

MSBA ELDER LAW SECTION E-NEWSLETTER
FEBRUARY 10, 2009

E-Newsletter Editorial Staff:

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NATIONAL HEALTHCARE DECISIONS DAY IS APRIL 16, 2009
VOLUNTEER NOW

The 2nd annual National Healthcare Decisions Day (NHDD) is scheduled for Thursday, April 16, 2009. Once again, the Governing Council of the MSBA Elder Law Section will serve as Minnesota state liaison for NHDD. The goal of the NHDD initiative is to ensure that all adults with decision-making capacity have the opportunity to communicate their healthcare decisions through the creation of a health care directive.

The Elder Law Section's Pro Bono Committee, co-chaired by Vicki McIntyre and Margaret "Pook" Grathwol, has been working diligently to encourage community and state organizations to sign up and participate in the NHDD initiative. As state liaison, the committee will prepare and provide resource materials for event sponsors, host and maintain a Web page for Minnesota-specific materials and events, and spearhead a statewide publicity campaign.

Volunteers are needed for the following:

- (1) To sponsor an NHDD event on or around April 16th at your firm, community center, or other accessible location. Law firms sponsoring an NHDD event may consider focusing on the firm's own clients (and staff) as a pro bono activity, providing an opportunity to complete or learn more about health care directives.
- (2) To work at a sponsored event, assisting participants with the completion of health care directives and/or presenting an informational program about health care directives. (Power Point presentation provided.)
- (3) To join the state liaison committee, helping to bring new event sponsors into the program and generally supporting state initiatives.

Anyone interested in volunteering for the NHDD initiative may contact Vicki McIntyre at vmcintyre2@yahoo.com.

ELDER LAW NEWS

There is no Elder Law News to report this week.

UPCOMING EVENTS AND CLE PROGRAMS

ABCs of Will and Trust Drafting Plus Planning for Dementia & Incapacity

Video Replay

February 17, 2009 & March 11, 2009– Minneapolis

March 6, 2009 – Duluth

March 6, 2009 – Marshall

March 12, 2009 – Moorhead

March 13, 2009 – Mankato

March 13, 2009 – Albert Lea

March 19, 2009 – St. Cloud

Contact Information: <http://www.minncle.org/SeminarsSearch.asp> or 1 800-759-8840.

Medical Assistance and Long Term Care 2009

Live Presentation

March, 16, 2009, 8:30 am – 4:30 pm

Contact Information: <http://www.minncle.org/SeminarsSearch.asp> or 1 800-759-8840.

Hospice Minnesota's 2009 End-of-Life Conference

Mystic Lake Casino Hotel, Prior Lake, MN

April 6 - 7, 2009

Contact Information:

<http://www.mnhospice.org/displaycommon.cfm?an=1&subarticlenbr=197> or 651-659-0423.

ELDER LAW SECTION ACTIVITIES

GOVERNING COUNCIL MEETING: The next meeting of the Elder Law Section Governing Council will be at 3:30 p.m. on Friday, February 13, 2008, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. All members are welcome to attend. To participate by phone, please contact Karla Nelson with Schmitz & Schmidt. P.A., at 651-291-2405.

MINNESOTA CASES

Following is a Minnesota Court of Appeals unpublished decision released on February 3, 2009.

A08-0649

A08-1346

**The Guardianship of the Person of: Tiffany Marie Jakubek, Ward (A08-649),
In re Public Guardianship of: Tiffany Marie Jakubek, Public Ward (A08-1346).**

KALITOWSKI, Judge

Appellant-ward Tiffany Marie Jakubek contends that the district court abused its

discretion in appointing a public guardian because: (1) her father, respondent Mr. Jakubek, has statutory priority, and (2) the district court did not explicitly find that no family member or other qualified individual was willing to assume guardianship responsibilities. However, the court found Mr. Jakubek's appointment as guardian was not in Appellant-ward's best interest due in part to his having little contact with her in recent years and his lack of understanding of her needs as a 25-year old with epilepsy and diminished mental capacity. We affirm.

The decision is available at:

<http://www.courts.state.mn.us/opinions/coa/current/opa080649-0203.pdf>

Unpublished opinions may not be cited except as provided by Minn. Stat. Section 480A.08, Subd. 3 (2006).

STATUTES, REGULATIONS, BULLETINS

DHS BULLETIN #09-21-01: DHS PHASES IN 60-MONTH LOOKBACK PERIOD FOR NON-TRUST TRANSFERS. In 2006, the Federal Deficit Reduction Act (DRA) was signed into law, including a provision increasing the lookback period from 36 to 60 months for people who make uncompensated, non-trust transfers and request Medical Assistance (MA) payment of long-term care (LTC) services. The lookback period remains at 36 months through January 31, 2009. Beginning February 1, 2009, the lookback period will increase by one month increments through January 2011 when the lookback period will be 60 months. The bulletin dated February 2, 2009, is available at:

http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_144064.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 Suzy Scheller at sscheller@prslegal.com.

If you do not wish to receive this eNewsletter, send your request to be removed from the mailing list to Kim Basting at kbasting@statebar.gen.mn.us.