

PRESENTED AT

18th Annual Changes and Trends Affecting Special Needs Trusts

February 10-11, 2022

Austin, Texas

Initial Client Meeting Guidance and Resources

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Introduction

There are few things in life better than a good conversation with a trusted friend or confidant. Such a conversation can leave one feeling inspired, energized, connected, loved...the list of positive emotions goes on.

The initial interview between potential client and attorney, while certainly not the same type of conversation as one between friends, can nonetheless be life-changing for a potential client because of the circumstances leading up to the need to schedule the appointment in the first place. Thus, for the potential client, the initial meeting with the attorney may be fraught with emotions, expectations, and perhaps apprehension, before it even begins. If not handled deliberately and skillfully by the attorney, an initial interview may deteriorate into negativity, not be as constructive in building rapport and goodwill, not be as fruitful in yielding information, or cost precious attorney time.

While there is a robust industry of online resources to help anyone who wants to improve their communication skills and interviewing techniques in general, this article aims to provide practitioners with guidance and resources to help focus the initial client interview and stay on track, when Supplemental Needs Trusts (“SNTs”) are the topic of conversation.

The Attorney as Counselor – Psychological Considerations

The concept of consulting a professional, such as a doctor, lawyer or therapist, is a common everyday solution when people confront problems that require specialized medical, legal, or psychological knowledge. However, stripped of its commonplace occurrence, an initial consultation between attorney and client is still a conversation between strangers about very personal and sensitive topics. While some clients are quite comfortable baring their souls and telling all, others, for a multitude of reasons, are more reticent. A practitioner would do well from time to time to sharpen his or her interview skills because effectively connecting with clients leads to efficiency in providing legal services.

In the publication *Basic Issues in Interviewing and the Interview Process*, authors Daniel L. Segal, Andrea June, and Meghan A. Marty provide foundational concepts and skills needed for a psychological clinical and diagnostic interview.¹ Although the purpose of a psychological interview is quite different from an attorney-client interview to discuss SNTs, numerous parallels in conducting the interview exist. By applying such psychological concepts and skills in an attorney-client interview, concepts and skills that put psychological clients at ease enough for clinicians to gather the information needed to provide mental health treatment, the attorney may too, reap similar interviewing rewards.

¹ Basic Issues in Interviewing and the Interview Process by Daniel L. Segal, Andrea June, and Meghan A. Marty, found at https://www.researchgate.net/publication/226219189_Basic_Issues_in_Interviewing_and_the_Interview_Process.

Why Establishing Rapport is Necessary

The overarching goal in a psychological interview is establishing rapport to create “an open, trusting, and safe relationship with the client.”² For several beneficial reasons, attorneys should also strive to establish rapport with potential clients.

One reason is a pragmatic one. In order for the attorney to properly counsel clients, information must be obtained about the client’s situation. By establishing an open, trusting, and safe relationship, clients will be more likely to provide needed information. For example, attorneys counseling SNT clients need detailed financial information, which some clients may be hesitant to disclose, perhaps due to a high value on privacy, not understanding the importance of disclosing the information, or out of fear that the disclosed information will hurt the client’s case. With rapport established, the client is comfortable disclosing information and any fears or misgivings on the part of the client are alleviated. The end result is that the attorney obtains the needed information, solves the client’s dilemma efficiently, and looks good in the eyes of the client in the process.

From a marketing standpoint, establishing and maintaining good rapport can be a gift that keeps on giving when the client returns for future legal work or refers friends and family to the attorney. Thus, establishing good rapport with clients is an inexpensive, high yield method of generating future business.

Yet, rapport is a two way street. It is not simply a matter of getting the client to trust or like the attorney. It is also important for the attorney to determine whether the attorney should represent the client because it is not exclusively up to the client to establish the client-attorney relationship. As stated in Comment 1 to Rule 1.15 of the Texas Disciplinary Rules of Professional Conduct, “A lawyer should not accept representation in a matter unless it can be performed competently, promptly, and without improper conflict of interest.” Additionally, Rule 1.15(a)(2) imposes a mandatory duty to decline representation when “the lawyer’s physical, mental or psychological condition materially impairs the lawyer’s fitness to represent the client.”

Arguably, if the client and attorney get off on the wrong foot during the initial consultation such that relations between the two will be strained or contentious, the attorney’s mental or psychological condition may impair the attorney’s fitness to represent this particular client. This is not meant to imply a shortcoming on the part of the attorney, nor that the attorney is unfit mentally or psychologically. It is merely an observation that a lack of rapport does not just make for apprehensive or negative feelings when dealing with a difficult client. A lack of rapport with a client runs the risk of materializing into procrastination, unprofessional shortened tempers, or less than enthusiastic advocacy, all of which can lead to disciplinary action against the attorney. As psychological clinicians are encouraged to “be aware of your own communication style and

² Id.

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First appeared as part of the conference materials for the
18th Annual Changes and Trends Affecting Special Needs Trusts session
"Initial Client Meeting Guidance and Resources"