

## **MSBA ELDER LAW SECTION E-NEWSLETTER**

### **April 7, 2009**

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

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### **NATIONAL HEALTHCARE DECISIONS DAY IS APRIL 16, 2009**

National Healthcare Decisions Day (NHDD) is only a week away. The Elder Law Section's Pro Bono Committee has been working hard as Minnesota state co-chair of the NHDD initiative. A state NHDD website is now available - located at <http://mnhealthcaredecisions.pbwiki.com/FrontPage> - with information about health care directives and a complete listing of Minnesota NHDD events. Community members may consult the website to find the NHDD event location nearest them.

To date, 27 Minnesota NHDD events have been confirmed, with locations in Minneapolis, St. Paul, Brooklyn Center, Maple Grove, Maplewood, Minnetonka, St. Louis Park, Shorewood, Spring Park, Stillwater, Woodbury, Duluth, Grand Rapids, Mora, and Rochester. Event sponsors range from large organizations, such as the Mayo Clinic and HealthEast, to small law offices, churches, and senior centers, such as Sabathani Community Center, Earle Brown Terrace, the Minnetonka Senior Center, and the Rainbow Senior Center in Duluth.

If you would like to support the NHDD initiative, please check out the state website and encourage your friends, neighbors, and community members to attend an NHDD event near them. Spread the word at church or at your local grocery store. Although most elder law attorneys include preparation of health care directives as part of their practice for a fee, NHDD provides a once-a-year opportunity to encourage people to execute a directive free-of-charge. Please participate in any way you can!

Any questions or suggestions may be directed to Vicki McIntyre, Pro Bono Committee Co-Chair, at [vmcintyre2@yahoo.com](mailto:vmcintyre2@yahoo.com).

### **ELDER LAW NEWS**

**Bill targets nursing home bonus**

<http://www.desmoinesregister.com/apps/pbcs.dll/article?AID=/20090403/NEWS10/904030344&template=printart>

Green House Projects Let Elders Age In Homes

<http://www.npr.org/templates/story/story.php?storyId=102656673>

'The Unexpected Caregiver' with Kari Berit debut on KYMN

<http://kymnradio.net/archives/418>

Desperate act from a weary caregiver: In older couples, murder-suicide is often committed by the husband who sees it as an act of mercy, counselors say

<http://www.startribune.com/local/south/41952717.html?elr=KArksUUUU>

Mixing Mentally Ill and Elderly Patients at Nursing Homes

<http://www.weau.com/home/headlines/42139607.html>

AP IMPACT: Mentally ill threat in nursing homes

<http://apnews.myway.com/article/20090322/D9738N9G0.html>

Medicaid | Federal Lawsuit Questions Medicaid's Ability To Deny Care Deemed Necessary by Doctor

[http://www.kaisernetwork.org/daily\\_reports/rep\\_index.cfm?DR\\_ID=57764](http://www.kaisernetwork.org/daily_reports/rep_index.cfm?DR_ID=57764)

1 in 5 Medicare patients rehospitalized in a month; study says patients get too little advice

<http://www.startribune.com/lifestyle/health/42286582.html?elr=KArksUUUU>

7 tips for buying long-term care insurance

<http://www.startribune.com/business/42208872.html?elr=KArksUUUU>

Study: two-thirds of retirees ill prepared for long term health costs

<http://www.startribune.com/business/42208737.html?elr=KArksUUUU>

Obama administration tightens oversight of private insurance plans in Medicare

<http://www.startribune.com/lifestyle/health/42120982.html?elr=KArksUUUU>

## **UPCOMING EVENTS AND CLE PROGRAMS**

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

#### **Video**

April 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.

### **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, 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 is a published Minnesota Court of Appeals case released on March 31, 2009.*

**A08-5**

**State of Minnesota, Respondent, vs. Farhia Salad Basal, Appellant.**

JOHNSON, JUDGE,

1. Pursuant to Minnesota Statutes section 256J.20, subdivision 3, the value of loans made against a motor vehicle owned by a recipient of public-assistance benefits is not subtracted from the value of the motor vehicle when calculating the recipient's assets for purposes of determining his or her eligibility for public-assistance benefits.
2. The 2007 amendment to Minnesota Statutes section 256J.20, subdivision 3(1), does not apply retroactively to appellant's September 2005 recertification application for public-assistance benefits.

Affirmed. Judge Matthew E. Johnson.

Dissenting, Judge R. A. (Jim) Randall.

The decision is available at: <http://www.mncourts.gov/opinions/coa/current/opa080005-0331.pdf>

**Note: Web links to Minnesota Court of Appeals cases posted in the E-Newsletter are only available through the Tuesday following the release of the decision. Thereafter, the posted link is no longer valid and users will need to access the Minnesota Court of Appeals archive database at: <http://search.state.mn.us/lawlibrary/> and searching for the specific case.**

**STATUTES, REGULATIONS, BULLETINS**

**DHS BULLETIN #09-21-04: DHS IMPLEMENTS COPAY LIMITS FOR CERTAIN MEDICAL ASSISTANCE ENROLLEES.** In 2008, the Minnesota Legislature passed a law limiting copays for certain Medical Assistance (MA) enrollees that complies with new federal requirements. Pursuant to the legislation, effective May 1, 2009, all MA enrollees subject to copays and whose MA income is at or below 100% of the Federal Poverty Guidelines (FPG) will have their copays capped at 5% of their monthly gross income. The bulletin, dated March 31, 2009, is available at: [http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16\\_144573.pdf](http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_144573.pdf)

**TRANSITIONAL CARE CONSULTATION EFFORT LAUNCHED**

Prospective assisted living residents can learn about long-term care service options before they make the final decision to move. The new program calls for providers of assisted living services to inform prospective residents about transitional consultation services before committing to a lease or contract with the prospective resident. More

information about the consultation efforts is available through the Minnesota Board on Aging or at:

[http://www.dhs.state.mn.us/main/idcplg?IdcService=GET\\_DYNAMIC\\_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=dhs16\\_144599&reason=0](http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=dhs16_144599&reason=0).

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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).