

## **MSBA ELDER LAW SECTION E-NEWSLETTER MARCH 31, 2009**

### **E-Newsletter Editorial Staff:**

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### **FAIR HOUSING SURVEY Comment on fair housing issues for seniors**

The Fair Housing Implementation Council (FHIC), a regional agency chartered to affirmatively further fair housing in Anoka, Carver, Dakota, Hennepin, Ramsey, and Washington Counties in Minnesota, is conducting a study concerning fair housing compliance and impediments to fair housing choice throughout the region. Known as the "Analysis of Impediments to Fair Housing Choice," the study is required by the Department of Housing and Urban Development. The goals of the research are to identify whether barriers and adverse policies exist in a variety of areas, including housing rentals and sales, banking, insurance, and real estate industries. The study depends on the opinions and experiences of people who are knowledgeable about housing and fair housing compliance issues – such as Elder Law attorneys.

The survey can be completed in less than 10 minutes by clicking on the link below:

[http://www.surveymonkey.com/s.aspx?sm=n\\_2b4EIBlsqvc4MJYigr1xbg\\_3d\\_3d](http://www.surveymonkey.com/s.aspx?sm=n_2b4EIBlsqvc4MJYigr1xbg_3d_3d).

### **ELDER LAW NEWS**

Observation stay means some patients pay

[http://www.twincities.com/ci\\_11961352?source=most\\_email](http://www.twincities.com/ci_11961352?source=most_email)

South St. Paul nursing home scrambles after signs surface of sex assaults

[http://www.startribune.com/local/east/41720502.html?elr=KArks:DCiUtEia\\_nDayc](http://www.startribune.com/local/east/41720502.html?elr=KArks:DCiUtEia_nDayc)

'I'm weary,' Hudson dad said before murder-suicide

[http://www.startribune.com/local/east/41867617.html?elr=KArks:DCiUtEia\\_nDayc](http://www.startribune.com/local/east/41867617.html?elr=KArks:DCiUtEia_nDayc)

Some states, including Minn., move toward drug tests for welfare recipients

[http://www.startribune.com/politics/state/41904442.html?elr=KArks:DCiUtEia\\_n](http://www.startribune.com/politics/state/41904442.html?elr=KArks:DCiUtEia_n)

Alzheimer's Costs Triple Those for Elderly Without the Disease

[http://www.bloomberg.com/apps/news?pid=newsarchive&sid=a2xq\\_qODAJQQ](http://www.bloomberg.com/apps/news?pid=newsarchive&sid=a2xq_qODAJQQ)

Federal judge tosses lawsuit involving local nursing homes

<http://www.mnsun.com/articles/2009/03/26/news/fw26extendicare.txt>

Whistleblower: 'Low-cost' generic drugs not cheap for all

<http://www.startribune.com/lifestyle/health/41868637.html>

Ira Rosofsky: Enough with the drugging of old people

<http://www.startribune.com/opinion/commentary/41940037.html?elr=KArksc8P:Pc:Ug8P:Pc:UiD3aPc: Yyc:aULPQL7PQLanchO7DiUr>

Nursing homes evacuate ahead of crest

<http://www.startribune.com/local/north/41953007.html?elr=KArks:DCiUHc3E7 V nDacyUiD3aPc: Yyc:aULPQL7PQLanchO7DiUr>

Vulnerable and Unprotected - Part II

<http://www.kimt.com/content/localnews/story/Vulnerable-and-Unprotected-Part-II/zrx7foEj9023hW8JSqba8A.csp>

Planners OK vets home development

<http://www.hastingsstargazette.com/articles/index.cfm?id=19750&section=news>

Medicaid Suit Could Determine Who Decides Care: Doctor or State

<http://www.law.com/jsp/article.jsp?id=1202429350261>

AARP – Across the States: Profiles of Long-term Care and Independent Living

[http://assets.aarp.org/rgcenter/il/d19105\\_2008\\_atr.pdf](http://assets.aarp.org/rgcenter/il/d19105_2008_atr.pdf)

## **UPCOMING EVENTS AND CLE PROGRAMS**

### **Medical Assistance and Long Term Care 2009**

#### **Video**

April 6 & 21, 2009 – Minneapolis

April 24, 2009 – Mankato

April 29, 2009 – Moorhead

May 7, 2009 – St. Cloud

May 29, 2009 - Duluth

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

### **Hot Topics in Elder Law**

#### **HCBA Presentation**

March 23, 2009, Noon

Contact Information: <http://www.hcba.org/intus/Event3/event.asp> or 612-752-6600.

### **Tools of the Trade – Strategic Planning in Elder Law**

#### **HCBA Video Presentation**

March 25, 2009, 8:30 am

Contact Information: <http://www.hcba.org/intus/Event3/event.asp> or 612-752-6600.

**Hospice Minnesota's 2009 End-of-Life Conference**

April 6 - 7, 2009

Mystic Lake Casino Hotel, Prior Lake, MN

Contact Information:

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

**Elder Law: Long Term Care and Financial Planning**

**RCBA Live Presentation**

April 15, 2009, 3:00 – 5:00 p.m.

Contact Information: <http://www.ramseybar.org/calendar.html> or 651-222-0846

**The Basics of Elder Law: A Critical Course for Every Attorney Whose Clients are Getting Older**

**Live Presentation**

May 18, 2009, 9:00 am

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

**Probate & Trust Law Section Conference**

June 8 - 9, 2009

Saint Paul RiverCentre

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

**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, April 17, 2009, 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.

**VULNERABLE ADULT COMMITTEE MEETING:** The next meeting of the Vulnerable Adult Committee will be Thursday, April 30, at Noon, at the offices of Pearson, Randall, Schumacher & LaBore, P.A., 100 S. 5<sup>th</sup> Street, Suite 1025, Minneapolis, 612.767.7500. Contact co-chairs Ken LaBore at [klabore@prslegal.com](mailto:klabore@prslegal.com) or Joel Smith at [joel@koslaw.com](mailto:joel@koslaw.com) for more information.

**ELDER LAW SECTION ANNUAL MEETING:** The annual meeting of the Elder Law Section will be on June 9, 2009. More details to follow.

**MINNESOTA CASES**

*The following are two unpublished Minnesota Court of Appeals decisions released on March 24, 2009:*

**A08-0184**

**Deeqa Hassan, Relator vs. Dakota County Community Development Agency, Respondent.**

PETERSON, Judge

In this appeal from a decision to terminate her Section 8 housing benefits, relator argues that (a) the record does not support the finding that she failed to cooperate with respondent community development agency; and (b) in making its decision, respondent acted arbitrarily and capriciously by failing to consider relevant circumstances. Because language barriers call into question whether relator understood her obligations under Section 8 housing, we reverse.

The decision is available at:

<http://www.lawlibrary.state.mn.us/archive/ctapun/0903/opa080184-0324.pdf>

**A08-0245**

**Howard McKinley, et al., Appellants, vs. Dale McKinley, et al., Respondents.**

BJORKMAN, Judge

In this property-transfer dispute, appellant argues that (1) the district court applied the wrong standard of proof and (2) the record does not support the district court's decision that she and respondents' parents possessed the requisite capacity to sign a deed transferring property to respondent, even under the standard of proof it applied. Because we conclude that the district court applied the correct standard of proof and did not clearly err in finding that appellant failed to satisfy that standard, we affirm.

The decision is available at:

<http://www.lawlibrary.state.mn.us/archive/ctapun/0903/opa080245-0324.pdf>

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

**STATUTES, REGULATIONS, BULLETINS**

**Proposed Legislation in the House of Representatives Related to Elder Law**

H.F. 1935: MinnesotaCare and Medical Assistance consolidated, enrollment and eligibility procedures streamlined

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H1935.0.html&session=ls86>

H.F. 528: Reverse Mortgage Rules tightened to protect seniors

Article:

[http://www.house.leg.state.mn.us/sessionweekly/art.asp?ls\\_year=86&issueid\\_ =36&storyid=1044&year\\_ =2009](http://www.house.leg.state.mn.us/sessionweekly/art.asp?ls_year=86&issueid_ =36&storyid=1044&year_ =2009)

Bill:

<https://www.revisor.leg.state.mn.us/bin/bldbill.php?bill=H0528.2.html&session=ls86>

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**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>

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Please send eNewsletter contributions by noon on Saturday of each week to Suzy Scheller at [sscheller@prslegal.com](mailto: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](mailto:kbasting@statebar.gen.mn.us).