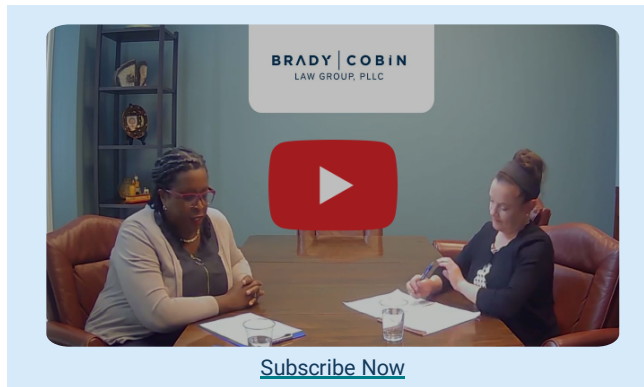


[View this email in your browser](#)

Call Us Now For Help  
(919) 782-3500

**BRADY | COBIN**  
LAW GROUP, PLLC  
HONORING THE LIFE, WORK AND CHARITY OF EVERY INDIVIDUAL

## BCLG Fall Newsletter 2021



### In This Issue...

- [Guardian of the Person vs. Guardian of the Estate](#)
- [Tips for Creating an Estate Plan that Benefits a Child with Special Needs](#)
- [Recipe of the Month: Apple Baked Beans](#)
- [What's Happening in North Carolina?](#)
- [Meet Our Attorneys...](#)

---

## Guardian of the Person VS. Guardian of the Estate

by David E. Dean

[Guardianship](#) is not a one size fits all type of proceeding. There are several factors to consider in each individual case that need to be accounted for when considering the type of guardianship that may be needed. Some of the factors to consider for the individual who needs a guardian include the level of care required, how finances are currently being handled, and what treatment is in effect. There are three types of guardianships in North Carolina: [guardian of the person](#), [guardian of the estate](#), and [general guardianship](#).

For a quick recap on terminology: the individual who is in need of a guardian is referred to as the "Ward" or the "Respondent" in the petition for guardianship; the individual pursuing a guardianship over a respondent is referred to as the "Petitioner" or "Applicant." The Guardian ad Litem who is appointed by the clerk once the petition is filed is simply referred to as the "GAL."

Often times the Petitioner is the individual who is appointed as guardian over the Ward. The Petitioner will state on his application for appointment of a guardian, which is filed at the clerk's office, whether he wishes to be appointed as the guardian of the person, guardian of the estate, or general guardian.

To break these down further, the

guardian of the person is responsible for taking care of the well being of the Ward including but not necessarily limited to making placement decisions and general healthcare decisions. The guardian of the estate is responsible for taking care of the Wards finances, including paying bills, filing taxes, handling investments, etc. The general guardian is simply an appointment of an individual as both the guardian of the person and guardian of the estate.



In the role as [guardian of the person](#), the obligation is to act in best interest of the Ward. This includes placement, medication, treatment, nutrition, therapy, and often times includes the tough end of life decisions. Although the role of the guardian of the person may seem straightforward, it can be overwhelming at times. Luckily, the authority granted to the guardian allows her to hire certain professions to help manage the care for the ward such as a nutritionist, in home nursing care, physical therapy, and anything else the Ward may need to enjoy a better quality of life.

The [guardian of the estate](#) has a very similar obligation to the Ward in that he must still act in the best interest of the Ward from a financial perspective. Thus, the guardian of the estate must make sure that bills are being paid on time, investments are being handled properly, real estate is being managed, and assets are being preserved in a manner to allow for the care, support, and maintenance of the Ward. In addition, the guardian of the estate must file annual accountings with the clerk of court showing the income of the Ward and accounting for every expense paid using the Ward's assets. While this is a time consuming and again overwhelming venture to undertake, the guardian of the estate has the authority to hire accountants and attorneys to assist in the preparation and filing of these accountings.



Lastly, the general guardian is obligated to act in the wards best interests in both the financial and non-financial aspects of the ward's life.

Understanding the needs and circumstances of the ward will dictate the type of proceeding to pursue. If you have a loved one that requires assistance and may need a Guardian appointed for them, please feel free to [contact us](#) so we can help you, help them.

---

## [Tips for Creating an Estate Plan that Benefits a Child with Special Needs](#)

[Establishing an estate plan](#) that provides for your family after you are gone is a gift to the ones you love. If a special needs child is among your loved ones, there are specific steps you can take to ensure their additional financial and care needs are addressed.

The Brady Cobin Law Group, PLLC, has more than 35 years of experience [helping families plan for the future](#). Our compassionate [special needs planning lawyers](#) can help you structure asset transfers and trusts so they preserve the government benefits your special needs child receives. Our strategies also consider the needs of

your other children, including those who may take over caregiving responsibility or guardianship for a disabled sibling.

Whether you are starting the process or updating an existing estate plan, our knowledgeable attorneys are here to help you. [Contact us online](#) today or at (919) 782-3500 in Raleigh, NC, to schedule a consultation about estate planning for a family with a special needs child.

Subscribe	Past Issues	Preserving Benefits Eligibility for a Special Needs Child	Translate ▾	RSS 📡
		<p>The primary function of <a href="#">wills</a> and similar estate planning instruments is to direct the transfer of assets from one generation to the next. However, if the beneficiaries of your estate include a special needs child or adult, it is important to keep in mind the eligibility restrictions of certain federal benefits for the disabled.</p> <p>The Brady Cobin Law Group can help you make plans that assist your child while ensuring their government benefits remain secure. Among those to consider are:</p> <ul style="list-style-type: none"><li>• <b>Medicaid</b></li><li>• <b>Supplemental Security Income (SSI)</b></li><li>• <b>Supplemental Nutrition Assistance Program (SNAP)</b></li></ul> <p>Each of these programs requires beneficiaries to have limited assets and a low income to qualify. It's important to consider how eligibility for each program would be affected by any asset transfers to your child. Our attorneys can review your options and which best suits your family's specific situation.</p> <p>For a disabled child or young adult who has a small income, such as from a legal settlement or Social Security, we often recommend establishing an ABLÉ account to preserve their benefits eligibility.</p> <p>An <a href="#">Achieving a Better Life Experience account</a> allows individuals who became disabled before they turned 26 to set aside up to \$15,000 a year in interest-earning savings accounts without affecting their eligibility for federal benefits. Earnings on investments are tax-deferred and tax-free if used for qualified disability expenses. This includes a wide variety of uses, such as housing, transportation, education, and personal support services, incurred as a result of living with a disability.</p> <p>Money that funds an ABLÉ account may be the disabled individual's income or come from others. An ABLÉ account may hold up to \$100,000 before the account owner is in danger of losing SSI eligibility. An ABLÉ account does not affect Medicaid eligibility, regardless of the account balance. However, whether an ABLÉ account is appropriate for your special needs child may also depend on any state-based benefits the child receives.</p> <h3>Three Types of Trusts for a Special Needs Child</h3> <p>The easiest way to set aside money for a special needs child without jeopardizing eligibility for benefits programs is through a <a href="#">trust</a>. Money in a special needs trust belongs to the trust, not the individual. A trustee is appointed to administer the trust's assets.</p> <p><b>There are three primary types of special needs trusts:</b></p> <ul style="list-style-type: none"><li>• <b>First-party trust.</b> A first-party trust is for assets that would otherwise go directly to the special needs child or adult. The trust administers the money on behalf of the beneficiary. A first-party trust is useful if the beneficiary is to receive significant assets because it doesn't restrict how the money may be used. However, upon the death of the beneficiary, any money left in the trust is first used to repay the state for medical assistance paid for by a state Medicaid plan.</li><li>• <b>Third-party special needs trust.</b> This type of trust is typically set up by family members for the benefit of the special needs child or adult. It can hold any type of asset not belonging to the beneficiary, such as proceeds from a parent's life insurance policy, an investment portfolio, or income-producing property. The funds can be used for almost anything the beneficiary needs. At the death of the disabled beneficiary, assets of the trust transfer to designated recipients and there is no payback provision.</li><li>• <b>Pooled special needs trust.</b> A pooled trust combines the resources of multiple beneficiaries in a trust administered by a nonprofit organization. Each beneficiary has their own sub-account and usually receives a proportionate share of the entire fund's earnings. The resources used to fund a sub-account for the disabled beneficiary must have always been owned by someone else. When a beneficiary dies, their assets revert to the nonprofit. Special needs individuals who will no longer have living family members can be assured that inheritance put into a pooled trust account for them will be professionally administered.</li></ul> <h3>Additional Provisions for a Special Needs Child</h3> <p>Along with a will and trust establishing how assets from your estate will benefit your special needs child, you may establish a <a href="#">financial power of attorney</a> that allows an agent you name to use your assets to assist your special needs child if you become incapacitated. A financial power of attorney can be drafted to empower the agent to establish and fund a trust for your child.</p>		

child that also advises a new non-family caregiver or trustee about the day-to-day activities, unique likes, dislikes, needs, preferences, and other information they should know about your special child.

#### Get Help From a Special Needs Family Planning Attorney

A child who is a special part of your family requires special thought and planning for when you cannot be there for them. The dedicated Raleigh special needs planning attorneys of the [Brady Cobin Law Group](#) have more than 35 years of experience helping North Carolina families like yours prepare for their future. We can help you understand how government programs, special needs trusts, your will, insurance, and other estate planning vehicles can be set up to ensure your loved one's future needs will be met.

If you care for someone with special needs, our experienced attorneys have the knowledge and resources to help you make your loved one's future secure. [Contact us online today](#) or at (919) 782-3500 to set up a conversation about your estate plan.

## Recipe of the Month: Apple Baked Beans

### Ingredients

- 1 ½ cups dried white beans
- 5 cups water
- 2 teaspoons olive oil
- ½ yellow onion, chopped
- 1 clove garlic
- 1 teaspoon smoked paprika
- 1 can (15 ounces) low, or no-salt, tomato sauce
- 1 tablespoon molasses
- 1 tablespoon apple cider vinegar
- 2 tablespoons brown sugar
- 2 teaspoons soy sauce or tamari
- 1 sprig fresh rosemary
- 2 ½ cups vegetable broth
- 1 medium apple, any kind will do, chopped into bite-sized cubes



### Instructions

*(makes enough for 6 as a side)*

1. Place the beans in a large bowl with the water and let them soak overnight.
2. After soaking, drain the beans. Heat the olive oil in a large pot over medium heat and throw in the onions. Sauté until it begins to turn brown, about 5 minutes
3. Add the garlic and smoked paprika and cook for another 30 seconds.
4. Add the drained beans, tomato sauce, molasses, vinegar, brown sugar, soy sauce, and rosemary (the whole sprig, branch and everything - the leaves will fall off as you cook, take out the stick when the beans are done). Stir it all up and bring it to a simmer. Then add the broth.
5. Simmer until the beans are almost tender. This should take about 1 hour.
6. Add the apple and simmer until the apple is tender and the beans are soft. This should take about 30 minutes more.
7. Take out the rosemary sprig and serve.

## What's Happening in North Carolina?





#### [Community Celebration of the Arts](#)

October 9, 2021

10:00 a.m. to 1 p.m.

Alston-Massenburg Center

416 N. Taylor St., Wake Forest

Free

#### [Falling for Local](#)

October 16, 2021

11:00 a.m. to 6:00 pm.

Dorothea Dix Park

1030 Richardson Drive, Raleigh

Free

#### [Track or Treat: Halloween Express Train Ride](#)

October 16, 23, & 30, 2021

Depart Times: 2:45 p.m., 4:00 p.m., 5:15 p.m., 6:30 p.m., & 7:45 p.m.

New Hope Valley Railway

3900 Bonsal Road, New Hill

\$16/ticket

#### [Crossroads Plaza Concert Series](#)

Dave and The Sol Beats

October 30, 2021

6 p.m. to 9 p.m.

Crossroads Plaza

213 Crossroads Blvd, Cary

Free

#### [Tractor's Corn Maze](#)

Saturdays and Sundays

10:00 a.m. to 5:00 p.m.

(7:30 p.m. to 9:30 p.m. on Saturdays only)

see link for more details

13912 Bold Run Hill Rd, Wake Forest

\$10/person

#### [The Raleigh Market](#)

Saturdays and Sundays

9:00 a.m. to 5:00 p.m.

4285 Trinity Road, Raleigh

Free

---

## [Meet Our Attorneys...](#)



R. Daniel Brady



Andrew J. Cobin



Gretchen Cleevly



David E. Dean

---

## Our Offices:

[Raleigh Office:](#)

Brady | Cobin Law Group, PLLC

Raleigh, NC 27612-2332  
(919) 782-3500

Wake Forest Office-

Brady | Cobin Law Group, PLLC  
1760 Heritage Center  
Suite 103  
Wake Forest, NC 27587  
(919) 782-3500

Cary Office-

Brady | Cobin Law Group, PLLC  
1135 Kildaire Farm Road  
Suite 311-6  
Cary, NC 27511  
(919) 782-3500

## Hours of Operation:

Monday	8:30 AM - 5:30 PM
Tuesday	8:30 AM - 5:30 PM
Wednesday	8:30 AM - 5:30 PM
Thursday	8:30 AM - 5:30 PM
Friday	8:30 AM - 3:00 PM

Scheduled appointments after hours

<https://www.ncstateplanning.com>

*Disclaimer: Content of this newsletter may not be used or reproduced without written permission of the author. This newsletter is not intended to replace the services of an attorney. No expressed or implied guarantees have been made or are made by the author or publisher. Information in this newsletter is for informational purposes only and is not a substitute for professional legal advice.*



Copyright © 2021 Brady Cobin Law Group. All rights reserved.

Want to change how you receive these emails?  
You can [update your preferences](#) or [unsubscribe from this list](#).

