

# Serving Vulnerable Clients: Ethical and Professional Considerations



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Many concerns arise that relate to the ethical and professional responsibilities of attorneys serving vulnerable clients: Who is my client? What are the best interests of my client? Can this matter be settled without adopting an adversarial stance? The same considerations emerge, whether the client is vulnerable because of minority, disability or deteriorating mental faculties.

“Who is my client?” is often the first question. Is it the family member who has brought in the child or parent for consultation? If family brings in the client, do they have interests that conflict with the person who is presented as a client? Is the proposed client capable of articulating his or her problem and desired resolution?

With answers to these threshold questions, the attorney will decide whether to talk with the vulnerable person alone, without any family member present—or perhaps together, and then separately. If the family member is seeking commitment in an institution for the client (whether a child or a parent), the attorney must explore the possibility of a less restrictive alternative to the stated problem(s). If a parent is seeking relinquishment of custody for a troubled teenager, is counseling or temporary removal from the home a possibility? If a child is seeking nursing home placement for the labor-intensive care of an elderly parent, can adult daycare, plus home health worker assistance, be a reasonable alternative?

It is ethically and professionally important for the attorney to determine the best interests of the vulnerable person. The next question is how best to achieve the least restrictive solution, keeping in mind the wishes of the family. If the conflict is with a nursing home or adult living facility, it is wiser to attempt mediation or the intervention of an ombudsman, rather than filing suit.

Should an attorney interact with this facility again, communication will be smoother if there was no suit.

The legal profession needs to help educate the public about typical problems before they become serious and emotionally charged. Only 30 percent of Virginians have advance medical directives. The Senior Lawyers Conference has sent letters to all Virginia local bar associations offering ABA-developed brochures on giving seminars on the importance of advance directives. The ABA will reimburse local groups up to \$500 in order to encourage them to sponsor public educational sessions. The Fairfax County and Arlington County bar associations already have such programs; they also offer pro bono powers of attorney, medical powers of attorney and wills and “living wills” for persons who are unable to afford a retained attorney. The SLC will provide speakers for groups unable to provide their own. Call us! ☺



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