. That you have rent and you want to use SSI money, and then you want to use your trust money any way you can. But there are consequences that we need to be aware of. And I don't want to go too much too deep into that, because I don't want to want to lose you, but you have to just be aware of what are the benefits my loved one has and where how are we using that money to help them?

00;32;39;09 - 00;32;55;22

**Christine**

And you have to be aware of what the consequences are. And a lot of times they're not as severe as we think. But you have to be aware of it, okay. But with able Account, they're a little bit more flexible of how you can use the money. You can use the money for shelter, you can use the money for a lot more things.

00;32;55;27 - 00;33;13;08

**Christine**

And what's also interesting is that if we have a loved one who we want them to get used to, maybe managing money, you can have them manage that money with the Able account and you'll put limits to it, you know, just so you can have them be using it in a comfortable level. So here are the things to be aware of.

00;33;13;08 - 00;33;35;36

**Christine**

At least the number changes, almost every year. But if you have an able account in one year, you can't put more than what they call the gift amount. So this year, 19,000 okay, you can put that in, and and you'll know that, you know, in order to open it up, you have a couple requirements. The condition for our loved one with special needs cannot have been diagnosed.

00;33;35;41 - 00;33;57;16

**Christine**

Has to have been diagnosed before the age of 26. So, you know, we'll have a lot of, families that we help. And there's they want to know about the able account, doing it, then Chris and I will ask, we have to ask, do you recall when the diagnosis, when you first received that and if it was after age 26 then we cannot do the able account, it's it's just those rules.

00;33;57;21 - 00;34;16;05

**Christine**

And again, what we need to be aware of if something happens to our loved one with special needs, if they die, any money left in the able account, is subject to pay back to the state. There's a clawback. Okay. And again, you don't want to put too much in this account, right? Because of that one situation about the payback.

00;34;16;05 - 00;34;36;27

**Christine**

But also, once you hit \$100,000 in that account, we start to lose benefits. And if you go over to 200,000, you lose all your benefits. So we always want to monitor how much you want to put in there. So a lot of times families will put in a basic amount that they know is going to be used, and that they're going to be using it say for shelter and things like that.

00;34;36;31 - 00;34;56;29

**Christine**

There's a bit of a strategy of how we can, use able accounts in trust, because that is a good question. Chris. Are there families that have an able account and say a third party special needs trust? Yes they do. Chris, are there families that have an able account, a third party and a first party? Yes. There are, yes there are.

00;34;56;40 - 00;35;15;53

**Christine**

Because again, it depends on where the money is coming from. What are your goals for your loved one and what are their situation. And then there are some that just have one, right. So again it really depends on what our situation is and what we're trying to achieve. And be well-versed in it. And just being comfortable is a first step for all of these.

00;35;15;53 - 00;35;33;09

**Christine**

At least we can have a comfort with that lingo that you hear. So we covered a lot of ground here. You know, I and I'm very impressed. I can see you all keeping up with me, thank God. So it's good. So we talked about public benefits and we went over like how are they divided, what are the categories.

00;35;33;14 - 00;35;52;09

**Christine**

And we talked about the three different types of special needs trust. And just in general how are trusts set up. And then we talked about the able account. These are great financial tools that our families have access to. Whether or not you need all of them. That's something that we have to think about. But it's nice to have options.

00;35;52;14 - 00;36;11;29

**Christine**

And when you start early, you can think of it clearly and decide what's the best option. The worst is when we have families that bad things are happening and they need solutions and need solutions very quickly. And it's very challenging for us, like Chris and I, to really explore what's the best when we're having that time crunch. We'll do it.

00;36;11;40 - 00;36;26;18

**Christine**

I mean, Chris and I have done all nighters, but we will do it to try to figure out what works. But it's hard for you. You have a lot on your plate, and it's hard for you to discern what the right thing to do. So I encourage you to always start early and you're doing it being here today.

00;36;26;23 - 00;36;55;45

**Christine**

So now we're going to chat about Guardianships. Does anyone need a break? A stretch? you good? Yeah. Good. All right. So guardianships this is another tool that is very useful. So as we all probably know that once our child turns 18 they're not a child anymore, they're an adult, typically they're considered an adult in the eyes of the law, which means that they are making decisions for themselves that have consequences.

00;36;55;50 - 00;37;17;56

**Christine**

But what if we have a situation where we have a loved one, maybe decision making may be a challenge where we need to make sure we step in and help, because the consequences are much too great for what they were prepared to do and make those decisions. I really think that guardianship is a tool that we should look at, but it's not for everyone, right?

00;37;18;01 - 00;37;41;27

**Christine**

We've always had that goal that we want everyone to have the most control of their decisions as possible. But if they can't do that at least we know that there are tools that we can consider that can be used to have another adult legally appointed to make decisions for our adult child. And that is something that is very important to be aware of.

00;37;41;31 - 00;38;02;42

**Christine**

So a guardianship is a tool that someone can go apply for so that they can legally make those decisions. And I'll share with you that, you know, we all have families that can go on for even decades not having a guardianship because they no problem. And then I had a family where her insurance changed, so she had to get a whole new set of doctors.

00;38;02;46 - 00;38;17;38

**Christine**

And when she did, she brought her son and the doctor said, oh, he's 26, you have to stay in the waiting room and I'll come out after I talk to him. And she's like, that's not going to work. That is not going to work. And that was a shame because she was saying, we've got to proceed. And I try to explain something.

00;38;17;40 - 00;38;39;18

**Christine**

We never had a problem with the other Doctor. But he said, I, I can't because that's not a problem that doctor but I don't do it this way. And now this child had an emergency situation, so we had to do an

emergency guardianship, which was very stressful, very hard. So again, it's something to really start thinking about that. If this is a tool that you need to be considering, you want to start early as possible.

00;38;39;31 - 00;39;05;06

**Christine**

So at least you're not faced with those medical, urgent situations. So when we have a guardian, we can have people apply to be the guardian of our loved one. So typically it's any adult relative and there's a tier system, right? Preferably, you know, the parents take a first position, but there are reasons why that might not be a fit, they will have another sibling or some other relative.

00;39;05;11 - 00;39;31;38

**Christine**

And then you can also have another adult that someone is really, trusting that we understand, and we know, like, and trust. And then typically, if you have spouses, they can also be the ones, you know. And Chris and I have had different scenarios. One of my most heartwarming stories that I have, and it was hard, it was a woman that we were helping, and she was a single mom, and she was getting older, and she was worried about her, daughter.

00;39;31;53 - 00;39;50;34

**Christine**

And she said that what I want to make sure, Chris, is that if something happens to me who's going to be able to manage and take care of her. She was not in touch with her ex-husband, and he did not want to be involved. And she didn't have any other children, any other relatives, but who was around? Her neighbor, who was just fantastic.

00;39;50;38 - 00;40;12;32

**Christine**

So her neighbor stepped up, went through the whole process, and then sadly, my client passed away. But at least the neighbor was there to be involved, to make those decisions and help her. And so, again, thinking ahead and these were hard decisions, but we thought ahead and I just keep I think about her often and I think that, you know, she was so brave to make these decisions.

00;40;12;37 - 00;40;37;36

**Christine**

And to think about it ahead of time, because if the worst had happened, we would have been dealing with the state and maybe the neighbor would have stepped up, but there would have been a gap of time where nobody's involved or the state is involved. And that's very challenging. So again, the first step is that if we think we're going to be using something of this type of tool and want to think of it early. So when do we need a guardianship?

00;40;37;36 - 00;41;01;23

**Christine**

So there are, you know, and believe it or not, in different states they use the word guardianship or conservatorship in different ways. New York has a different term for it. So here for new Jersey, we when we say guardianship, right. It is an action that is started in court where, another adult is appointed officially through the court to make those decisions for our loved ones with special needs.

00;41;01;28 - 00;41;33;09

**Christine**

And it's typically a person who may not have the capability to make medical decisions or financial decisions for them, or even emotionally, intellectually, or physically. So there is some type of impairment that would prohibit them from establishing and taking control. And we need the help of another adult to do this. Now, as I go further into guardianship, I do want to bring up that probably there's other tools that a lot of you have heard about and probably are wondering, like, what's the difference?

00;41;33;14 - 00;41;53;32

**Christine**

There is a tool called Power of Attorney. So a lot of you probably heard about that. And if you have your own estate plan, you know, you probably have one for yourself. Power of attorney is a document that you appoint another adult to make decisions for you when you can't make decisions on your own. So a lot of you might be thinking, so why don't we use that?

00;41;53;32 - 00;42;16;53

**Christine**

Why are we doing guardianship? Well, one of the big issues is that to have a power of attorney. So if I have a power of attorney and I want to give it to Chris, I have to, number one, have capacity that I know I need it. I know I'd like it, I want Chris to be stepping in my shoes and make decisions for me, and I have to be able to articulate that and to understand what I am doing.

00;42;16;58 - 00;42;34;52

**Christine**

When we have a loved one who may not be able to articulate that and understand that, a the power of attorney is ineffective and will not work because that's first step. So that's why we go to guardianship. So little trivia question for you, because you probably might hear, well that's the difference. So this is what we're talking about with guardianship.

00;42;34;57 - 00;42;59;23

**Christine**

And guardianship is a court process. A power of attorney is a document that can be created and you appoint someone, but a guardianship is an actual court process. Okay. So when we're talking about guardianship, many times in our practice we're talking about two different categories. One is where we have someone who may not have the capacity to make decisions.

00;42;59;35 - 00;43;19;25

**Christine**

And a lot of times it's our families who are coming to us because they know their loved one is becoming of age or is of age already. And we're thinking, we do need this tool, or we're in a situation where we have someone who is older and is losing capacity because of dementia, Alzheimer's, or whatnot, and we do need another adult to step in to make those decisions.

00;43;19;30 - 00;43;40;59

**Christine**

So those are really some of the, common scenarios that you'll hear. So when we talk about our loved one with special needs, guardianships typically are a thought that happens when they turn 18 or older.

And this is something that we need to look at. So anyone who becomes eighteen as I mentioned, is called a legal adult.

00;43;41;04 - 00;44;04;34

**Christine**

You have legal consequences for your actions. And you're going to be held to that standard. Where we don't have to, where we feel those consequences would be unfair because of their situation we will look to a guardianship. Right. And we will look for that process. So how do we obtain a guardianship? So it is a process and there are papers that need to be filed with the court.

00;44;04;47 - 00;44;20;12

**Christine**

I think a lot of us may have looked at it online. Our court here is very good and they provide some guidance of how we do that. But I understand it can be overwhelming. So I'm going to try to walk you through it. So at least you can read through it and see, you know, how does this work.

00;44;20;17 - 00;44;49;34

**Christine**

So when we have families that call us and they said, I think we really do need this guardianship and they'll tell us their situation, we said, okay, so one of the big things is that our loved one needs to be evaluated, right? They need to be evaluated by two physicians. You know, sometimes we try to get away and say, well, would a nurse practitioner work? they won't work, we tried because I know getting these appointments with these physicians, it takes so long and the appointments but this is something we have to do.

00;44;49;34 - 00;45;10;35

**Christine**

And they need two and typically they have to certify the condition of our loved one, to talk to them about that, they have to evaluate them and confirm that they have a condition that needs guardianship, that the guardianship is a good idea and it will be very useful. And there is a timing issue when we do this.

00;45;10;40 - 00;45;33;39

**Christine**

We have to, and I'll give you an example, so if the physician evaluates our loved one on January 1st, they have to fill out the support, the evaluation. It's called a certification and it has to be submitted within 30 days. So there's a timing issue with this. The courts used to be more relaxed with it. I think it was because of Covid and prior to that.

00;45;33;52 - 00;45;59;10

**Christine**

But throughout the years, Chris and I have realized that the courts are becoming more and more strict, that if you're not within that window. You have to go back to that doctor have them recertify the date. So a lot of times what we're doing is that when we see that, we are really persistent, I have drove to the doctor's offices, and I can say this because my dad, my dad is a retired physician, and I know they're all busy, and I have call and they're like "it's right on his desk.

00;45;59;10 - 00;46;14;21

**Christine**

**Christine.** It's right on his desk. He's going to sign it." I'm like, okay. And then two weeks go by, I'm like, oh my gosh, I'm giving you the time. I've driven to offices and waited in the parking lot and say like, hey doc, I see you coming in. I, I just need you to sign this. So it's very important to keep within that timeframe.

00;46;14;21 - 00;46;37;06

**Christine**

So you need two of those, okay? And then once we have that there is what they call the petition. And in it you know, you're stating the condition., you're giving them some background. You know, who they are, [...] how has the relationship with you and the person you're applying for and you're also applying, saying that, you know, it's me who wants to be the guardian.

00;46;37;06 - 00;47;00;39

**Christine**

Whoever wants to be the guardian is making the application. And then you also have to list all your next of kin because they have to be notified. So they're notified because if there is an objection saying, I want to be the guardian of so-and-so, then you are filing the petition and then notices have to be provided after you file it with the court.

00;47;00;44 - 00;47;24;54

**Christine**

And these notices are to next of kin, and they have an opportunity to say, I don't think that's a good idea. And then you would have to approach that and, deal with that. But for the most part, the ones that, Chris and I have always dealt with, everyone is on board. They all know they're expecting to receive this notice and to understand that this is the best situation for our loved one.

00;47;24;58 - 00;47;53;31

**Christine**

If we anticipate there's going to be a challenge, we're prepared for that, and we'll deal with that. And we try to anticipate reasons how we can, help push this through and understand why there might be an objection. But you have to be aware of that, the next of kin. Where I've seen some problems is where we may have families who have, communication issues or there's some type of discord in the family, and there might be some type of challenge of someone else thinking they're the better guardian.

00;47;53;36 - 00;48;10;57

**Christine**

And because of that, we also want to be aware of that so that we can find out what's the best approach, to these things. And there are solutions of how to resolve this. Some are very easy and some, a little bit more complex. But again, you know, these are the things that we deal with day in and day out.

00;48;10;57 - 00;48;36;16

**Christine**

So at least you can approach it and we can give you, when you talk to, firms who do this a lot, they can give you all your options. So at least you know what to be prepared for. So once you file and I'll go over the other steps. So once it's filed and there's no objection what's going to happen is there's going to be a court appointed attorney who's going to visit our loved one and talk to the person who's proposed to be the Guardian.

00;48;36;20 - 00;49;05;15

**Christine**

This attorney is appointed by the court, and they usually, like in our situation, will contact us. And they'll say, Chris, we've been appointed and we're going to be contacting, the Guardian as well as to evaluate the person who's going to have the guardianship with. And so we would provide the information and they will make an appointment and typically they will visit, they'll go to the house and they are there anywhere from a half hour to a couple of hours.

00;49;05;20 - 00;49;32;06

**Christine**

Asking questions, evaluating. They will file a report with the court to indicate, yes, this is appropriate. A guardianship is the right thing for this person. And this person wants to be the guardian. Yes. This is appropriate or not. You know, they could have concerns. And if they do, typically, we're, Chris and I, are notified ahead of time if there's a problem and we try to work through that, or if we have a question.

00;49;32;11 - 00;49;53;14

**Christine**

But at the end of the day, if they're all good, they send us a report to the court, you get a copy, and they explain why we support this and why this is going to go through. And that's very important. The court appointed attorney, once the court receives all of that, then you're also provided what they call the court date and depending on the county..

00;49;53;19 - 00;50;14;14

**Christine**

So each county has their own way of how they deal with Guardianships. In Ocean County, when you submit all your papers, then they're going to say, okay, we're going to review everything. And if everything looks okay, you have the green light and they do give you a good idea about that. If they feel there's going to be a concern, they're going to ask you to come in and there's going to be questions.

00;50;14;19 - 00;50;34;07

**Christine**

One of the earliest guardianships I had dealt with, sadly, we had a family and, the daughter, she was the youngest of three. Her other two siblings had went off to college and moved on, and I think she went into a deep depression. She was also blind and she was home. And she really felt things were changing in the home.

00;50;34;11 - 00;50;57;30

**Christine**

So she had, sadly fallen into a comatose state, and she was not...it was hard for her to respond. So the family didn't know what to do. They brought her to the local hospital here, Community. And then Community was saying, we may have to send her to Ancora. And she was over the age of 18. So they were saying, unless you have a guardianship, we're going to make this decision.

00;50;57;30 - 00;51;17;11

**Christine**

And it was something they did not want to happen. So they came to me and we did the guardianship. And I recall that we actually had to make the petition, go in person to the court, it was a judge fiscal at

the time, and he would hear testimony from the family, why we think this is important. We have a doctor's report.

00;51;17;16 - 00;51;36;58

**Christine**

And he excused, their loved ones, from coming into court because they said it would be too traumatic. That was an old fashioned way. They wanted to have everybody in the court, and it's very stressful. Now, they won't do that unless there's an issue. But if you have Monmouth County, there's a lot more paperwork that they want involved. To file it.

00;51;37;03 - 00;51;52;27

**Christine**

Chris and I have been involved in Essex and Sussex County Guardianships, and they do want to see you. They want to hear you. And I remember during Covid they were saying, well, then don't come in, we'll do it on video. One I did on the phone, that was very hard because trying to listen like, is it my turn to talk?

00;51;52;32 - 00;52;17;59

**Christine**

And we just want to hear from everyone. So every county has a different way of doing it. So, you know, again, you just have to be educated, and do as much research as possible or go to people who do this a lot so they can help you along, you know what to expect. Now, when we talk about Guardianships, believe it or not, it can be limited or general. General meaning that we do need help with both, medical and financial.

00;52;17;59 - 00;52;49;27

**Christine**

So it's of your person and of your property. But then limited is a type of guardianship where we're carving out exactly why we need help with, what is the decision making this other adult will be appointed to help you with. And it could be sometimes we'll have families come in like, you know, Chris, they're comfortable making medical decisions but financial is a little challenging. Okay, we'll do that. Or it flip flops or we'll have families that say, you know, I had one recently, Chris, you know, he's he's pretty good at certain things, but, he really needs help.

00;52;49;27 - 00;53;09;07

**Christine**

I think for safety, [...] we might need a limited because he does want to, vote. He does want to do certain things, and we'll carve those out. So it really is a matter of sitting with the family and finding out, you know, what are the needs of our loved ones and making sure it's custom.

00;53;09;07 - 00;53;29;19

**Christine**

You don't want cookie cutter guardianships. You don't want guardianship, that you just say here it is, because. Right. The goal is you want to have as much decision making possible as possible for a loved one if they can. Let's let's, you know, work on that. Let's focus on that. You know, let's let's capitalize on that. And if they can't, they can't, you know, that's it.

00;53;29;19 - 00;53;49;30

**Christine**

I don't like the word can't so as I say it, I cringe. So I say if we have to work around it, you work around it. But at least you're familiar that there are different types of guardianships. Now, you may have heard the word conservatorship and, so another thing is Chris and I have a podcast where we talk about things that we see, in the news.

00;53;49;37 - 00;54;10;28

**Christine**

And, one of our first episodes was about the Britney Spears situation and where she had her what we call the guardianship and the whole odyssey of that. But what was interesting in California, they kept calling it a conservatorship, but it was really a Guardianship, but what's the difference if we chat here in New Jersey? Conservatorship is also a court action.

00;54;10;32 - 00;54;34;47

**Christine**

It's also a way to appoint another adult to make decisions. But it's typically mainly for financial. A lot of times you'll see it for older individuals, or needing help making their financial decisions. But we've done, both Chris and I, where it's focused mostly only on the financial situation and that that, you know, they would like to need help with that.

00;54;34;47 - 00;54;53;48

**Christine**

And sometimes we'll have clients that come to us and say "I think I need a conservatorship. I don't trust myself. I don't see how this is, I think bad things are going to happen. I want my brother to be involved in things like that, but I'm not really sure if I can do this." So, again, you know, we want to make sure that we understand what's the right tool for a loved one.

00;54;53;53 - 00;55;14;31

**Christine**

And again, you know, just being educated so that when you hear those terms, you're not going to be intimidated and you'll have a kind of a general sense of what you think is the best situation for our loved one. So lots of information here today, and I really appreciate all of you for being here. I also hope that this was useful.

00;55;14;35 - 00;55;34;13

**Christine**

You know, again, my goal, was just to give you some really strong working ideas of what you might need when you're helping our loved ones. And the nice thing is that you're all starting here early, or at least you're confirming what you have. And I'm hoping I had, you know, provided you information. If you knew it already, I affirmed it for you.

00;55;34;28 - 00;55;36;57

**Christine**

But if you learn something new, hooray. That's good.