CalABLE Webinar: CalABLE Accounts and Special Needs Trusts

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SANDRA KENT: Good afternoon and welcome to our webinar on CalABLE Accounts and Special Needs Trusts. My name is Sandra Kent, and I am an analyst with CalABLE. Before we begin the webinar, I'd like to go over a few housekeeping items for today's broadcast. For those of you who need live captioning, it is provided and can be accessed through a clickable link in the Chat section of your webinar control panel.

Also in your webinar control panel is the Handouts section, where you will find a copy of the slides, as well a document from the ABLE National Resource Center which compares ABLE Accounts, Special Needs Trusts and Pooled Trusts. These are really great resources, so please download and save them. And for those who are joining us via telephone only, if you would like a copy of these documents, please email CalABLE after the webinar, and we'd be happy to forward a copy to you. Our email address is calable@treasurer.ca.gov.

As you know, California is experiencing some additional challenges this week in the form of a heatwave, some rolling blackouts, fires. It's a little bit of a mess, and we are hoping there won't be any connection issues, but we are committed to answering your questions, so please submit them early through the Questions box of the webinar control panel. And if the broadcast is interrupted, we will use your questions and record a continuation of this webinar, which we'll then post on CalABLE's YouTube channel.

And speaking of our YouTube channel, I want to draw your attention to some additional webinar replays found there. The first is a more in-depth explanation of the CalABLE program, and it's called CalABLE 101. The second replay is called Ask the Expert, and that gives a briefer explanation of the program and then focuses on answering questions submitted by participants of the live broadcast. Again, both of these are available on CalABLE's YouTube channel.

And now for the webinar. California State Treasurer and CalABLE Board Chair Fiona Ma has prepared some remarks for us and I'd like to share those with you. So, let's get to that.

CALIFORNIA STATE TREASURER FIONA MA: I am California State Treasurer Fiona Ma, and I would like to welcome you to the fourth webinar in a series based on the California Achieving Better Life Experiences Act. Today's webinar will focus on a topic for which we regularly receive many questions. We will be discussing how CalABLE accounts and special needs trusts can complement each other and work in tandem to help people with disabilities achieve their financial goals. We want you to know that we are listening to your questions and comments about CalABLE. The staff at CalABLE will continue to use this webinar series as an opportunity to address your most pressing questions and your biggest concerns. So please stay tuned!

Supporting our communities of people with disabilities is something that is very important to me, which is why I am so proud of the work we are doing on behalf of CalABLE. This program is a critical step toward ensuring that people with disabilities have access to important resources that can help put them on the path toward financial stability. As State Treasurer, I will make sure that improving and expanding CalABLE remains one of my top priorities.

Thank you for taking the time to join us. I hope you find today's information useful. We will continue to bring you content that is designed to improve the lives of the many people we serve. Now, I would like to turn things over to CalABLE Executive Director Dante Allen.

DANTE ALLEN: Thank you, Treasurer Ma. As the Treasurer mentioned if you heard it – I actually couldn't hear her audio so if you didn't hear it as well, she basically introduced me, but I'll do it myself just in case you couldn't hear it. My name is Dante Allen and I'm the executive director of the CalABLE program, and on behalf of the entire CalABLE staff, I would like to offer my sincere thanks for having me join us this afternoon.

Speaking of staff, we have a small but mighty army here at CalABLE to help you. The voice you heard at the beginning of the presentation is Sandra Kent, our program analyst and technical expert for today's webinar. Anne Osborne is our program manager, and she'll be managing the questions queue. And the newest member to the CalABLE team is Alyssa Delacruz. I wanted to make sure to mention all of their names because we see ourselves as resources to all of you. Please reach out to any of us, and we'll be happy to help whatever your needs may be.

We are operating in interesting times even as we adjust to the new normal of our lives in the middle of a global pandemic. We are finding that it's still necessary to be flexible and roll with the changes that each day brings. Today, we find ourselves in the midst of the challenges caused by wildfires in our Northern California area and an extreme heat warning. Either of these issues may present us with new technical issues, but I want to assure you we have planned for them as much as we possibly can so if any member of our team experiences a power outage, it may take a brief moment for us to reconnect to the webinar by phone. But if that happens, I ask that you please be patient, and we'll get right back to the discussion as quickly as possible. Even if we are completely cut off, we still want to make sure that we address all of your questions so if you have any questions you know you want to have answered, please input them into the questions queue as soon as you can. Any questions that we don't get a chance to get to in today's discussion, we'll be sure to add to the webinar replay when we put it on our YouTube page.

When we first developed the idea for this webinar series, we have one prevailing thought and that there are so many nuances to the federal ABLE Act in general and the CalABLE in specific. We know that it can be difficult for any one person to keep track of it all. Rather than repeating the same information month to month, we wanted to have each of these programs be able to build upon one another. That way, we could spend significant time on the areas that matter most to you. We know that for some, this may be your first introduction to CalABLE so I will go over a few of the basics, but I encourage you to visit our YouTube channel and view our first webinar, CalABLE 101, in order to get the full perspective on the basics of the program.

Today, I would like to focus on a subject that has been one of the most frequent sources of questions we receive at CalABLE: what is a special needs trust? How do they differ from a CalABLE account? Under what circumstances should I choose one over the other? Or better yet, how can these tools work in tandem? To answer these questions and many others, I've invited my good friend and the administrator of the Golden State Pooled Trust, attorney Steve Dale, to join me today.

We're switching up the program a bit and I thought we'd handle today's discussion talk show style. That way, we can really get into a good back and forth discussion. I highly encourage you to submit your questions. Anne we'll be watching for those questions, and the ones that we feel are appropriate for the entire group, we'll make sure that they're asked as part of the conversation. Again, if we don't get through all of them, we will include your answers on our website and with the YouTube replay that we post soon.

I'll introduce Steve in just a moment, but first I wanted to go over a few CalABLE basics. So let me enlarge this for you. Okay, so just to give you a little bit of a background, the federal ABLE Act was passed in 2014. It added a new section to the IRS tax code that allows states like California to create these tax-advantaged savings and investment programs for people with disabilities. And one of the best features of these programs is that if you open one of these accounts, it wouldn't affect your eligibility for means-tested benefits like SSI or Medi-Cal. CalABLE is California's qualified ABLE program. It generally mirrors the federal law. It is an online-based savings and investment program. It's a national program, meaning that you don't have to live in the state to open an account here. And the program is administered by the State Treasurer's Office and overseen by a seven-member Board. We launched in December of 2018 and since that time, we've had about 4600 people open accounts, and we currently manage about $25 million in assets on behalf of the CalABLE Act Board.

Some of the basics of an ABLE program: you're allowed only one account at a time. The accounts are portable, meaning that you can roll over from one state's program to another, but you can't have two accounts open at once. The beneficiary is always the owner of the account and that includes if the beneficiary is a minor or if that individual is conserved. The money still belongs to that beneficiary. The account can be opened by the beneficiary, or an authorized legal representative if the beneficiary is a minor or unable to manage their own business. Now, who qualifies as an authorized legal representative is very specific. The law says that it can be a parent; a legal guardian, which includes a conservator; or someone with power of attorney over the financial affairs of the beneficiary.

So who's eligible to open an ABLE account? First and foremost, you must be an individual with a disability, and the onset of that disability needed to occur before age 26. If you meet the eligibility criteria for disability benefits like SSI or SSDI, and your disability began before age 26, you can automatically open an ABLE account. But if you've never been qualified for a program like SSI or SSDI but still meet that disability onset before age 26, you can go through a process that we call self-certification. And that means that you are willing to attest under penalty of perjury that the beneficiary has a diagnosed disability made by a qualified physician and that it results in a marked and severe functional limitation that is expected to last a year or longer. So, the bottom line is, you don't have to be an SSI or SSDI recipient in order to have an ABLE account, but we do ask you to get a letter from a physician that states that you qualify. And for CalABLE, we don't ask for you to turn that letter into us. We just ask you to hold onto it in case you're asked. In case you're wondering about what conditions would qualify for an ABLE account – any of the conditions that exist on the Social Security Administration's List of Compassionate Allowances or the Blue Book, and that includes a broad range of physical, mental, intellectual, sensory impairments – just a full spectrum of disabilities. We follow the same guidelines that Social Security follows.

So, what can you do with an ABLE account? And I'm going through these really quickly, but the idea is that we've posted the entire presentation in the Handouts section so you can have those for you and review at any time. So, before the ABLE Act, a person with a disability couldn't save more than $2,000 without directly impacting their SSI. If you did have more than $2,000 in the bank, you'd typically get a letter from Social Security that says you have excess resources, and if you don't spend that down, we're going to suspend your benefit until you do. Well now with an ABLE account, you can save up to $15,000 a year and $100,000 in total before your SSI is impacted at all. Like I said, you can put in up to $15,000 per calendar year and as long as you stay below that $100,000, you won't have any problems with your SSI benefit. Once you get over that $100,000, the same thing that used to happen at $2,000 would happen to you at that $100,000. You'll get a letter saying you need to do a spenddown. If you don't, your benefits will be suspended. Once you complete that spend down, your benefits would be reinstated.

Now, CalABLE is designed to help you out so we'll reject anything that you try to put in over that $15,000 annual contribution, and we'll let you know when you get close to that $100,000 so you don't jeopardize your benefits. And the last number that I want to alert you to is the $529,000. That's the total contribution cap for CalABLE, and that means that if you're not concerned with losing your benefits, you've gone past $100,000, you can actually continue to contribute to your CalABLE account until you get to $529,000. Now, because these are savings and investment accounts, the principal in your account can still continue to grow above that $529,000. You're just no longer able to make new contributions to the account.

So the thing that makes CalABLE so special is that the money that you put in your account can be used at any time without taxes or penalties as long as they're spent on Qualified Disability Expenses. And Qualified Disability Expenses are defined as any expense related to the beneficiary as a result of living a life with a disability that helps to maintain or improve your health, independence, or your quality of life. As long as the money that you're using in your ABLE account touches on one of those three elements, you won't be penalized in any way for using that money, including it won't be counted as income as related to any benefits that you may be participating in. Now, this is an intentionally broad definition, but I want you to know that it can include just about anything – education, housing, transportation, health care expenses. We're often asked if it could include a vacation, and the answer is: I've never personally been on a vacation in my life that didn't improve my quality of life. So the reality is, yes, a vacation could be a Qualified Disability Expense. The other thing that you should know is that it's not illegal to take a Non-qualified Disability Expense, but if you are taking a Non-qualified Expense, you may be subject to any taxes on any of the growth that your ABLE account has had, plus a 10% penalty on account earnings from the federal government and an additional 2.5% penalty from the state of California if this is where you are paying your taxes now.

This is the very quick and dirty version of CalABLE, but if you are ready to open an account, you can go to calable.ca.gov. The instructions to open the website are right there, and you can walk through it in about 20 minutes. It doesn't take a long time, but there are some resources that I want to refer you to. One of the most important is the ABLE National Resource Center, and there's actually a handout in the Handouts section that does the comparison that we're going to be talking about this afternoon, which is looking very closely at ABLE accounts, pooled trusts and special needs trusts. And so it's a great resource and we think that you should make sure that you grab that, download it, or follow the link whenever you get the chance. The other one that I wanted to point you to is Disability Benefits 101.org. It's a great resource for understanding what are the different disability benefits you may qualify for. The number, the contact information for the CalABLE staff is available for you, and if you need help with any of the enrollment, you can call our customer engagement center or email us at CalABLESupport@CalABLE.ca.gov. We're all over social media, and my guess is that if you've heard about this, you've probably already connected with us in some way, but just so you know this entire presentation is in the Handouts section.

And then the last thing that I'll do is, I'll quickly show you the fine print. This is an investment program and just like with any investment program, there is a possibility of risk and so you should be aware of that. Our Disclosure Statement is available on our website, and you can see all of the elements associated with us the risk that you may be facing by opening an ABLE account. So, that is the very quick version of my presentation.

And what I'd like to do now is introduce you to our guest, Mr. Stephen Dale. Steve is a disability rights advocate whose interest in the disability community began at an early age. He comes from a family of institutional workers that served in California's State Hospitals and Developmental Centers for over three generations. Stephen worked for 17 years as a psychiatric technician in a variety of institutions in California, and later became an intern at the Disability Rights Education and Defense Fund working on disability access cases and later transitioned to a private practice focused on drafting and administering special needs trusts.

Stephen is currently the principal attorney at the Dale Law Firm, which is dedicated to providing quality estate planning to clients by working cooperatively with the client's tax, financial, and insurance professionals. He is also the trustee of the Golden State Pooled Trust, which serves beneficiaries in California. Part of his duties is to oversee a series of MCLE programs accredited by the California State Bar, which provides education to attorneys and trustees on a wide variety of disability-related subjects focused on quality of life for persons with disabilities.

Mr. Dale is a disability rights advocate and serves on the boards of the Arc of California and the Contra Costa County Developmental Disabilities Counsel. He spends much of his time attending disability rights activities, including legislative hearings, and serving on boards and committees of disability-rights organizations. He is a frequent speaker – and I know this personally because I have been a speaker alongside him on numerous occasions – on a variety of disability related topics across the country. He speaks annually at the Stetson Law and the Center for Excellence Special Needs Conference, as well as The University of Texas annual Special Needs Conference.

He is the recipient of the 2010 Theresa Foundation Award and the 2007 NAELA Powley Award. Additionally, Mr. Dale is a long-standing member of the Special Needs Alliance, a national, nonprofit organization of attorneys dedicated to the practice of disability and public benefits law.

Steve, that is a great introduction. How are you this afternoon?

STEPHEN DALE: I am really excited to be here with you. By the way, for those of you who are that with California NAMI, we will be doing a similar program for them. But I'm really excited to be here, and I'm really excited about the development of CalABLE.

DANTE ALLEN: Fantastic. I was thinking that we could do this as a conversation. I thought that that might be helpful for folks, but you know I do I know that we are in a PowerPoint world, and so if there are slides that you want to put up, you know, you have the power in order to do that. But I thought that I would start with one of the basic questions. And so like I mentioned in my tee up for this conversation, we very frequently get these questions: I have a special needs trust. Why would I need a CalABLE account? Or I've heard about these ABLE accounts, but I've also heard about these special needs trusts. Steve, can you walk us through what are some of the fundamental differences between an ABLE account and a special needs trust?

STEPHEN DALE: Okay, glad to do it. And Dante, as you well know as a professional and you know, as an advocate, these things are often misunderstood and sometimes misapplied. Hard to believe that that could happen, but as I like to say, people are always looking for simple answers to complex questions. And I don't think that the word "disability" and "simple" are two words that go together. Not in my world. But just going through this, let's start off with a basic overview of what is a special needs trust and then let's compare that with an ABLE account. Then, a lot of our talk is going to be, you know, when we get to the question about: should I do one or the other, or both, or none? Keep in mind, these are tools. That's all they are, are tools, right? So they're neither good, nor are they evil. It just depends on how you use them. One of the key things is that for needs-based benefits, and I will say I'm glad that you mentioned [Disability Benefits 101.org](). I don't think there's a week that goes by that I don't go to that website two or three times. That is a fantastic website that explains this, especially for folks that are working. But for most needs-based benefits like SSI, Medi-Cal, you know, Section 8 to a degree, IHSS, but it's mostly going to be SSI, Medi-Cal, and IHSS. These are what are called needs-based benefits, so not only do you have to show a need based on disability, which is very similar to what is required to open up an ABLE account, but you have to have limited income and resources.

So, as we had been talking about, the rules have been this way for way too long that the resource limitation for these programs is $2,000. By the way, that was set in the 1980s and if there was even a conservative cost of living increase, that number should be somewhere around $18,000 to $20,000, but this is one of the problems that CalABLE is trying to work around here. So, the problem with that is, if you want to benefit somebody with a disability, or if you're looking at putting your funds that come from a personal injury settlement into what's always been our only tool until ABLE accounts, which has been special needs trust. What a special needs trust is, is a form of a spendthrift trust.

Okay, so my largest trust has something like about $30 million of real estate in it. You might ask yourself, why would you do that? And that would take way too much time. But it doesn't interfere with the Beneficiary's benefits because the trustee has sole and absolute discretion over every single distribution. So, all special needs trusts have this in common that the trustee has absolute discretion, and the beneficiary has none. Now, the reason that's important is that a resource is anything that a benefits recipient can get their hands on – is a resource. So, this has been created to do that. Now, you know one of the things here, and I know we had such a long introduction. We ate up a lot of time on this, but I actually interned at the Disability Rights Education and Defense Fund, which I got a heavy introduction to disability rights, the ADA, and all of that here. And so where our job was to enable disabled folks to have as much control over their lives as possible, but here's the conundrum. And I am the trustee of somewhere around 250 beneficiaries, and I am the trustee. I have sole and absolute discretion so if you look at this, the beneficiaries could make the most reasonable request under the sun, and I have the power to say no because I have the power to say, "No, it's not a resource." Now, I wonder if there's anybody watching this that has a problem with that. Right? And sometimes the goal might be the objective of the person setting up the trust – we call them the grantor. The objective might be to protect the person with the disability from being taken advantage of or misusing the funds. But on the other hand, if we have somebody who is really, you know, fully competent and able to manage things, it doesn't put you in a position of power. You might be able to mitigate that, but you cannot eliminate that. So one thing about a special needs trust is there's all sorts of things you can do with it, but the key is the trustee has absolute discretion and the beneficiary has none.

Now, as we dig deeper and deeper into CalABLE, that flips it completely on its hip. First thing is, and this is going to be really key as we go through this, who owns the ABLE account? And it is always, always, always the person with the disability that owns the account. And that's going to be really important as we talk about that – not only about control, but also about how it works. And so an ABLE account in most cases, depending on who has the signature authority, is that it flips it completely on its head that the person with the disability has control over that. And unless there's some capacity issue or that sort of thing where they have a conservator or something along that line here that other people may have opinions, but it's the beneficiary that is in control. So that, I mean, that's kind of a basic comparison between the two.

DANTE ALLEN: That's fantastic, Steve. Thanks. Can you talk a little bit about the cost? So we know in operating CalABLE, there is no cost for opening a program. You don't have to work with an attorney or anything. You have the ability to do that at any time. Can you still hear me okay?

STEPHEN DALE: Well, I can hear you fine. In fact, what I was trying to do because I was going to bring up a slide but I think I'll just wing it.

DANTE ALLEN: Okay, so with a CalABLE account, the minimum deposit is $25. There's no charge actually to open an account. So what does it cost to set up and operate a special needs trust?

STEPHEN DALE: So, there's two costs you have to take a look at. Now, it is possible to create a special needs trust without an attorney. I would suggest to you – now keep in mind I'm an attorney – that's probably a really bad idea. That's something that where you really need to find counsel who knows what they're doing and all of that, but the other thing, so there's no set price. Usually, you're talking in California somewhere between $1500 and $2000 if you're setting up what's called a third-party or an estate planning trust. Now, you may find attorneys who charge higher. You may find attorneys who charge less. And I will warn you, what you pay doesn't always reflect what you get. That's true with just about anything, so really when you're looking for an attorney, you want to make sure that it's somebody who doesn't do this just incidentally, but they do a lot of this.

The second thing that comes up is the cost of managing it. So normally you're going to have two fees you're going to look at. One is the trustee fees, and in some cases, the trustee might be a family member who may or may not charge, but normally when you're using a professional trustee, they're going to charge somewhere about around 1% to 1.5%. Or there are some private professional fiduciaries that charge somewhere around $150 an hour. Things will vary, but that's kind of the price range in our area. Then, on top of that, normally you'll have investment fees because I know we'll be talking a little bit about investments. So for investment fees, those things can range anywhere from 0.75% to 1.5%. Probably the average is about 1.0%. So those are normally the fees that we're looking at when we're talking about an estate planning trust here, setting that up.

The other player in the group and maybe we should get this out of the way, is what is called a pooled trust. This is kind of like a cross between a 401(k) and a special needs trust. You normally don't get your won document. What you do is you join the trust – and there are many trusts in California, not just the

Golden State Pooled Trust. There is the JLA Trust down in Los Angeles, which I know you've presented at many times. There's the San Diego Community Trust. There's many pooled trusts. We're the Golden State Pooled Trust here. The fees you're going to find are fairly similar. There's going to be a joinder fee. Usually, it could be anywhere between $500 and $1500, something in that range, and then there's going to be average fees, which kind of run usually an average of maybe $1500 a year or 1% to 1.5%. Once again, that will change depending on the trust you work with. Otherwise, it functions very much the same. So I think you would find that the cost of a special needs trust is going to be higher, and in some cases significantly higher.

DANTE ALLEN: Yeah. So my next question is something that I actually see in the questions queue, and folks are asking, "Are there differences in the ways that a trust can be used versus how CalABLE can be used?" I talked about the Qualified Disability Expenses really being the only limitation on how you use your ABLE account, especially because the definition for Qualified Disability Expenses are so broad. How about we talk a little bit about, are there limitations on what you can use money in a trust for?

STEPHEN DALE: Okay, so in a special needs trust, generally they can be used for virtually anything here, much like a CalABLE account. There's a huge proviso, though. One of the differences is with rare occasions – it's a rare occasion you can actually give cash to a beneficiary of a special needs trust, and if they're on SSI, just assume that you cannot give them cash at all, and you have to pay for everything in kind. The other thing that's huge – and I know for the Golden State Pooled Trust, we use ABLE accounts a lot for this – is paying for food and shelter items. And that might be something that we might go through a little bit, Dante, because it's so important and it can save many folks that are probably watching this up to $3,000 a year, and you don't even need an attorney. So now I have a question. On the screen, can you see the slide or not?

DANTE ALLEN: Oh yeah, I can see your screen.

STEPHEN DALE: Okay, so if I can, let me walk through the housing thing real quick. I think that's worth going through. One of the things as far as the difference between a special needs trust and an ABLE account is that in a special needs trust, especially for an SSI recipient, if you use it for food and shelter in California – well in 2020, you'll have your SSI benefits reduced dollar for dollar, capped at $281 a month. It's called the ISM reduction, which quite frankly between you and I, is the dumbest thing in the world, but that's the way it is and that's the way it been for some time. What they count for Social Security for SSI recipients – and I want to mention this is just for SSI recipients. If you're on SSDI, you can space this out. That it doesn't affect them. So there's ten things they count for food and shelter. So the issue is, if you're paying for food and shelter out of a special needs trust as an SSI recipient, for food, mortgage payments, real estate taxes, rent, heating fuel, gas, electricity, water, sewer, and garbage – what happens is that those payments from the trust for the benefit of the SSI recipient will reduce the benefits dollar for dollar, capped to $281 a month. The Social Security Administration directed – and I was honored to be involved in setting up some of these rules and advising on these – directed that distributions from an ABLE account do not count as income, regardless of whether the distributions are for non-housing QDEs, housing QDEs, or Non-qualified Expenses. They basically came to the conclusion that this is not our program, and no matter what it's used for, it's not to reduce the benefits.

They also directed the Social Security Administration to not scrutinize how ABLE accounts are used with very limited exceptions. Okay, keep in mind this program is under the direction of the Department of

Treasury, and the people that set this up were so smart to do this. It's not a program under the Social Security Administration, which I wouldn't exactly say is a disability-friendly organization. Oddly enough, the Department of Treasury is. So once again, it's not a program under the Social Security Administration or CMS, which oversees Medicaid, or even HUD here. It's a program under the Department of Treasury. So here's the thing, just keeping this in mind: with a special needs trust, if you pay the rent, you take the reduction, but this is going to be really important is that an ABLE account belongs to the disabled individual themselves. So let me illustrate this.

Let's say Belinda's been disabled from birth and she receives $943.72 a month in SSI, which is the current rate that most Californians are getting. She's a beneficiary of a special needs trust. Okay, well, that's cool. She'd like to move to a nicer apartment, which would cost $1,000 a month. Now Dante, I'm not sure where you would find a nice apartment for $1,000 a month in California. You can make that almost any number you want up here, but even $1,000 a month, she's going to have a really hard time paying that rent because she's only getting $943.72, especially as she likes to eat. So, we're going to have a problem. So she's going to need some assistance to move in. So if Bob, her trustee, were to give her $1,000 a month directly, that's unearned income and that would just wipe out her SSI. So that's not going to work. If the landlord – and this was the only option we had at the Golden State Pooled Trust until ABLE came along – if we were to pay the landlord directly, the payments would count as ISM for her benefits, and her benefits would be reduced by $281. That's what's called the ISM or the PMV limitation.

Okay now, up until ABLE, you know, our feeling was well, that's the cost of doing business and we're putting her in a better spot, but if instead the trustee were to put the money into a CalABLE account, and in turn, the funds from the account were to pay the landlord directly, there's no reduction in the benefits. And the reason is, and you've got to ask yourself, even if it was only in the CalABLE account for an instant, it went from funds that did not belong to her, that it instantly became her money, and so she's paying her rent with her own money, and there's no reduction in benefits. It's just that simple, okay. And this can have a dynamic effect on people's benefits if you add that up. You know, that's a nice little chunk of change here that we're dealing with, and so folks on disability here. You know, every dollar that they can conserve themselves is a dollar they can use for their own needs. So I think that's, you know, there's an example.

Now, another example – and I'm going to stop sharing my screen now. Let's see if I can do this. Okay, we're back. The other thing tying them together is, I as the trustee of the Golden State Pooled Trust, we often will have people rack up their expenses on either what's called a True Link card or a credit card, but we have to go through and scrutinize every single distribution, everything that was spent, right down to the penny because if we're reviewed by Social Security, we have to be able to account for that. Well, you know the problem with that is, we're going through things that are normally none of our businesses, and we end up scrutinizing everything they're using the funds for. Are they using for feminine hygiene products already what are they using things that are usually none of our business, but we have to do that.

One of the things about tying a special needs trust to an ABLE account is the freedom that it gives the beneficiary here, is that we can put that those funds into that ABLE account, and they can use it for virtually anything they like. And depending on the situation, we don't have to scrutinize those distributions so it gives some privacy, some things that we all take for granted, you know. And so you can make those expenditures, and you don't have to have your very friendly trustee you have to go through that and figure out what you're spending on.

Here's the last thing and then I'll take a breath okay, Dante, because you know me. I can go on and on. Okay, here. There is safety in the right situation of using an ABLE account, and here's why. And once again, I was very privileged to be involved in a series of conversations with Social Security where they came up with the conclusion that this is not their problem. This is the Department of Treasury's problem, and that's why in the POMS, the directions that they give to the eligibility workers that they are not to review the expenditures from these trusts. They're not the ones policing this. This is the IRS policing it. Okay, so there is a certain safety because sometimes when you're making distributions from a special needs trust, and they're reviewed by Social Security, you know, the reviewers may decide that something was not correct or was correct. The rules are pretty complicated.

If I have a beneficiary that has the capacity to manage their own funds, as the trustee of the special needs trust here, and I put the funds in their CalABLE account, I can rest assured that even if they goof up, the chances of a problem are relatively small. Now, they could be subject to an audit by the IRS. I think we've been waiting for somebody to get a negative response from the IRS. In order to be audited by the IRS, first off, a lot of people on SSI just aren't audited by the IRS. They don't make enough income to do that here, so the chance of an audit, it's greater than zero but not a whole lot here. And actually, if you were to chase down the penalty, it is so small, it's laughable. Okay, so the safety for the beneficiaries trying to get through these crazy rules here. You know, oftentimes, when I'm trying to tie a special needs trust to an ABLE account, one thing I might be looking at is minimizing the chance that we're going to have a problem with Social Security, especially for people on SSI.

I will do something hard for me. I will take a breath.

DANTE ALLEN: That was a ton of information that you gave, Steve, but very useful stuff. Just to make sure that I'm fully understanding you, let me talk about what I heard from that, and you can either nod as you breathe or you can mutter out a response. But one of the main things that I heard was that you have quite a bit of flexibility, whether you're talking about what you're using the money from an ABLE account for, or what you're using money from a special needs trust for. The main differences are, at least what I heard was, that because of ABLE and the Qualified Disability Expenses and the protection that they receive from programs like SSI when you're using that money for the Qualified Expenses, it doesn't count against your benefits at all. But if you're using money directly from a special needs trust to pay for things like living expenses, that may count against your benefits.

STEPHEN DALE: If you're on SSI.

DANTE ALLEN: If you're on SSI. Yeah.

STEPHEN DALE: That's important. That's one thing.

DANTE ALLEN: Yeah, one of the other things, and I see there are lots of questions in the queue about this, is who can contribute to a trust? So ABLE accounts are set up that anyone can contribute to it, and there's the added bonus that if it's anyone other than the beneficiary, anyone other than the person with the disability, that those contributions aren't counted as additional income. So like you said, you're not getting that in-kind contribution. They are simply their gifts that aren't counted by the benefits providers, and so you can actually legally get a gift and that not affect your benefit in any way. But who can contribute to a special needs trust?

STEPHEN DALE: So for a special needs trust, there's two types of special needs trusts. Remember, I told you that “disability” and “simple” are two words that don't go together. Okay, so…

DANTE ALLEN: Absolutely

STEPHEN DALE: So divide it into two parts. The primary trust I think we're going to talk about today is what are called third-party trusts. So this would be the estate planning trusts. I’ll give you an example, and we talked about this openly, and I’ll even tell you how we tie it in with an ABLE account. I have a niece with a significant disability. She's on SSI. We have set up a special needs trust for her, and all the family is making contributions to that that trust. So anybody can contribute to an estate planning trust except the person with the disability themselves. They cannot put their own money into what's called a third-party or an estate planning trust, and we'll come back to that trust in a minute.

The other kind of trust that's really common is what's called a self-settled trust. There's all sorts of names for it. We can call them – they're called d4A trusts, they're called Medi-Cal payback trusts because there's a lien on them here. On the other trust, there is no lien here. So what a sell settled trust is – let's say you get into an accident and you get a settlement. And as we all know on SSI, Medi-Cal and In Home Support Services, you can't make more than $2,000 available to. You can put your funds into a self-settled trust. These are the funds of the disabled individual themselves here, and that operates much like an estate planning trust, but upon the death of the disabled individual of the beneficiary, there's a lien for any Medi-Cal – and this is going to be important – that they've used during their entire lifetime from the very first dollar of Medi-Cal they ever got, and there's also limitations on what that could be used. It can only be used for your sole benefit. That is what's called a self-settled trust. They're called Medi-Cal payback trusts, d4C trust and that kind of thing. Both of those can be tied to an ABLE account.

If I can go back to my niece. My niece who has a significant developmental disability – she's not incompetent, but you know here's another use of these accounts and how we tied this together. Her name is Erica. We talk. She talks. By the way, she gets a little extra money in her ABLE account every time I mention her name, so this is costing me money, friends, here. So what we have is, we put in some money into the account, but before ABLE, she had never spent a single cent on herself because she's always been on SSI and why should she and all that. So she had no what we call “financial literacy.” Well, we decided to open up an ABLE account. And so we have the special needs trust that's feeding the ABLE account as she uses it, and we're using it to teach her financial literacy. Now, I will tell you the first expenditures were, let's say “absurd” okay, which wouldn't be a surprise because she'd never, you know, bought anything, but it went from absurd to questionable to interesting to now she's actually making reasonable expenditures. Okay, and why is she doing that? She's doing that because let's face it, there are so many folks with disabilities that never really take control of their life, and she – and hey, big surprise, Dante – she's exceeding our expectations. Can you imagine that, right? Now, because of her significant disability, we're only feeding it a little bit at a time because you know we are concerned about her being taken advantage of. But as she needs it, we keep feeding it. There's another example of how we can put this together tied to the specific needs of the specific individual.

DANTE ALLEN: Yeah, great things that you bring up. ABLE was created as an empowerment tool for people with disabilities, right? So as the owner, if they are have the capacity to be able to use that money on their own, or even we have some features like our CalABLE Visa Prepaid Card, where you can sort of put training wheels. This may be the first time that like your niece, if this may be the first time that she's ever had access to money of her own, you don't want to give her sort of the keys to the entire kingdom. Here, you can load some money on this card and then use that card where Visas are accepted or something like that.

STEPHEN DALE: You know, I was hounding you for some time. That card is so important. That just opens up an aspect of using this because you know the issue with a lot of folks is, well go back to my niece. She has a lot of skills but the card makes it really accessible to her and just opens up a big world for her, whereas her keeping a checkbook or that kind of thing, that's just probably not of course she may exceed our expectations there. That's just probably not the skill set that she's going to be able to do. I want to keep this in mind because I know that we have many listeners here. The disability community is a very broad community and so it's like my friend Brian Rubin says, it's like for instance, if you meet one person with autism, you've met one person with autism. So the challenge sometimes is that it would be nice if everybody with a disability had the same function. That would make an administrator like me a whole lot easier, but the fact is, you know the disability community ranges from everything from, you know, full capacity and that sort of thing, to folks with extreme challenges and everything in between. So we just have to fit it to the individual. So that's our challenge.

DANTE ALLEN: Okay, here in California we've worked for a number of years with the State Legislature, and we've been trying to get them to pass a law that would give a tax deduction for those folks that would contribute to say a family member's ABLE account. We've been unsuccessful so far, which means that if you are a Californian with a CalABLE account, and you have folks that are contributing to it that they don't get that extra incentive of saying I can give money and then it'd be a tax deduction for myself. But what about for a trust? If you have one of those trusts that allow for third-party contributions, is there any kind of tax favorability for those contributors?

STEPHEN DALE: As far as the contributors are concerned. No, it basically – and for those of you that I know we have a lot of professionals listening for an estate planning trust – it's what's called a complex trust. For the rest of you, just ignore what I'm telling you, but it's a complex trust it doesn't qualify for the annual exclusion. So if you're dealing with somebody who has a taxable estate here, it doesn't qualify for the $15,000 annual exclusion, where CalABLE does here and that sort of thing. So it doesn't. We could get into the technicalities of taxation. There are times when the CalABLE account will get the better tax results, and there's times when a special needs trust will get a better tax result. It really depends on the situation. I happen to have an LLM in tax, which in a way is kind of amazing to me because I certainly didn't go to law school to become a tax attorney, but here I am.

DANTE ALLEN: Well, one of my most frequently given responses to some of those questions is, well you may want to talk to your financial advisor, tax preparers. So I don't pretend to have that level of expertise. One of the questions that we've received in the questions queue relates to conservators and so here with CalABLE, I've already mentioned that if you sign up as the authorized legal representative of a beneficiary, you either need to be the parent, legal guardian, or conservator, or someone with power of attorney over the financial matters for that individual. Can you talk about conservatorship in either way related to ABLE or with trusts?

STEPHEN DALE: Okay, so going back to the trust. The beneficiary can never be in control of the trust, which once again, you have to look at the objective. For some people, that's a big price and for instance, I – oh, and she's watching so I'm going to get in trouble for this – I like controlling my things to the degree my wife allows me to do it. I do have some accountability here, but in a special needs trust, the beneficiary doesn't have that control when it comes to conservatorships, guardianships, or that sort of thing. And we're dealing with capacity, and for folks that are listening, I'm not telling you that we shouldn't use ABLE accounts. You know, there's so many uses of them, but it's something you need to think about. If you are a person with a disability setting up an account, the very first thing you should do after that is set up a power of attorney so that if you lost capacity, you can choose who's going to manage the funds. Or you know, there's a lot of folks with disabilities that are fully competent but they might have CP or something like that, and just signing things and all that is just really a hassle. So it's not uncommon for them to work through a power of attorney.

If you don't set up the power of attorney and let's say you lose capacity, you have a stroke or something along that line, then what the law says is that it would either be a parent that would be in control of this or the courts. Now, the whole thing of dealing with the courts in California is a work in progress, just like CalABLE is a work in progress. We're not done with this. I'm sure that we're going to see a lot of improvements coming up. The courts are starting to get used to, and we've done some things with different courts, you and I, but the courts are kind of getting used to what is this new tool and how does it work. But the problem oftentimes with a conservatorship, and it would be a conservatorship of the estate, is that you have judges and lawyers managing the funds. So you're going to have lawyer fees, you're going to have bond, you're going to have accounting fees, and that kind of thing with that. So if you can avoid the conservatorship here, that's something you would certainly want to do.

Now, Dante, if I can add one more thing and then I'll take a breath. We go back. I do a lot of folks with IDD and even within the – because I'm on the Board of the ARC of California, and it's just a lot of folks I work with, and even with folks with IDD – it's all over the board about whether or not they have the capacity to contract and do this sort of thing. Let's just assume for the moment that we have John, and John just doesn't have capacity. And let's say that you have parents set up an ABLE account here, and the family starts funding it and that kind of thing, which is fine. A great place for gifts, you know, and all of that. You just want to be careful not to let it build up too much in that sort of situation until we can get the law set up because if the parents have signature authority, and let's say they were killed in an accident, and if our ABLE beneficiary doesn't have capacity, we are left with the courts. As an attorney, when I'm working with families, we use ABLE for a number of things, but you can divide it into two groups. Sometimes, we use it as a mode of distribution, like paying for the housing, giving more autonomy to the beneficiary, not having to determine whether or not they purchase feminine hygiene products. I guess I should focus on something else, but something like I don't know about you, man, but that's not one of those things I really want to go through here or that sort of thing. A lot of those will tend to be money in, money out accounts.

The other one is using it for a savings account, which is certainly part of what this is designed to do, and for working disabled folks, that is really important here. So for those accounts, if you're using it for savings and if you're dealing with somebody where there might be some questionable capacity issues, make sure that you have some way to deal with what would happen if, for instance, the person with the disability lost capacity. Just because you've got one disability doesn't mean that something else bad can't happen to you. It doesn't work. You don't get a pass even though you should here, and so in that case, a sign the power of attorney here and get that done. And here's another sad little thing – you don't even have to have an attorney to do it – if you google "California statutory power of attorney," you will find it for free on a lot of the court websites. Anyway, I'm going to take a breath.

DANTE ALLEN: And so again, I'm just going to parrot back to you what I've heard, and that main thing – and this relates especially to ABLE – if you're a conservator, it's best to be a conservator of the estate rather than a conservator of the person.

STEPHEN DALE: You would be the conservator of the estate because you're dealing with money. The conservatorship of the person is – it's a little expensive here, but there's not a lot of ongoing expenses. A conservatorship of the estate, which is dealing with money, it's much more expensive, there's an accounting in the first year, average accounting is probably going to be $2,000 to $3,000. There's no set price. A whole lot more than you think it ought to be. There's going to be a bond and there's probably going to be an attorney. So, I mean, that comes with its cost, and that's something that, generally you know what I'm kind of suggesting is, you've got to think this through here. If you're setting this up for somebody who doesn't have capacity to fund this themselves, then you need to think this through, or go back to this. If they do have capacity, man, the minute you get that CalABLE account set up, get a power of attorney and determine who you want managing it if you're no longer able to do it, or if you need some help.

DANTE ALLEN: Yeah, so the one other thing that I'll add from an ABLE perspective to what you're saying, Steve, is that we get lots of questions from parents, and they say, "Well, I signed up as an authorized legal representative of my parent when they were a minor. Do I still have that? Do I still have the ability to be that representative when they reach age 18, or do I need to take an additional step? And so from CalABLE's perspective, we don't require parents if they were the authorized legal representative of a minor to take an additional step. The one thing that folks should know, though, is that if that person hasn't been conserved in some way, if they are deemed to have capacity, they can actually make a change. They can say, "I want to operate my own ABLE account." Or "I want to change to another authorized legal representative." And so we do provide that information to account holders.

STEPHEN DALE: And I think that's a real important point, and that may have something to do with it. It doesn't mean you shouldn't use a CalABLE account. You just want to think about what you're doing. For instance, I'll give you an example of – we won't obviously use real names – but for a Golden State Trust beneficiary, let's call her Alice. Alice has schizophrenia and she also has a history of drug abuse problems, okay, and we want Alice to have control over her life. We want to – I was a behavioral nurse in this – we want to help her be as independent as we can, but because of her past history here, to put more money than she's going to use on a regular basis into that account, at this point, it's just too great of a risk. So you know, part of what we do is we feed that account as we go. So here's the thing: they might set me up as the authorized representative, but we go back to this. Just because Alice has schizophrenia, it doesn't mean she's incompetent just because she uses it for illegal drugs. That's bad judgment, but that doesn't make her incompetent. So the thing about it is, you have to ask yourself one of the big differences between a special needs trust and an ABLE account is, the ABLE account is always owned by the person with the disability, which in the vast majority of the cases is great. In some cases, it could have unintended consequences.

The special needs trust is always owned by somebody else. Now, this might be an example when you have somebody who might have the danger of doing something harmful with themselves if they have unregulated money, then you might want to feed it as you go. But you know what? There's a really good chance – and I'm pulling for Alice up here – is that she will take more control over her life. And there's lots of folks that have had substance abuse problems that have overcome it. And you know, we're pulling for Alice. Right now, we're kind of watching. Okay.

DANTE ALLEN: Okay. So Steve, one of the questions that I receive on a regular basis is related to, and you even talked about this a little bit earlier, is what happens to the money in an ABLE account when the beneficiary passes away? What happens to the money in a special needs trust when the beneficiary passes away? And so one of the things that we talk about here in California, we passed a law in 2017 that says that – you mentioned this when you were talking about trusts – when an individual passes away, they may be subject to that Medicaid recovery, which means that the expenses that have been paid for their healthcare by Medicaid is recoverable by the state. We can dip into your accounts to do that, whether it is a trust or an ABLE account. But here in California, we passed a law that says for Californians with a CalABLE account, we won't seek to recover – what I mean by "we," I mean Medi-Cal – Medi-Cal won't seek to recover that money directly from your ABLE account. How does that apply to special needs trusts? And then, we can talk a little bit about… so what really then happens when that beneficiary passes way?

STEPHEN DALE: I think I'm showing a slide that says "Medi-Cal and the Payback" here, so hopefully that's what you see.

DANTE ALLEN: Yes, that's what I'm seeing.

STEPHEN DALE: There is a fourth column, if I were to answer your question directly, which would be a self-settled trust, but let's walk through this. In fact, this is kind of interesting how this happened. I know the author of the ABLE Act, and he was dumbfounded when Pennsylvania, of all places, discovered a way to work around the lien. So what the law says is there is a lien on an ABLE account for any Medicaid they used from the time the account was established, but what it actually says in the law is when the request is made by the state. So Pennsylvania says, "I know what we'll do. We just won't make the request." And that eliminated the lien for Pennsylvania. So now I think that California is one of four states… Now, I know that Oregon doesn't have a lien for their folks and that kind of thing.

So the first thing is, let's just talk about Medi-Cal recovery itself. There is a lien in California for any Medi-Cal you use after the age of 55 for assets that pass through probate. Where this comes up usually is for seniors who maybe are using Medi-Cal, maybe went to a nursing home, or something along that line. And this law changed just a couple of years ago here, and traditionally, oftentimes the property would be lost when they passed away because of this lien. But it changed so that if you were to put the house in a simple living trust, it won't be subject to a probate. For an ABLE account outside of California, if you use another state's plan, there is a lien for any Medi-Cal or Medicaid you have used from the time the account was established. For a CalABLE user in California, once again, we basically have followed what Pennsylvania has done. And basically, it says, “We won't submit a lien.” And therefore, for a CalABLE account for a Californian, there is no lien.

For a third party or estate planning trust, there is no lien because the beneficiary never owned the money in the first place. The fourth one that should be on here, if I was to do this thoroughly, for the self-settled or the payback special needs trust, or what I like to call the Medicaid payback trust, so that would be like money that comes from a personal injury settlement or that kind of thing or probate that maybe didn’t go straight in the trust, it went directly to the individual – that’s what’s called a payback trust – you can put that into a special needs trust, but that's going to have the worst lien of all. That will have a lien for any Medi-Cal or Medicaid used from the very first dollar of Medicaid used during their entire lifetime, and that’s why I like to call it the Medicaid trust.

DANTE ALLEN: Okay, so another of the questions that we get related to the death of a beneficiary is: can you set a – I guess the right word would be a “successor” beneficiary to receive money from an ABLE account? So CalABLE does not allow you, when you open the account, to set a beneficiary. When the actual program beneficiary passes away, that money does have to go to their estate. And so if there have been arrangements made with their estate, that's how the money would be distributed. How do you advise folks, whether an ABLE account or a special needed trust?

STEPHEN DALE: If what your concern is – and let’s remember who owns the ABLE account? It’s the disabled individual, right?

DANTE ALLEN: The beneficiary. Yeah.

STEPHEN DALE: If I set up the ABLE account that my wife and I set up for my niece, we have no right to control where that goes because that's her money, right? That’s her money and that’s her business the instant it went in there. So here’s the thing that comes up with the workaround, which Dante – and I know a lot of the folks from the ARC of California are watching and that kind of thing, who intensely are interested in it – on my wish list someday, there will be a beneficiary designation. I know there is an advocate who has been driving us somewhat nuts about this as she desperately wants this to happen, and you know who you are out there, but right now as far as we can tell, there’s no states that put beneficiary designations. They could, but they don’t.

So here’s the deal: it goes to the estate. So if the person has capacity to enter into a will, which is not a really high standard, they can do a will. And there’s many kinds of wills they can do. There’s a holographic will – they can just write one out themselves on a piece of paper. They can do a statutory will. If you google “California statutory will,” guess what’s going to pop up. You can have a full-blown attorney to do a will. There’s any number of ways doing a will, and that will direct where the funds go. Now, here is the proviso in California: if the amount that you are passing without a beneficiary designation is less than $150,000, then there will be no formal probate. If it’s over $150,000, then there will be a probate. Let me illustrate that.

Say we have a CalABLE user. Let’s say the CalABLE user was working, which is one of the wonderful things that a CalABLE account to do, and [DB101.org](DB101.org) is the place to go to learn about that. So let's say they are working, they are building up the money in their CalABLE account, and let’s say they use it to purchase a home eventually. And so now they own a home. If they put the home in a living trust, a simple living trust which avoids probate, and let’s say what they have is $100,000 in the CalABLE account. Let's just say the house is worth $400,000, just to give us a number. The amount that's going through probate is the $100,000 that's in the CalABLE account. Result: zero probate. Now, if we have somebody with a capacity issue, then there may be an issue. Now, this would even go back to those of you CalABLE users that are using it as a savings account. Not only if you really wanted it to go to somebody other than your heirs at law – you want it to go to a specific brother or sister or boyfriend or girlfriend or whatever you want to do – until you are done doing a power of attorney, you should sign a will, and make sure somebody knows where it is, and direct it where you want.

DANTE ALLEN: Sounds great.

STEPHEN DALE: But if you want an attorney, I'd be more than happy to help you and charge you accordingly. And the really cool thing about CalABLE accounts is, you can use it for legal expenses so how they work that in there, I'm not sure, but there you go.

DANTE ALLEN: Yeah. So we're getting to the last ten minutes of the program so we're going to do what I call the speed round. And so if we can keep these answers brief. But I want to ask you just a few questions. They're thoughtful questions and they're certainly not easy answers, but when would you recommend an ABLE account over a trust?

STEPHEN DALE: I would be looking at capacity issues since I do so much work with folks that have challenges. Let's call it that. I'd look at capacity here. The lien would not be that big of an issue. A lot of it has to do with control. You know, you go back to this. We work so hard with our loved ones with disabilities to help them be as independent as possible. You cannot be independent as a beneficiary of a special needs trust. By definition, you cannot. So if really my goal was independence, I would be leaning more towards an ABLE account. The housing here is a huge issue. Having that is certainly important.

The other one is that, quite frankly, it's not that you can't goof them up, but it is really difficult to do – you'd have to work really hard. An ABLE account is safer than an expenditure from a special needs trust. Those would be the factors I would be looking at. In my world, and I tend to work with folks that are probably more challenged, I would say there is a good percentage where we tell folks, "You probably want to work with an ABLE account." More and more, my folks – they're getting both.

You said to be brief, so I'm doing my best.

DANTE ALLEN: So if you're doing both – say you have an ABLE account and a special needs trust, can you use money from your special needs trust to put into that ABLE account?

STEPHEN DALE: Right, and this was an odd declaration that came out of the Social Security Administration because only a person can put things under federal law into an ABLE account. So anyway, when they wrote this all up – and the Department of the Treasury did this as well – they determined that a trust is a person. I don't know why, but it works for me. So it's in there in black and white and all that, so gee, the money can come from almost anywhere. It can come from a settlement. It can come from a gift. It could come from a trust. So you definitely can transfer from a special needs trust to an ABLE account, but as far as we know, we can't go back the other direction.

DANTE ALLEN: Right. Right. That maybe one of those Non-qualified Disability Expenses if you're taking it out just to put it into another savings or investment vehicle.

STEPHEN DALE: You'll have to tell me the result when you run across it. I'm sure you will eventually.

DANTE ALLEN: I'm sure I will. So the one instance where I think I routinely talk to folks about where you may need a special needs trust even if you already have an ABLE account is, let's say you as the beneficiary of an ABLE account, and you're receiving SSI and you receive an large inheritance. And that inheritance is above that $15,000 contribution for your ABLE account. What are you going to do with that money to be able to continue to receive your benefits but not have that inheritance count against you as a resource? Can you think of any other circumstances?

STEPHEN DALE: You know, I know I had one and I was concentrating so hard on it that I lost it because there's so many uses of these tools – and you've got to look at them as tools. I think of myself as an engineer, and there's so many ways of putting this together. We're working with some of the regional centers with accounts, and we have what's called the GSPT ABLE program, where we actually charge less, and what we do is we just feed the ABLE account a little bit at a time and that kind of thing.

There is so many different uses about how to use these tools. But Dante, it goes back to what I said: CalABLE accounts, special needs trusts, and the like – they're not good, they're not evil, they're just tools. And it's really important to understand the tools and how to use them. And there's so many different ways of doing that.

DANTE ALLEN: So Steve, let's say that folks here have additional questions. They want to talk to someone, an attorney, about further exploring a special needs trust. Are there any resources that they have at their disposal to be able to find who is the right type of attorney they should talk to and where should they search. I know you're an attorney but let's give resources to everybody.

STEPHEN DALE: That's deep trouble. I don't know what I'm going to do. That's a really good question when you're talking about a professional. We might even broaden that because Dante, as you and I well know, that's why you and I do so many educational programs together. For you California NAMI folks, we're going to have that coming up, too. But a lot of it is education. And not every attorney who does estate planning, and not every attorney who does special needs trusts, is well versed in special needs trusts. I think when you are looking for an attorney, first off, you want to make sure that you're not just selling documents. There's too many attorneys that are document sellers. And you know, it's not to document, it's the result you are looking at. Ideally, they have taken some sort of course or that kind of thing. So Dante, you and I actually did an MCLE course for attorneys to teach them how to do that. And so really you want it encourage that more and more here, and for you advocates out there who are really excited about this new tool in your own community, really you should be talking to folks about how to get that education.

A lot of folks are being told to go to their financial advisors. A lot of financial advisors I know wouldn't know an ABLE account from an SUV. I mean, they just really don't. So part of it is, you're looking for folks that are experienced. Now, I tend to like to use folks that are with the Special Needs Alliance, so if you go to specialneedsalliance.org, those are attorneys who have been vetted and they've certainly had training. They are not the only ones but you're looking at folks who really understand it and ideally have used them. For those of you who are attorneys and professionals, trustees, and all of that, really get on the band wagon, guys, because this is an important tool, and if you're not well-versed in using this tool, how can you possibly serve your community? You want to be more than a document seller. What you want to do is you want to be that advocate. That's an exciting area to get into, and what better things to do than help persons with disabilities take more control over their lives. You're looking for somebody who really is invested in the community. Go ahead, Dante.

DANTE ALLEN: Thank you so much, Steve. I think that is wonderful note to bring things to a close. As you know, CalABLE not in the trust business but we see it as an essential need for folks to understand CalABLE accounts, to understand all of the other ways that they intersect with programs and other tools that are available to folks. I know that we have tons of questions that made it into the queue that we didn't get a chance to. We'll spend the next few days answering those questions, and we'll post them as a document along with the recording of this. So I want you to know that if you look us up on our YouTube channel or come visit us on our website which is included in the slide show you can still receive that.

The other thing is give you a sneak peek about the event that's coming up next month. Again, in our webinar series, we'll be talking about Qualified Disability Expenses. And so I gave you the brief details today, but we'll be happy to answer your questions on all the things that may or may not be considered to be Qualified Disability Expenses. That will be coming up next month. Steve, thank you so much for your time. Your expertise is fantastic.

STEPHEN DALE: Dante, if I could just add something for 20 seconds – we have 36 seconds left. We are recording this during, I hope, the middle of the pandemic. God, I want this thing to end. I don't know about you. But I have to tell you, California, like other states, is under a challenge that this was like throwing gasoline on a problem. It is so important that we advocate for our persons with disabilities. And I just want to tell you that for those folks that have loved ones with IDD, I want to urge you to go to the ARC of California web page. Sign up for the Monday Morning Memo so you can keep up with what is going on. Advocacy is so important and coming back to savings, we have a very questionable future for many of our programs coming up, so saving has never been more important than it is today.

We need to fight this on two fronts: we need to set aside those resources for our loved ones with disabilities so they can enjoy a quality of life that many non-disabled people take for granted, and on the flip side, we must always advocate for the programs and the people that work that serve the folks with disabilities. Once again, I urge you to go to NAMI California, to go to the ARC of California, or whatever your disability program is because we need your advocacy more than ever before. Thank you.

DANTE ALLEN: Thank you, Steve. Thank you, everyone, for attending today. And again, we will get to your questions, and we'll make sure that they are posted so you can see all of the answers. Thank you so much for joining us today.

STEPHEN DALE: Thank you, Dante.

DANTE ALLEN: Thanks.

For more information, please contact CalABLE at (916) 653-1728 or calable@treasurer.ca.gov.

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