

MSBA ELDER LAW SECTION eNEWSLETTER

March 25, 2008

eNewsletter Editorial Staff:

Chair: Jonathan Dyrud, Esq.

Editor in Chief: Vicki McIntyre, Esq.

Contributors: Laurie Hanson, Esq., Irena Purves, Esq., Peter Hendricks, Esq., Amanda Christman, Esq., Kim Dayton, Esq.

THOUGHTS FROM THE CHAIR:

Happy Spring to all of you! Apparently this last Easter was the earliest Easter in 95 years. Only some of our clients born before 1913 were alive to witness that! The NEXT time Easter will be this early is in the year 2228. Now, unless there are fantastic leaps in medical care and technology, none of us will be alive. That reminds me that we all need to complete our Health Directives. As you will see in this newsletter, plans are in the works for the Health Care Decisions Day on April 16, 2008. Please do one of two things: volunteer at a site and help individuals complete health care directives – OR – go and complete your own if you do not have one! Contact information is below and on the website - <http://www2.mnbar.org/sections/elder-law/index.asp>. It's not too late to organize your own health care directive party...

On another and more serious note. Lori Guzman, past chair of the Elder Law Section and current member of the Advisory Council's 19-year old daughter died on February 14, 2008. Alex was born with profound disabilities and the struggles she faced spurred Lori on to law school and a law practice dedicated to people living with disabilities. Alex received Medical Assistance during her life and her parents paid the ever-increasing parental fees associated with TEFRA. While Alex's death was a result of her disability, it was sudden and unexpected and very difficult for Lori and her family. In the midst of their grief, they got a form letter from the County Support and Collections that Lori wanted me to share with the Elder Law Section:

We are reviewing the assets of your daughter, who died on February 14, 2008. While it is true that an individual can have up to \$3,000 and be eligible for Medical Assistance, upon that individual's death all assets not used to pay funeral expenses are available for payment of claims against the estate .

As all of you know, there is no estate recovery for individuals under the age of 55 who have not been institutionalized for six months or more. What is also true is that at their finger tips, the County has all information concerning benefits paid to individuals. Alex was only 19 and was never institutionalized. Like Lori, your clients will receive letters like this even though Counties knows that no estate recovery is allowable under state or federal law. The form letter does not give clients notice as to when estate recovery is or is not allowable under federal or state law. So, the lesson is to advise our clients and the public in all community presentations that they will receive notices like this even when there is no allowable estate recovery. There is no need to respond to the notices as no estate recovery is allowed! Certainly they do not need to pay.

Have a good week and fight for those families! Laurie

NATIONAL HEALTHCARE DECISIONS DAY UPDATE

As part of the National Healthcare Decisions Day on April 16, 2008, William Mitchell students and attorneys will provide free assistance to the public and community with the completion of health care directives from 10:00 a.m. to 6:00 p.m. at William Mitchell College of Law in St. Paul. Elder Law Section members who wish to volunteer may contact William Mitchell student Janelle Januschka at Janelle.januschka@wmitchell.edu or Professor A. Kimberly Dayton at kim.dayton@wmitchell.edu.

FREE PRESENTATION: The William Mitchell National Healthcare Decisions Day event will include a free presentation at 4:00 p.m. in Room 225 of the college by Kathy Eveslage, Southern Minnesota Regional Legal Services, and Fran Conklin, Hospice Minnesota, who will explain healthcare directives and the end of life process.

HEALTH CARE DIRECTIVE TRAINING SESSION: For those who would like to brush up on the issues associated with assisting others to complete health care directives, a two-hour training session will be held on Saturday, March 29, 2008, from 10:00 am to noon, in the Kelley Boardroom at William Mitchell College of Law, St. Paul. If you would like to attend, please contact Kim Dayton at kim.dayton@wmitchell.edu.

ELDER LAW NEWS

Nursing home closings create crisis for residents and workers.

<http://www.tcdailyplanet.net/article/2008/03/12/nursing-home-closing-creates-crisis-residents-and-workers.html#>

Eldercare Exposition 2008 will be held on May 9th and 10th in the Education Building at the Minnesota State Fairgrounds. It is designed to help Minnesota caregivers make better-informed care choices.

<http://erstarnews.com/content/view/2622/85/>

St. Cloud Hospital is one of the country's top one hundred hospitals, according to a study published this week. The study ranks hospitals in eight safety measures affecting Medicare patients treated in U.S. hospitals from 2001 through 2005..

<http://www.sctimes.com/apps/pbcs.dll/article?AID=/20080319/BUSINESS/103190037/1003>

Minnesota Attorney General Lori Swanson urged Park Nicollet Health Services to reconsider its decision to stop accepting Medicare Advantage private fee-for-service plans starting April 1, 2008. Medicare fee-for-service plans allow participants to go to any doctor or hospital they choose.

<http://www.bizjournals.com/twincities/stories/2008/03/17/daily30.html>

An innovative dance program gets elders with dementia on their feet, enriches their lives, and offers health benefits. The results are so striking that the program is attracting national attention.

<http://www.startribune.com/local/stpaul/16881816.html>

UPCOMING EVENTS AND CLE PROGRAMS

Guardianships and Conservatorships: Working with Real Estate, Estate Plans, and Litigation

HCBA Continuing Legal Education

Wednesday, March 26, 2008 - 8:30-11:45 am

HCBA Office, 3rd floor City Center, Minneapolis

Application has been made for 3.0 CLE Credits

Information and online registration available at: <http://www.hcba.org/CLE-Events/CLE-XL.htm>

A Meeting of the Minds: The Dementia Conference 2008

Co-sponsored by the Minnesota-North Dakota Alzheimer's Association and the Mayo Clinic

Saturday, March 29, 2008

RiverCentre Convention Center, St. Paul

Information and online registration available at:

<http://www.alzmnndak.org/gethelpandinfo/annualconference/>

Providing for Pets at Death or During Incapacity

Minnesota CLE Webcast

Wednesday, April 9, 2008 - 12:00 noon to 1:00 pm

Presenter: Vicki McIntyre, Minneapolis Attorney

Application has been made for 1.0 CLE Credit

Information and online registration available at:

[http://www.minncle.org/AABuy1.asp?ITEMTYPE=S&ITEMNMBR=126270801&ArticleID=.](http://www.minncle.org/AABuy1.asp?ITEMTYPE=S&ITEMNMBR=126270801&ArticleID=)

Anatomy of a Nursing Home Discharge

Minnesota CLE Webcast

Thursday, April 10, 2008 - 12:00 noon to 1:00 pm

Presenters: Jennifer Wright of St. Thomas Legal Services Clinic (Elder Law Practice Group); Natasha Merz of the Office of Ombudsman for Long-term Care; and Sue Schaffer of Orbovich & Gartner

Application has been made for 1.0 CLE Credit

Information and online registration available at:

[http://www.minncle.org/AABuy1.asp?ITEMTYPE=S&ITEMNMBR=120070801&ArticleID=.](http://www.minncle.org/AABuy1.asp?ITEMTYPE=S&ITEMNMBR=120070801&ArticleID=)

National Health Care Decisions Day Event

Sponsored by the Elder Law Estate Planning Society and the Center for Elder Justice and Policy, William Mitchell College of Law
Wednesday, April 16, 2008 - 10:00 am to 6:00 p.m.
William Mitchell College of Law, 875 Summit Avenue, St. Paul
Open to the public. Volunteers may contact Janelle Januschka
at Janelle.januschka@wmitchell.edu or Jennifer Wright at jlwright1@stthomas.edu.

Advising your Client About Long-Term Care Insurance and Other Planning Options After the Deficit Reduction Act

HBCA Continuing Legal Education

Friday, April 25, 2008 - 8:30 - 11:45 am

Presenters: Debra Newman, Newman Long-Term Care; Randy Boggio, Garvey & Boggio, P.A.

HCBA Offices, 3rd floor City Center, St. Paul

Application has been made for 3.0 CLE Credits

Information and online registration available at:

<http://www.hcba.org/intus/Event3/event.asp>

Probate Practice: The Fundamentals

Sponsored by Minnesota State Bar Association Continuing Legal Education

Friday, May 2, 2008

St. Cloud Civic Center, 10 Fourth Avenue South, Stockinger Suite, St. Cloud

Application has been made for 5.5 CLE Credits

Information and online registration available at: www.minncle.org

Elder Care Expo

Sponsored by Augustana Care Corp, BlueCross BlueShield of Minnesota, Presbyterian Homes and Services, ACCRA Care Corp, Humana, and WCCO Radio

Friday and Saturday, May 9-10

Minnesota State Fairgrounds, Education Building

Features resources about aging, with more than 90 sessions including topics such as: elder care basics; understanding insurance; navigating home health care issues; exploring Medicare Part D choices

Information available at: www.choosingeldercare.com

Elder Mediation Training

Sponsored by The Center for Elder Justice and Policy and the Center for Negotiation and Justice at William Mitchell College of Law

Thursday and Friday, June 12-13, 2008

William Mitchell College of Law, St. Paul

Information and online registration available at:

<https://www.wmitchellalumni.net/NetCommunity/SSLPage.aspx?pid=244&srcid=244>

Age and Disabilities Odyssey

Co-presented by Minnesota DHS's Continuing Care Division and the Minnesota Board on Aging

Monday, Tuesday, Wednesday, August 18 - 20, 2008, Duluth, Minnesota
A comprehensive education and networking event for those working in the fields of aging and disabilities throughout Minnesota.

More information available at:

http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=dhs16_140408

Elder Law Institute 2008

Co-presented by the Elder Law Section of the MSBA and Minnesota CLE

Thursday and Friday, October 2-3, 2008

Minnesota CLE Conference Center, 3rd floor City Center, Minneapolis

MARK YOUR CALENDARS and watch this site for more information.

ELDER LAW SECTION ACTIVITIES

LEGISLATIVE UPDATE: The latest news on what is happening at the Capitol, including updates on legislative proposals of interest to the Elder Law Section, is now available in the March 19, 2008, edition of the MSBA's Legislative Ledger at:

<http://www2.mnbar.org/committees/legislative/LegislativeReport>

ELDER LAW SECTION GOVERNING COUNCIL MEETING. The next Governing Council meeting is scheduled at 3:30 p.m. on Friday, April 11, 2008, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. All members are welcome to attend. To participate by phone, please contact Laurie Hanson in advance at lhanson@mnelderlaw.com.

NOMINATIONS FOR ELDER LAW SECTION GOVERNING COUNCIL.

Nominations are sought from Elder Law Section members interested in serving on the Section's Governing Council for a two-year term beginning July 1, 2008. The Governing Council meets at 3:30 p.m. on the second Friday of every other month at MAO Legal Services in Minneapolis. Outstate members may attend by phone. Nominations may be made to Nominating Committee Chair Lori Guzman at lori@guzmanlaw.com.

MEDICAL ASSISTANCE COMMITTEE MEETING. The next Medical Assistance Committee meeting will be at 3:30 p.m. on Tuesday, April 15, 2008, at the MAO Offices, 2021 E. Hennepin, Room 420, Minneapolis. NOTE ROOM CHANGE: The meeting location has been changed, for this meeting only, to Room 420, rather than Suite 200. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A. at 952-929-0622.

MINNESOTA CASES

No cases to report this week.

STATUTES, REGULATIONS, BULLETINS

MINNESOTA DEPARTMENT OF HEALTH ANNOUNCES RURAL HEALTH CARE CONFERENCE. A conference entitled "The Minnesota Critical Access Hospital and Rural Health Conference: Engaging Communities and Transforming Health Care" will be held on June 23-24, 2008, in Duluth. More information is available in the MDH monthly newsletter at: <http://www.health.state.mn.us/divs/orhpc/pubs/monthly/2008/mar.pdf>

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