

MSBA ELDER LAW SECTION eNEWSLETTER

November 6, 2007

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THOUGHTS FROM THE CHAIR: This eNewsletter will most likely reach your inbox as Tom Meinz is arguing his case, *In re the Estate of Francis E. Barg*, before the Minnesota Supreme Court. It will be interesting to see how the court resolves the issues raised. The Elder Law Section along with the National Senior Citizens Law Center submitted an amicus brief. Julian Zweber and Joel Button authored the brief. If you'd like to read the briefs, let us know and we can post them on the Website.

At our Governing Council Meeting on Friday, October 26, we voted to establish three new committees: The Greater Minnesota Support Committee, the Pro Bono Committee, and the Member Education Committee. In the next few months we will be soliciting members for the committees as well as leadership for the committees. We hope to be up and running by the first of the year! More information will be coming to you in the next few weeks. The minutes of the Council meeting will be up on the Website in the next week or so.

In the meantime, please let us know if you are "in your local news" or if you have anything to contribute to the eNewsletter. Have a good week! Laurie Hanson

ELDER LAW NEWS

Minnesota Psychiatrist Quits Medicaid Formulary Drug Panel

<http://ap.google.com/article/ALeqM5h4y1RHs8cid3MladFTZVko9IYCIQD8SB7PGO3>

Rural Minnesota nursing homes face crisis in Medicaid funding

<http://tinyurl.com/3a27ul>

Residents moved, building closed at Minnesota Veterans Home

http://www.kare11.com/news/ts_article.aspx?storyid=268831

Do pets have a right to die?

<http://tinyurl.com/34srxb>

ELDER LAW SECTION ACTIVITIES

Elder Law Section Legislative Committee: The next meeting of the Elder Law Legislative Committee will be at noon on Monday, November 12, 2007, at the offices of Sandahl & Associates, 7400 Lyndale Avenue South, Suite 120, Richfield. To RSVP or to attend by telephone, please contact Suzanne Sandahl at 612-866-6000. RSVPs are requested by November 9, 2007.

Elder Law Section Legislative Subcommittee on Efforts to Repeal Minn. Stat. 501B.895: A special subcommittee of the Elder Law Section Legislative Committee has been formed to review options for repeal of Minn. Stat. 501B.895, "Public Health Care Programs and Certain Trusts," which was enacted in 2006 to prevent individuals from shielding available assets when applying for medical assistance benefits for long-term care services. Under Minn. Stat. 501B.895, the Department of Human Services may treat irrevocable trusts as revocable for the purpose of long-term care services under Medicaid. The first meeting of the Minn. Stat. 501B.895 subcommittee will be held at 11:00 a.m. on November 12, 2007, at the offices of Sandahl & Associates, 7400 Lyndale Avenue South, Suite 120, Richfield, immediately preceding the full Legislative Committee meeting. Please RSVP to Suzanne Sandahl at 612-866-6000, if you would like to attend in person or by telephone.

Wills for Heroes Volunteer Opportunity: Volunteers are needed for the MSBA Probate Section's "Wills for Heroes" project, which is designed to provide free preparation of basic estate planning documents for Minnesota First Responders, including police officers, firefighters, paramedics, EMTs, and corrections officers. Volunteer attorneys will draft basic wills, powers of attorney, and health care directives for the First Responders and their spouses. Clinics have filled rapidly and additional attorney volunteers are needed to meet the demand. For more information, or to volunteer, go to the program's Website at: <http://www2.mnbar.org/willsforheroes/index.htm>.

MINNESOTA CASES

In re the Estate of Francis E. Barg: Oral arguments were heard by the Minnesota Supreme Court on Tuesday, November 6, 2007. This is a Medical Assistance recovery case in which the county has filed a claim against the estate of the surviving spouse, who did not receive any Medical Assistance benefits. More information on the appeal and decision will be provided as it becomes available. The published Minnesota Court of Appeals opinion dated October 17, 2006, can be found at: <http://www.lawlibrary.state.mn.us/archive/ctappub/0610/opa052346-1017.htm>.

STATUTES, REGULATIONS, BULLETINS

Proposed Rule: Pet Ownership for the Elderly and Persons with Disabilities. The Department of Housing and Urban Development has proposed a rule that would revise HUD's regulations applying to pet ownership in HUD-assisted housing for the elderly and persons with disabilities by conforming the exceptions for animals that assist persons with disabilities to those that apply to HUD's public housing programs. *Federal Register*: <http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/E7-20196.htm>

Applications Sought by Minnesota Department of Health (MDH), in partnership with Minnesota Department of Education, for grants to develop intergenerational programs encouraging middle and high school students to work and volunteer in health care and long-term care settings. *State Register*, page 783: http://www.comm.media.state.mn.us/bookstore/stateregister/32_18.pdf.

Request for Proposals by Minnesota Department of Human Services. DHS is requesting proposals to conduct a study of how the State of Minnesota can most effectively assist persons age 65 and older in selecting long-term care services that meet their needs, reflect their preferences, and enable them to maintain self-sufficiency as long as possible. *State Register*, page 794: http://www.comm.media.state.mn.us/bookstore/stateregister/32_18.pdf.

MEMBERS IN THE NEWS

Monica Lewis Receives Gooderl Award. The 2007 Mary Alice Gooderl Award was presented to Monica Lewis at the Elder Law Institute on October 26, 2007. The Gooderl Award was established in 1993 to recognize outstanding contributions to the field of elder law by members of the Elder Law Section, as exemplified by Mary Alice Gooderl, one of the founders of the Section. Lewis is the 15th recipient of the award.

The Gooderl Award was presented to Lewis in recognition of her many years of service to the elderly, first as part of Southern Minnesota Regional Legal Services (SMRLS), and more recently through the Minneapolis Age and Opportunity Center (MAO), which is now part of Volunteers of America. Lewis has been a member of the Elder Law Section Governing Council for many years and chairs the Budget/Strategic Planning Committee. Her leadership has resulted in numerous improvements to Section operations and in increased services to Section membership. Congratulations and thank you to Monica Lewis for her ongoing service to the Elder Law Section and to the elder community!

Charles Roach Quoted in *Wall Street Journal*. Elder Law attorney Charles Roach of Lakeville, Minnesota, was quoted in a front-page article in the *Wall Street Journal* on October 26, 2007. The article explored accusations that older Americans are being duped by hard-sell pitches from the insurance industry.

Roach's client, an 81-year-old widow living in Minneapolis, responded to a mailed advertisement from American Family Pre-paid Legal Corp, of Irvine, California, offering free estate planning advice. By responding to the mailing, the woman gave up her right

to avoid telephone solicitation from the company. The company then pressured the widow to purchase a living trust designed to avoid probate at a cost of \$2,295, despite the fact that her entire estate could have passed outside of probate. Roach challenged the transaction and subsequently reported the complaint to the Minnesota Attorney General's office, which filed suit against American Family in March of this year. To settle the lawsuit, American Family agreed in July to discontinue doing business in Minnesota. Roach is still trying to get his client's money back from the company.

The full *Wall Street Journal* article detailing insurance company efforts to circumvent the Do Not Call Registry through use of deceptive postcards is available at:
http://online.wsj.com/wsjgate?subURI=%2Farticle%2F19335472901272206-email.html&nonsubURI=%2Farticle_email%2F19335472901272206-IMyQjAxMDE3OTIzNjMyNTY0Wj.html

Don't forget that the Elder Law Website is a great resource. Here's what you can find on the Website: Links under "What's New" to the DHS Health Care Programs Manual, the updated Income and Asset Eligibility Figures for Minnesota Health Care Programs, the DHS Bulletin on treatment of uncompensated transfers, the Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, and a legislative summary; Practice Links to organizations such as NAELA, ABA Commission on Law and Aging, Minnesota Senior Federation; Links to Federal and State Government Agencies, Statutes, and Regulations; Meeting Notices, Listings of Officers and Council Members, Section Bylaws, and more.

To access the ELDER LAW SECTION WEBSITE
Click here: <http://www2.mnbar.org/sections/elder-law/index.asp>

Please send eNewsletter contributions by noon on Saturday of each week to Vicki McIntyre at vmcintyre2@yahoo.com

If you do not wish to receive this eNewsletter, send your request to be removed from the mailing list to Meaghan Harper at mharper@mnbar.org