

# Legal Connections



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*"Both business and personal decisions can bring uncertainty. Legal professionals help find solutions to complicated problems: [directory.cbalaw.org](http://directory.cbalaw.org)."*



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## WAIT – DO I HAVE TO PAY THIS KID?

Nothing signals the beginning of summer like a fresh crop of interns. Internships should provide students with insight into "real world" employment, but do companies have to pay interns or should the student just be grateful for the experience?



**ALEXIS V. PRESKAR**  
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The Fair Labor Standards Act (FLSA) requires for-profit employers to pay employees minimum wage. But are interns considered employees? The answer depends on who is the primary beneficiary of the internship. If the intern is the primary beneficiary, then the position can be unpaid. This year, the Department of Labor (DOL) relaxed the primary beneficiary test, and now considers seven non-exclusive factors:

1. Do the intern and employer clearly understand that there is no expectation of compensation?
2. Does the internship provide training similar to educational courses?

3. Is the internship tied to the intern's formal education program?
4. Does the internship accommodate the intern's academic calendar?
5. Is the internship limited to the period in which the internship provides the intern with beneficial learning?

6. Does the intern's work complement, rather than displace, the work of paid employees?
7. Do the intern and employer understand that there is no entitlement to a paid job later?

With all this in mind, here are steps to consider before hiring a new intern:

1. Apply the test. Compare the position, including title, duties and expectations, against the DOL test. Talk with a lawyer, but also consider reaching out to others in your industry to see if they typically pay their interns.

2. Don't overpromise. When posting a position and conducting an interview, be clear about the nature of the work (temporary, part or full-time), compensation and benefits. If you decide the position should be unpaid, don't allude to the potential for a full-time job or make any promise of later or "under the table" compensation.

3. Get it in writing. Work with an attorney to draft an unpaid intern or employment agreement and have the new hire sign the agreement before starting. The agreement should include a section identifying provisions of the employee handbook that are applicable to the intern.

4. Observe potential. Monitor the intern's work over the summer and consider whether he or she is a good fit for your team long-term. It is not illegal to hire an intern as an employee later, but do not dangle the carrot of long-term employment while the intern is unpaid.

5. Consider word-of-mouth. Provide meaningful opportunities for the intern. The last thing you want is to have an

In 2014,  
**46.5%**  
of college graduates reported that their internships were unpaid.

-The National Association of Colleges and Employers' (NACE)

unhappy intern who could later consider suing you for unpaid work, or – more likely – tell his or her friends and school that your company has a poor work environment. Bad word-of-mouth travels quickly, and employers do not want to alienate a potential recruitment tool, such as college placement programs, or hurt their reputation in the community. ■

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## CARING FOR AN ELDERLY LOVED ONE: LONG-TERM

At some point in life, almost every family faces long-term care issues. Whether it is a parent, grandparent, in-law or sibling, there is a good chance that someone will need in-home help or care in a nursing home.



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For most families, navigating long-term care is a challenging venture filled with questions and uncertainties of where to start or what to ask.

For individuals and families experiencing this transition, it is a good idea to have the right people and knowledge on your side.

The first step for many people is finding a facility into which their loved one can move. From staying at home to finding an assisted living facility or nursing home, the options can be overwhelming. Contacting the Franklin County Office on Aging or Central Ohio Area Agency on Aging can be good places to start. You can also utilize online resources such as [Medicare.gov](http://Medicare.gov) and the Ohio Long-term Care Consumer Guide. Private care managers and life care planners can also be a valuable resource for families who can afford such services.

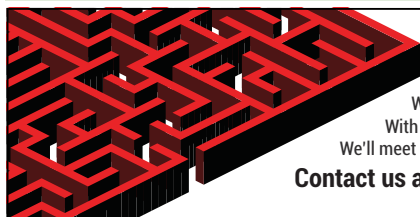
If the loved one needs to move into a

long-term care facility, take the time to visit the facility and learn about the nursing staff, social activities, cost and admission procedures, etc. Many facilities offer a respite stay so that the individual can spend a weekend and get a feel for the environment.

Another important step is seeking knowledgeable legal counsel. Whether the discussion focuses on updating estate planning documents such as financial powers of attorney and health care directives, planning to protect assets for the healthy spouse or the individual's children, or qualifying for government benefits such as VA or Medicaid, it is important to find an attorney who understands the intricacies

of the process. Estate planning documents are not necessarily one-size-fits all, and there may be assistance programs you did not know about. Professionals in the field are equipped with information that can be helpful to the family at a stressful time.

A final tip is to keep your loved one's feelings and intentions in mind. It can be easy to get caught up in the processes and procedures and forget that your loved one may have a strong opinion about a particular issue. Involve them in conversations about their placement and what is important to them. Their happiness and quality of life is more important than anything else. ■



## Don't get lost in the **MEDICARE MAZE**

When the time comes to enroll in Medicare, you'll have questions about all your options. With years of experience, our **Medicare Advisors** can help you choose the right plan for you. We'll meet you at your office, our office, or at the Columbus Bar Association.

Contact us at (614) 448-1834 or [Suzanne@nuMedicareAdvisors.com](mailto:Suzanne@nuMedicareAdvisors.com).

