

**Guardianship, Conservatorship
and
Special Needs Trusts**

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SPECIAL NEEDS TRUSTS

I. INTRODUCTION

There are two categories of Special Needs Trusts: those created with the beneficiary's assets (self-settled) and those created with someone else's money (third-party). Third-party trusts are often called Supplemental Needs Trusts.

A. Self-Settled Trusts.

Federal and state law recognize that a disabled individual under age 65 may establish an individual (a "d4A trust" or a "Medicaid payback trust"). A self-settled special needs trust can be used to hold assets that come from a personal injury settlement, a divorce settlement, an inheritance, or assets already owned by the individual. It must include a provision requiring that Medicaid (not Medicare or the Social Security Administration) be paid back upon the beneficiary's death for the Medicaid services provided to the beneficiary during his or her lifetime, to the extent that funds remain in the trust. There are other specific requirements under state and federal law and regulations, as well as Social Security written instructions that set forth such requirements. A special needs trust must be carefully drafted to satisfy these requirements, which are constantly evolving.

The most critical requirements of a self-settled trust are:

- (1) it must be established for a disabled person who is under the age of 65,
- (2) it must be established by a parent, grandparent, guardian and court,
- (3) it must be irrevocable, other than for certain provisions such as compliance with benefit eligibility, and
- (4) it must include the above-referenced Medicaid-payback requirement.

The general rule is that when an SSI recipient or a person on certain Medicaid

programs transfers his or her assets to another person, he is penalized and loses benefits. Special Needs Trusts are an exception to the transfer rules. A Special Needs Trust is a discretionary trust created for a beneficiary who is “disabled” by Social Security standards. It supplements but does not replace public benefits for which the beneficiary may be eligible. A Special Needs Trust must be carefully drafted and implemented to conform with statutory and regulatory requirements to assure ongoing SSI and Medicaid eligibility. The SSI and Medicaid rules regarding Special Needs Trusts are similar but not identical.

If the trust is properly drafted, the funds can be used for just about anything, as long as it is for and in the best interest of the beneficiary. Depending on the public benefits received by the beneficiary, use of the funds for food and shelter expenses may reduce the benefits being received. The trustee should be someone who can properly distribute funds to best benefit the beneficiary.

An alternative is a pooled trust (also called a “d4C Trust”). Instead of holding the assets of a single disabled person, a pooled trust holds the resources of many disabled beneficiaries. The assets in the pooled trust are managed, administered and distributed by a non-profit association. Also, unlike individual (d)(4)(A) trusts that may be created only for those under age 65, pooled trusts may be for beneficiaries of any age and may be created by the beneficiary herself.

B. Third Party Trusts (Supplemental Needs Trusts).

Every family with a special needs family member should strongly consider establishing a special needs trust for that individual. That is a document that provides specific directions that must be followed in managing the care and funds of the special needs individual.

A “third party special needs trust” is one in which another person, such as a parent, creates a trust for a person with disabilities, and uses assets which do not belong to that person to fund the trust. Often these trusts are referred to as supplemental needs trusts. Third party trusts provide wonderful opportunities in

planning for a special needs family member, whether he or she is a child, an adult, or an infirm adult receiving long term care services.

There is no need to repay Medicaid out of this type of trust, if it is properly set up. Any balance upon death can pass to other family members, or whomever one wishes.

II. CONSIDERATIONS IN CREATING A SPECIAL NEEDS TRUST

A determination of the type of benefits a person is receiving or will receive is a starting point in deciding whether to create a special needs trust. One must consider all the needs and circumstances of the beneficiary, such as health and medical needs, prognosis, life expectancy, anticipated changes in health, housing arrangements, capacity to own assets responsibly, capacity to manage assets responsibly, financial needs, family members involved in providing care, whether there are alternative methods of using the funds or assets that would be placed in the Special Needs Trust, whether there are sufficient assets to utilize a professional trustee, and if not, whether there is a suitable individual to name as trustee. Also, one must consider the state in which the disabled trustee is likely to reside, particularly upon the death of the primary family caregiver, and the specific legal and governmental agency requirements for a special needs trust in that state.

If a person is or will be dependant on SSI or Medicaid, a special needs trust should be considered, but all possible means of maintaining eligibility should be examined to determine what is the best choice. Other possibilities include (1) spending the funds on exempt assets and to make payments that will not trigger ineligibility, and (2) creating a sub-account within a pooled trust. If a person's future needs for Medicaid or SSI are uncertain, then a determination should be made whether to create a Special Needs Trust anyway, but manage the trust assets in a flexible way. Every case must be evaluated based upon the particular facts. To advise on these issues, any attorney or other professional must have sufficient training and understanding of the interplay between governmental benefits laws and regulations with well-drafted special needs trust documents

and proper trust administration.

LETTER OF INTENT

A Letter of Intent is a way to have your voice be heard after you die or become unable to direct care for your child. It will supplement the directions your legal documents provide.

A Letter of Intent helps a guardian or trustee understand your hopes and desires for your child. It is not a formal "legal" document, but instead provides guidance in understanding your child and your wishes.

Even if another child, a family member, or a close friend is willing to take over the responsibilities for the special needs family member from the parents, problems may arise because these individuals are not clear about the wishes of the parents, or do not have sufficient knowledge about the child to feel comfortable with the decisions they must make. Also, laws and services change over time and the plans made by the parents may need to be revised for the child to receive maximum benefits from the system.

Through a Letter of Intent, you can share information with professionals and others that can improve the quality of their work with your child. It will help them understand what works for your child and what does not work.

Writing a Letter of Intent forces you to discuss (often for the first time) the many concerns you have about your child's disabilities. Work on the letter when you are not feeling overwhelmed. You may find that you need to work on portions of the letter over time or need some help in gathering portions of the document. This Letter of Intent should be updated and added to on a regular basis throughout your life. You may want to set aside an annual date to review and update your letter. Some events will require the letter to be changed immediately, such as medication issues.

When you need to make changes, you may only need to rewrite that portion of the letter. Placing the information on a computer for easy updates is one way to keep the document current. If you hand write or type your letter, organize it so that information which may need to be frequently updated is on a separate page from the information (such as family history, social security number, etc.) that won't ever change. You may also separate information that can easily be shared (educational history, personal preferences, etc.) from more sensitive information (cash income, life insurance, etc.).

Be sure to sign it and date the Letter of Intent. Place it with your other important papers, such as your child's special needs trust, and let others know of its existence.

The Letter of Intent should be placed with all of the other relevant legal and personal documents concerning your child. Should anything happen to you, the future guardian and trustee will have the information that will guide them in understanding your child's unique history and will assist in maintaining the best quality of life for your child.

Here are guidelines for writing a Letter of Intent.

Cover the key areas of your child's life. Describe what has happened thus far and express your desires for the future. Here are suggestions to help you organize your thoughts:

Family History

- Family member dates of birth, addresses, phone numbers
- Friends and relatives that your child knows and likes
- Your child's date of birth, location

General Overview

- Overview of your child's life to date and your thoughts about the future

- Personality traits and personal preferences

Skills, abilities, and disabilities

Education

Summary of educational experiences and future education plans

Regular classes, special classes, special schools, etc.

Mainstreaming issues

Types of educational emphasis (vocational, academic)

Specific programs, schools, teachers

Employment

Work opportunities he or she might enjoy

Open employment with supervision, sheltered workshop, activity center, etc.

Companies that may provide employment in your community

Future Residence

Live with specific relatives

Other options, i.e. group home in the same community, institution

Specify size of group home or institution

Describe best living arrangements --single room, etc.

Social Environment

Social activities your child enjoys

Whether your child should have personal spending money and how he or she should spend it

Favorite foods, eating habits, needs for assistance with meal preparation or eating, etc.

Does your child usually have annual vacations with relatives, friends, church or charitable groups?

Religious Environment

Specify religion, if any

Specify local church or synagogue

Local ministers, priests, rabbis that are familiar with your child

Request that your child participate in church services and other activities (if desired)

Medical Care

Medical conditions and diagnoses

Location of medical records

Current medication needs

Discuss drugs that have/have not worked in the past

Describe your feelings about drug therapy programs.

Allergies, medical conditions/considerations

Behavior Management

Describe your child's current behavior management program, and other behavior management programs that have been tried

Final Arrangements

Describe your desires for your child's final arrangements and include information about:

Choice of funeral home

Cremation or burial

Cemetery

Church service (memorial service)

Include any other information that you feel will help future care providers give the best possible care and supervision. Does your child have preferences for colors, music, sleeping late, etc. What brings your child happiness or pleasure?

Don't worry about your writing skills. Focus more on the content than the way you write it. This is a way to let people know what your child needs to succeed, and to share your concerns for his or her future.

GUARDIANSHIP AND CONSERVATORSHIP

THE ROLE OF A GUARDIAN

The guardian's primary responsibility is to assure the ward's needs are being met. These needs include safe and sanitary housing, adequate food, clothing, medical attention, and custodial care, if indicated. The guardian's responsibilities in these matters may be limited by the court in the appointment order. The language of the statute setting forth the powers and duties of a guardian is set forth below.

The guardian is expected to protect the best interests of the ward. The relationship between the guardian and ward requires the utmost good faith. Legally, the relationship is that of a fiduciary. It means a guardian must fully protect the interests of the ward. The guardian must never take any action which would benefit himself or herself to the ward's detriment. If a guardian is receiving payment for his or her services, it should be approved by the Court.

The guardian should make himself or herself known to others in the ward's life. Relatives and friends of the ward should be sought out for additional, vital information about the ward. These people may know the ward's preferences in burial arrangements and about the existence of a Living Will. If the ward is in a foster home, congregate living facility, or nursing home, the guardian should make himself or herself known to the administrator and nursing staff.

At the first meeting with the ward, it is advisable for the guardian to be introduced to the ward in the company of a person known to the ward. Depending on the ward's mental status, the guardian should be identified as the guardian with the role of a friend. The extent and content of the explanation will need to be determined by the condition of the ward.

The guardian can find out from doctors and nurses about the ward's health, medications, and medical history. The guardian's name, address, and telephone number should appear on the ward's administrative and medical records. In the

case of an elderly ward, one should obtain the name of the preferred funeral home. If the ward enters a hospital, the guardian must obtain a copy of the admittance form with the vital data. The guardian's permission will be necessary for any hospital admissions, treatment, or surgery.

Accurate financial records are essential. An accurate and detailed log or diary should be kept of all activities and automobile mileage on behalf of the ward. This will substantiate the annual report and petition for fees. Receipts of all purchases made on behalf of the ward should be retained. If the ward is in a facility, the charge nurse or someone in authority must sign that purchases were received by the ward. If a conservator has been appointed, no purchases should be made without getting his or her prior approval. The guardian should be sure to have an understanding with the conservator about how purchases are to be made.

If housing become unsatisfactory, the guardian should not hesitate to move the ward. If possible, the attorney should be consulted before the move is made. If not possible, the guardian should take whatever action is necessary to protect the ward. The court, the attorney, the conservator, and the ward's relatives should be notified of the change as soon as possible.

A conservator handles financial and property transactions. Sometimes the same person (or entity) will be appointed as both guardian and conservator, and sometimes there are two different persons or entities. Sometimes a guardian and not a conservator is appointed, and sometimes the opposite is true.

ALTERNATIVES TO GUARDIANSHIP

Guardianship is not always necessary. It restricts the rights and decision-making abilities of the individual. Each individual case is different. Sometimes that is appropriate and necessary, and sometimes it should be avoided.

Here are some alternatives:

1. Informal arrangements – family or other supportive persons can oversee and assist in decision-making.
2. Durable Power of Attorney – this can be used to grant a family member or trusted friend the ability to make decisions. This is only available for an individual who has the ability to sign and understand legal documents. The issue is not the ability to physically sign, but the ability to know what is being signed and why it is being signed, and to make a conscious decision to give authority to the agent being named.
3. Health care power of attorney/living will—medical decision-making can be given to another if the signer has the ability to do so.
4. Special durable power of attorney for matters concerning education – To allow parents ability to participate in educational decisions, IEPs, etc, and access to records. An authorization to access health care information should be done in conjunction with this, because of health care privacy requirements.
5. Payee arrangements with Social Security can take care of receiving and managing income from SSI and Social Security programs.
6. As an alternative to full guardianship, a limited guardianship can be helpful.
7. A trust—particularly a special needs trust—can be a useful asset management tool. See discussion below.

Q. At what point does a person need a guardian/conservator appointed vs. having someone appointed as agent under a durable power of attorney (DPOA)? Who makes this determination?

A. (1) A DPOA is sufficient as long as (1) it is valid (the person who signed was understood what he or she was signing and was capable of signing, etc); (2) it gives authority to someone who can be trusted to look out for

the best interests of the person; (3) it covers the powers (acts) needed for the person in need of assistance; and (4) there is no need to intervene to

prevent someone else from doing something not in the best interests of the person needing protection – either the person who has authority under the DPOA or someone else who may be exploiting, abusing or neglecting the person needing protection.

(2) Anyone looking out for the interests of the person in need of protection can make the determination that a person needs a guardian and conservator, but hopefully that will be supported by professional opinions. The process includes protections, such as appointment of counsel to represent the individual, and the need for a medical report.

Q. When a person has an appointed guardian, what rights does the person have left and what types of decisions would guardians take over?

A. The person does not lose all of his or her rights. He or she retains the right to counsel, right to associate with others, right to have one's wishes as to end-of-life treatment respected and followed, freedom from involuntary commitment for mental health treatment or treatment of a developmental disability or for observation or evaluation (except in compliance with procedure for involuntary commitment provisions of the law).

Q. If a person has a guardian who is not following through with their role as guardian, what are the options for a person to advocate for a different guardian?

A. Find someone who can or will do the job. See if the current guardian is willing to be replaced. Then petition the court (or find someone to petition for him or her) for an appointment of new guardian.

Q. If a person who had a guardian/conservator appointed in a medically fragile time, such as a mental health crisis or stroke, but several years later have rehabilitated and appear competent to be their own advocate, can a guardianship

be terminated and how is this done?

A. Yes. The protected person can file a petition for termination of the guardian, or someone can do so on his or her behalf—such as the attorney representing him in the proceeding, a family member, the person who originally filed the petition for appointment, or the county attorney’s office if they were involved on behalf of Adult Protective Services in getting the petition filed, etc.

From the Montana Code Annotated (with 2009 amendment):

72-5-321. Powers and duties of guardian of incapacitated person. (1) The powers and duties of a limited guardian are those specified in the order appointing the guardian. The limited guardian is required to report the condition of the incapacitated person and of the estate that has been subject to the guardian's possession and control, as required by the court or by court rule.

(2) A full guardian of an incapacitated person has the same powers, rights, and duties respecting the ward that a parent has respecting an unemancipated minor child, except that a guardian is not liable to third persons for acts of the ward solely by reason of the parental relationship. In particular and without qualifying the foregoing, a full guardian has the following powers and duties, except as limited by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the full guardian is entitled to custody of the person of the ward and may establish the ward's place of residence within or outside of this state.

(b) If entitled to custody of the ward, the full guardian shall make provision for the care, comfort, and maintenance of the ward and whenever appropriate arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the full guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A full guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service. This subsection (2)(c) does not authorize a full guardian to

consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order if the full guardian does not have authority to consent pursuant to the Montana Rights of the Terminally Ill Act, Title 50, chapter 9, or to the do not resuscitate provisions of Title 50, chapter 10. A full guardian may petition the court for authority to consent to the withholding or withdrawal of life-sustaining treatment or to a do not resuscitate order. The court may not grant that authority if it conflicts with the ward's wishes to the extent that those wishes can be determined. To determine the ward's wishes, the court shall determine by a preponderance of evidence if the ward's substituted judgment, as applied to the ward's current circumstances, conflicts with the withholding or withdrawal of life-sustaining treatment or a do not resuscitate order.

(d) If a conservator for the estate of the ward has not been appointed, a full guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that person's duty;

(ii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward. However, the full guardian may not use funds from the ward's estate for room and board that the full guardian, the full guardian's spouse, parent, or child has furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the incompetent ward, if notice is possible. The full guardian must exercise care to conserve any excess for the ward's needs.

(e) Unless waived by the court, a full guardian is required to report the condition of the ward and of the estate which has been subject to the full guardian's possession or control annually for the preceding year. A copy of the report must be served upon the ward's parent, child, or sibling if that person has made an effective request under 72-5-318.

(f) If a conservator has been appointed, all of the ward's estate received by the full guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward must be paid to the conservator for management as provided in this chapter, and the full guardian must account to the conservator for funds expended.

(3) Upon failure, as determined by the clerk of court, of the guardian to file an annual report, the court shall order the guardian to file the report and give good

cause for the guardian's failure to file a timely report.

(4) Any full guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward. A limited guardian of a person for whom a conservator has been appointed shall control those aspects of the custody and care of the ward over which the limited guardian is given authority by the order establishing the limited guardianship. The full guardian or limited guardian is entitled to receive reasonable sums for the guardian's services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, provided the amounts agreed upon are reasonable under the circumstances. The full guardian or limited guardian authorized to oversee the incapacitated person's care may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(5) A full guardian or limited guardian may not involuntarily commit for mental health treatment or for treatment of a developmental disability or for observation or evaluation a ward who is unwilling or unable to give informed consent to commitment, except as provided in 72-5-322, unless the procedures for involuntary commitment set forth in Title 53, chapters 20 and 21, are followed. This chapter does not abrogate any of the rights of mentally disabled persons provided for in Title 53, chapters 20 and 21.

(6) Upon the death of a full guardian's or limited guardian's ward, the full guardian or limited guardian, upon an order of the court and if there is no personal representative authorized to do so, may make necessary arrangements for the removal, transportation, and final disposition of the ward's physical remains, including burial, entombment, or cremation, and for the receipt and disposition of the ward's clothing, furniture, and other personal effects that may be in the possession of the person in charge of the ward's care, comfort, and maintenance at the time of the ward's death.

Special Needs Alliance emailed article 3/9/10

The Voice is the e-mail newsletter of The Special Needs Alliance. This installment was written by Special Needs Alliance member Barbara S. Hughes of Madison, Wisconsin, who comes to her interest in facilitating the best in special education experiences from her long past “life” as a sixth grade teacher. Ms. Hughes is a partner in the Madison law firm of Hill, Glowacki, Jaeger & Hughes, LLP, where her practice is focused on special needs planning, elder law, and general estate planning and administration. A Fellow and past board member of the National Academy of Elder Law Attorneys (NAELA), in recent years she has consistently been recognized as one of the city’s best attorneys in Madison Magazine and selected as a Wisconsin estate planning and probate [Super Lawyer](#) in Law and Politics Magazine, ranking in 2009 as one of Wisconsin’s 25 top women attorneys.

18, 19, 21 Candles on that Cake

Is your child about to become an “adult” in the eyes of the law? In your state, the age of majority may be 18, 19 or 21. Some significant changes accompany this milestone. Most important for you as a parent may be the loss of legal authority to make decisions for your child and the loss of automatic access to information about this young adult. Many parents of a newly “adult” child face that threshold with some trepidation. Is your child ready and able to exercise the rights and responsibilities that come with reaching the age of majority? How will you and your child navigate this change in status? Does some action need to be taken?

Health Care Matters

What if your daughter, Amy, has medical problems or is in an accident? Amy has an autism spectrum disorder, and fortunately is rather high functioning. Can the medical care providers speak with you about Amy’s medical conditions? Will you be able to consent to surgery or other treatments--or participate at all in these decisions?

If Amy is mentally competent at age 18, she should execute a health care power of attorney (sometimes called a health care advance directive) appointing a parent or other trusted adult as the substitute medical decision maker, if one is ever needed. Given the relatively higher incidence of vehicle accidents involving young adults,

it would be helpful if high schools required a class on the transition that accompanies those 18, 19 or 21 candles, and encouraged newly minted adults to sign health care powers of attorney.

What if your son, Michael, is not competent at the age of majority? You probably know the answer: a guardianship or conservatorship is ahead. In most cases a court will appoint you as Michael's "guardian" or "conservator," to make health care decisions for him. Just as when you were Michael's natural guardian before his age of majority, now you will become his legal guardian--with some added reporting duties that did not apply to you as his parent and natural guardian.

Financial Matters

Similar issues arise in the financial arena. If your now adult son, Dylan, is competent, he can sign a financial durable power of attorney naming you as his agent or "attorney-in-fact" to assist in managing his financial affairs when needed or appropriate. Given that Dylan, like most young adults, might be reluctant to share any of his newly found power over his purse strings, you may need to adopt some creative strategies to persuade him to cooperate. First of all, Dylan needs to understand that signing a durable power of attorney does not mean relinquishing any power over his finances. Instead, it results in adding you back to his financial team, a position you always held in the past. With both of you able to manage his financial affairs, either of you will be able to take action when needed. Second, give Dylan some powerful examples of situations in which he might need you to have some legal authority over his financial affairs. What if he is in a car accident and "out of it" for a period of time--won't he need someone to deal with the insurance company? What if Dylan qualified for Medicaid and Supplemental Security Income (SSI) at age 18? He probably could use some help dealing with the related bureaucracies.

If your adult daughter, Beth, is not mentally capable of handling finances, she will need a guardian or conservator of her "estate." (States differ on the term used for this role.) Unlike a financial durable power of attorney document which removes no authority from Dylan as the grantor of the power, guardianship or conservatorship will remove some or all of Beth's legal authority over financial matters. Guardianship or conservatorship results from a court proceeding in which a judge evaluates Beth's competence or ability to manage her finances and weighs

the need for protective intervention. Guardianship or conservatorship may be limited in some cases, so if Beth is able to make some financial decisions or handle a small checking account, the court may order that she retain such rights.

Education Matters

What about the school setting? When Amy, Michael, Dylan and Beth reach the age of majority, their parents will lose all authority over their adult child's education, as well as all access to their records. For Michael and Beth, whom a court finds are incompetent and in need of guardianship, appointment of a parent as legal guardian of the "person" (versus the "estate" or "finances") will give to the parent or other guardian the legal authority for decision making and records access in the school setting as well.

Most states have statutory forms for health care and general durable powers of attorney. This is not the case for a power of attorney over education, even though most young adults spend a vast amount of time in school during the first few years of their adult life. If Amy wouldn't be found legally incompetent in a guardianship proceeding, but still needs some assistance, how can she keep you involved in her educational decisions and information sharing? What if it requires all her energy just to keep up with her class work? What if being pressed with bureaucratic tasks and decisions will push her into a meltdown? Won't these tasks only increase when she heads into a vocational/technical school or college? How can you remain involved and able to help your 19, 20, 21, or even 25 year old, who is trying to meet adult educational challenges?

There is a creative solution for young adults who are willing to keep their parents actively involved in their education process: a special power of attorney for education. Some special needs attorneys have been preparing these for their higher functioning young adult clients as they reach age 18, which is the age of majority in many states. An education power of attorney may be useful throughout a young adult's continuing education, enabling a parent or other chosen agent to help with many time consuming tasks that don't actually enhance the student's essential education. If you think that your child nearing adulthood is competent and may be a potential candidate for powers of attorney, consider discussing an education power of attorney with your special needs attorney.

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Nancy Gibson has been practicing law in Missoula, Montana since 1985. She attained her undergraduate and law degrees at The University of Montana. She spent the first nine years after her admission to the Montana bar with a Missoula litigation firm specializing in settlement, defense and trial of civil cases.

In 1994, Ms. Gibson opened her solo law office in Missoula, focusing on elder and disability law. Since then, she has worked locally, state-wide, and nationally to address legal issues of the elderly and persons with disabilities.

She served as chair of the Elderly Assistance Committee of the State Bar of Montana from 1998 to 2003. She is actively involved with the National Academy of Elder Law Attorneys (NAELA), an organization dedicated to improving the lives of the elderly and persons with special needs. She currently is serving a second two-year term on the NAELA board of directors.

Ms. Gibson is the only attorney in Montana who is a member of the Special Needs Alliance, an invitation-only national organization of disability law attorneys who specialize in special needs and settlement planning. Members of the Alliance assist injured persons receiving a settlement or award to preserve eligibility for government benefits, and also assist families in providing for loved ones with disabilities. Every year, she attends several national conferences that provide cutting-edge information on the best means of accomplishing these goals.

Over the years Ms. Gibson has served Western Montana through board positions and steering committee involvement for a various non-profit organizations. She serves as a board member or legal consultant for non-profit agencies providing health care and aging services within Montana. She often speaks to professional groups and local communities on elder law, disability and settlement planning, and special needs trusts. Currently she is President of the Western Montana Estate Planning Council.

Ms. Gibson provides legal services to clients who live throughout Montana through her specialization in elder and disability law. Her practice includes preparation of wills and trusts; special needs trust planning; settlement planning; assisting clients with asset preservation and long term care issues, particularly Medicaid planning; public benefits eligibility; administration of estates and trusts; guardianship; conservatorship, and other protective arrangements. She has training and experience in elder law mediation and dispute resolution.