

# LK Alert

LITTMAN KROOKS  
LLP

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## SPECIAL NEEDS ALERT

*This alert gives you important information on issues facing those with special needs and their families. Please see our website [www.specialneedsnewyork.com](http://www.specialneedsnewyork.com) for additional information.*

***A recent Court of Appeals decision resolves the issue of whether the Health Care Decisions Act for Mentally Retarded Persons ("HCDA") applies to guardians appointed prior to the Act's effective date of March 2003 in addition to those guardians appointed after the date of the enactment.***

The HCDA authorizes guardians of mentally retarded persons to make health care decisions, including the decision to terminate life support under carefully prescribed circumstances.

In the *Matter of M.B. v. Mental Hygiene Legal Service*, decided on March 23, 2006, the New York Court of Appeals resolved the issue of whether the Act applies to guardians appointed prior to March 17, 2003, in addition to guardians appointed after that date. The Court held that the HCDA is applicable to all guardians, regardless of the date of appointment. This decision is important because it indicates that guardians appointed before the Act do not need to re-apply for guardianship, in order to make health care decisions, including the decision to terminate life support under certain circumstances.

If your child is turning 18, it is critically important to apply for guardianship if your son or daughter is unable to make their own decisions.

Littman Krooks LLP offers legal services in several areas of law, including Special Needs Planning, Special Needs Advocacy, Guardianship, Medicaid, Health Care, Estate and Tax planning, Public Benefits, Estate Administration/Probate, and Trusts and Estates. Our offices are located in Midtown Manhattan at 655 Third Avenue, and in White Plains, New York at 81 Main Street. Littman Krooks LLP is a member of the Special Needs Alliance ([www.specialneedsalliance.com](http://www.specialneedsalliance.com)).

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