



ELDER LAW SECTION E-NEWSLETTER

November 7, 2022

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Communications Committee Chair: Lucas Spaeth

Editor in Chief: Margaret (Maggie) Cook

Web Coordinator: Lucas Spaeth

Contributors: Julian J. Zweber and Callyn T. Bedker

ELDER LAW NEWS AND HIGHLIGHTS

2022 ELDER LAW INSTITUTE

The Elder Law Institute was held in person this year in downtown Minneapolis. Joél Anthony, our plenary speaker, was excellent and challenged attendees perception of racism in their practice and lives. The Institute incorporated many introductory sessions for those interested in expanding into Elder Law and provided a few refreshers for more experienced attorneys in the field. The legislative update by Suzy Scheller and the MA update by Amber Hildebrant and Julian Zweber were great summaries for what has changed this past year. An online replay will be airing November 8th-9th for those who were unable to attend in person.

Submitted by Callyn T. Bedker

ELDER LAW SECTION AWARDS PRESENTED AT 2022 ELDER LAW INSTITUTE

The Elder Law Section Awards Committee presented the following Awards at the 2022 Elder Law Institute on October 6, 2022:

Laurie A. Hanson of the Northwoods Law Group, P.A., of Minneapolis, Minnesota, was inducted into the Elder Law Section Hall of Fame, joining thirteen previous members of the Hall since it was created in 2015, and David A. Rephan of Chestnut Cambronne, P.A., of Minneapolis, Minnesota, received the Mary Alice Gooderl Memorial Award, joining 32 past recipients since the Award was created in 1993. The recipients and their families were present to accept the Awards. As traditional, the Awards were not announced prior to the Awards Ceremony, keeping the Committee's record for surprising the recipients intact.

Submitted by Julian J. Zweber, Chair, Awards Committee

NATIONAL COVID HEALTH CARE EMERGENCY EXTENDED FOR ANOTHER 90 DAYS

On October 13, 2022, Xavier Becera, U.S. Secretary of Health and Human Services, renewed and extended the previous determinations that a public health emergency exists and has existed

since January 27, 2020, nationwide, as a consequence of the Coronavirus Disease (Covid-19) pandemic. Here is a link to the official announcement:

<https://aspr.hhs.gov/legal/PHE/Pages/covid19-13Oct2022.aspx>.

Renewals last for 90 days, which would take the renewal to January 10, 2023, if not further extended by then. As a result, no person currently receiving medical assistance long term care benefits in Minnesota will be terminated from benefits unless the person dies or moves to another State, despite having assets in excess of the pre-Covid asset limits. This does not apply to cash assistance programs.

Submitted by Julian J. Zweber, Chair, Awards Committee

MINNESOTA COURT OF APPEALS RULES COUNTY MAY NOT RECOVER MEDICAL ASSISTANCE DUE TO FAILURE TO PROVIDE NOTICE.

The Minnesota Court of Appeals released a non-precedential opinion on October 17, 2022 in *In re: Estate of Raymond DeForest Trahan*. The decision can be found here: [In re the Estate of: Raymond Deforest Trahan, Deceased. A22-0494, Court of Appeals Nonprecedential, October 17, 2022 \(mn.gov\)](#). This case has been to the Court of Appeals on three occasions since Raymond Trahan's death in 2018. For that reason, further analysis may be appropriate depending on whether Rice County seeks Supreme Court review. In the most recent decision, the Court concluded that Rice County is barred from recovering because the county failed to rebut the estate's argument that the county failed to provide mandatory notice that any claim for recovery could include capitation rates paid to managed care providers. Watch for updated information in next month's newsletter.

Submitted by Julian J. Zweber, Chair, Awards Committee

Please submit upcoming news and highlights to mcook@vgllaw.com.

NOVEMBER CLE AND EVENTS

Understanding Guardianships & Conservatorships

Thursday, December 15, 2022, from 9:00 AM to 4:30 PM

Over the past several years, there has been an increase in the number of guardianship and conservatorship cases in court systems across the country. Also, the number of contested cases in this area are on the rise. Further, these types of cases have received increased media attention and public scrutiny, giving rise to renewed questions regarding their usefulness, if less restrictive means exist and whether the persons subject to these proceedings should be restored to capacity. This seminar will provide an overview of the law governing guardianships and conservatorships and will delve into more advanced topics for the more experienced practitioner.

This seminar will teach you how to handle guardianship and conservatorship cases with confidence and competence! We'll start with an overview of guardianship and conservatorship

law then delve into more challenging issues for the experienced practitioner. Our expert faculty will discuss:

- What You Need to Know Before You Take Your First Client
- 10 Helpful Tips for Drafting the Initial Guardianship and Conservatorship Pleadings
- Judicial Perspectives and Insights on Guardianship and Conservatorship Cases
- Litigating Guardianships and Conservatorships
- Navigating Difficult Relationships in the Context of Guardianships and Conservatorships
- And Much More!

This is LIVE IN-PERSON

Interested attendees may register here: <https://www.minncle.org/seminar/1042622301>

Please submit upcoming CLEs to mcook@vgllaw.com.

ELDER LAW SECTION ACTIVITIES

ADVOCACY SUPPORT COMMITTEE:

The Advocacy Support Committee meets remotely at the call of the chair.

Upcoming meeting dates to be announced.

AWARDS COMMITTEE:

The Awards Committee Chair is appointed by the incoming Council Chair after the Council Chair takes office each year. The current Committee Chair is Julian J. Zweber. Members of the Committee are appointed each year by the Council Chair on recommendation by the Committee Chair as approved or modified by the Council Chair. The Committee usually meets from July to October of each year, at the call of the Committee Chair. Nominations will be accepted year-round by the Committee from Section members for Section Awards to be presented at the next Elder Law Institute sponsored by MN CLE, usually in October of each year. For more information, please contact Julian J. Zweber at 651-646-4354 or julianzweber@qwestoffice.net.

COMMUNICATIONS COMMITTEE:

The Communications Committee oversees the monthly Elder Law E-Newsletter and the Elder Law Section website. The committee is composed of the e-newsletter editor, web editor, associate editors, contributors, and any other interested section members. Meetings will be held remotely every other month to review issues related to the e-newsletter and the website, and to conduct an annual member survey.

The Communications Committee will meet on **December 14, 2022 at 8:30 A.M.**

The meeting will be arranged by video chat on Zoom or Microsoft Teams. The meeting link will be emailed to all committee members. Anyone interested in joining the meeting should email Lucas Spaeth at lucas.spaeth@voamn.org for a link to the meeting.

Anyone interested in serving on the committee or suggesting ideas for the newsletter or website may contact Communications Committee chair Lucas Spaeth at lucas.spaeth@voamn.org or (612) 676-6302.

DIVERSITY COMMITTEE:

The Diversity Committee meets with the Education Committee via Zoom at this time. Please see the Education Committee meeting information for meeting times/dates. If you have any questions or would like to join us, please contact the current chair, Maya Missaghi, at maya@mmlawservices.com.

EDUCATION COMMITTEE:

The Education Committee plans CLE seminars sponsored by the Elder Law Section and meets via Zoom on the second Thursday of each month from 9:00 A.M. to 10:00 A.M. Subcommittees of the Education Committee include New Lawyers and Law Students.

The Education Committee will meet next on **November 10, 2022 at 9:00 A.M.**

If you would like to participate, please contact the committee chair, Lauren Fink at lfink@maserlaw.com. Anyone is welcome to join the committee or simply attend a meeting.

GOVERNING COUNCIL:

The Elder Law Section Governing Council is chaired by Callyn Bedker and is currently meeting via Zoom.

The Governing Council will meet next on **December 16, 2022 at 3:30 P.M.**

Please contact Tram Nguyen at tnguyen@mnbars.org or Callyn Bedker at callyn@bedkerlaw.com to receive Zoom instructions to join the meeting.

LAW STUDENT COMMITTEE:

The Law Student Committee helps attract students to become the next generation of elder law attorneys. The committee meets as needed during the school year. Our goal for this bar year is to host a panel event at each local law school where students can ask questions about the practice of elder law. We are always looking for other ways to engage students, so please feel free to attend meetings and make suggestions.

If you have questions about the committee, contact Jack Austin at jack@hawkelawgroup.com.

LEGISLATIVE COMMITTEE

The Elder Law Section's Legislative Committee monitors proposed legislation at the state and federal level affecting the Section's membership; reviews legislative proposals put forward by other Sections and Committees of the MSBA; reviews proposals from other groups, agencies and

individuals; keeps Section membership informed of proposed legislation; provides comment and other responses to legislative proposals; makes recommendations concerning support of, or opposition to, legislative proposals; develops relationships with other organizations affected by legislation of interest to the Section; acts as a coordinator for the Section's legislative activities; develops legislative proposals for inclusion in the MSBA legislative agenda; provides witnesses and testimony in support of, or opposition to, legislative proposals; and in general supports the MSBA and the Section's legislative agendas. Members interested in joining the committee or learning more about the legislative issues being reviewed by the committee may contact the Legislative Committee Chair, Suzy Scheller, at (7630 647-0042) or suzy@schellerlegalsolutions.com; or Vice-Chair, Julian J. Zweber, at (651-646-4354) or julianzweber@qwestoffice.net.

Several Elder Law Section only proposals are in effect for the current legislative session. The Elder Law Section is currently supporting proposals to pass new legislation regarding medical assistance treatment of life estates and irrevocable trusts as well as opposing proposed language related to resident trusts. Please contact Suzy Scheller at suzy@schellerlegalsolutions.com with questions or requests for further information.

Please contact Tram Nguyen at tnguyen@mnbars.org to be added to the Elder Law Section Community Forum.

MEDICAL ASSISTANCE COMMITTEE:

The Medical Assistance Committee is a study group to analyze the members' questions and case studies and to discuss administrative policies and procedures in relation to Medical Assistance in Minnesota. For directions, or to attend by phone, please contact Callyn Bedker at 507-587-8766 at least 24 hours in advance of the meeting. Topics for the meeting may be submitted to Callyn at callyn@bedkerlaw.com under the subject heading "MA Committee Topic."

Please note, due to COVID-19, all meetings will be held remotely by telephone at this time.

To attend by telephone, call 1-888-354-0094 at the designated meeting time. When prompted, enter Conference Identification Number [or Participant Code] 8157976029# to be connected to the conference.

MA Committee members are invited to join the Medical Assistance Community forum at my.mnbar.org. Please contact Tram Nguyen at tnguyen@mnbars.org to be added to the community.

PRO BONO COMMITTEE:

Please contact Emily Weichsel at 612-524-7356 or emilyweichsel@gmail.com if you are interested in participating in this committee.

STRATEGIC PLANNING COMMITTEE:

The Strategic Planning Committee meets at the call of the Section Chair. Questions may be directed to Callyn Bedker at 507-587-8766 or callyn@bedkerlaw.com.

The Elder Law Section's Website contains information about section committees and leadership. It also contains useful practice resources.

You may email Lucas Spaeth at lucas.spaeth@voamn.org to suggest changes to website content.

Please send E-Newsletter contributions by 10 p.m. on the last day of each month to Maggie Cook at mcook@vgllaw.com. The E-Newsletter is distributed on the first Monday of each month. If the first Monday occurs on a holiday, the E-Newsletter will be distributed on the following Monday.

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Tram Nguyen at tnguyen@mnbars.org.

Current and prior E-Newsletters are posted on the website for the Elder Law Section and are available [HERE](#).