

# MSBA ELDER LAW SECTION E-NEWSLETTER

## July 29, 2008

### E-Newsletter Editorial Staff:

**Newsletter Committee Chair:** Jonathan Dyrud, Esq.

**Editor in Chief:** Vicki McIntyre, Esq.

**Contributors:** Jeffrey Schmidt, Esq., Laurie Hanson, Esq., Irena Purves, Esq., Peter Hendricks, Esq., Amanda Christman, Esq., Julian Zweber, Esq.

## THOUGHTS FROM THE CHAIR

### The Best Thing Since...

The Elder Law Section has the best thing since the Medicare Catastrophic Coverage Act of 1988: Our eNewsletter. Thanks to Laurie Hanson, Vicki McIntyre, Jonathan Dyrud and others, we have theeeeeee best communication tool the Minnesota Bar Association has ever seen. Every week, every member gets every newsworthy item delivered to their email inbox. When a case comes down, we have the case, the analysis and fallout at our fingertips. The latest Barg update in this issue is a perfect example.

We will keep the issues coming, but we also have to keep this great tool vibrant. We have to infuse it with energy. That's where you, the members of our Section, come in. We can make the eNewsletter even more valuable by having contributions from a diverse membership. Please write articles about your practice to tell the Section what is working and what is not. Even if - especially if - it is just a quick blurb about an interesting case, it will be appreciated by all.

As Section Chair, I plan to share the eNewsletter with other carefully selected Sections to encourage new members for Elder Law. The issues we face cut across the whole spectrum of the law so our friends in Probate & Trust, Real Estate, and other Sections would find the eNewsletter and membership in our Section valuable. I also plan to present the eNewsletter as an example for all of the Bar's Sections so they can serve their members better and improve the Bar as a whole. But you and I need to ensure that the eNewsletter stays worthy of these efforts. So...

I will be watching for your contributions! Jeff

Jeffrey W. Schmidt  
Section Chair  
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**Editor's Note:** Newsletter contributions may be sent to Vicki McIntyre at [vmcintyre2@yahoo.com](mailto:vmcintyre2@yahoo.com)

**IN THIS ISSUE:** Julian Zweber provides the latest update on the *Barg* case. See Julian's report under "Minnesota Cases," below.

## **ELDER LAW NEWS**

Lawmakers take a closer look at sex offenders in nursing homes. In 2005-2006 Minnesota and several other states passed laws requiring long-term care homes receive notice about sex offenders who are admitted to their facilities.

[http://www.usatoday.com/news/nation/2008-07-24-sexoffender\\_N.htm](http://www.usatoday.com/news/nation/2008-07-24-sexoffender_N.htm)

According to Minnesota Commissioner of Human Services Cal Ludeman, it is "survival time" for health care.

<http://www.marshallindependent.com/page/content.detail/id/503346.html>

In July 2008 Congress took a bold step and passed a critical package to improve the Medicare program.

<http://www.albertleatribune.com/news/2008/jul/21/congress-takes-step-forward-medicare/>

Although Minnesota health care facilities deliver services superior to those of many other states, Medicare reimbursements in Minnesota lag behind. Amy Klobuchar and a coalition of medical providers advocate for a comprehensive Medicare reform.

[http://www.startribune.com/opinion/commentary/25631599.html?location\\_refer=Commentary](http://www.startribune.com/opinion/commentary/25631599.html?location_refer=Commentary)

<http://minnesota.publicradio.org/display/web/2008/07/14/medicare/>

## **UPCOMING EVENTS AND CLE PROGRAMS**

### **NAELA Special Needs Unprogram**

Presented by the National Academy of Elder Law. Open to NAELA members and non-members. Space is limited to the first 150 registrants.

August 8-10, 2008

Embassy Suites-Minneapolis Airport, Minneapolis

More information is available at 520-881-4005 or online at:

<http://naela.org/pdf/files/2008/UnProgram08brochure.pdf>

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

### **Home and Community-based Medical Assistance in Minnesota**

Presented by Jeffrey W. Schmidt in conjunction with Medical Education Services, Inc. Professional Development Network

Thursday, September 25, 2008

Radisson Suites, 404 West St. Germain, St. Cloud

5.25 CLE credits have been approved by the Minnesota Board of Continuing Education Information and online registration is available at: [www.meds-pdn.com](http://www.meds-pdn.com)

### **The 2008 Elder Law Institute: "Protecting Vulnerable Clients in Tough Economic Times"**

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

Application has been made for 10.25 CLE credits

Register by August 10, 2008, and save \$40!! More information and Early-bird

Registration is available

at: <http://www.minncle.org/AABuy1.asp?ITEMTYPE=S&ITEMNMBR=100540901&1ArticleID=>

## **ELDER LAW SECTION ACTIVITIES**

**GOVERNING COUNCIL MEETING:** The next Elder Law Section Governing Council meeting will be at 3:30 p.m. on Friday, August 8, 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 prior to the meeting.

**MEDICAL ASSISTANCE COMMITTEE MEETING:** The next Medical Assistance Committee meeting will be at 3:30 p.m. on Tuesday, August 19, 2008, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. If there are specific Medical Assistance topics you would like to discuss at an upcoming meeting, please email Chair Cathryn Reher at [creher@mnelderlaw.com](mailto:creher@mnelderlaw.com) or fax materials to 952-542-9201. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A. at 952-929-0622.

## **MINNESOTA CASES**

## **BARG UPDATE**

By Order dated July 21, 2008, the petitions submitted by Mille Lacs County and the Estate of Francis Barg to obtain a rehearing with respect to the Court's opinion issued May 30, 2008, have been denied (*In re the Estate of Francis E. Barg*, Docket No. A05-2346).

Under Court rules, judgment will now be entered in accordance with the Court's opinion. Entry of judgment will start a 90-day period during which the County may seek a Writ of Certiorari to allow review by the United States Supreme Court. The County has tendered responsibility for preparing the petition to the Commissioner of Human Services, and it is expected that the Commissioner will seek further review. Once a petition for certiorari is submitted, there is no specified time frame during which the petition must be approved or denied. If the petition is submitted during the U.S. Supreme Court's summer recess, it will go to the Circuit Justice for the 8th Circuit, Mr. Justice Alito, who will decide whether the Minnesota decision should be stayed pending review of the petition by the full Court.

The Barg decision is therefore not yet final, and there is no estimate as to when the decision will become final. Future events affecting this case will be reported as they occur.

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## **STATUTES, REGULATIONS, BULLETINS**

Nothing to report this week.

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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 Vicki McIntyre at [ymcintyre2@yahoo.com](mailto:ymcintyre2@yahoo.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).