

MSBA ELDER LAW SECTION E-NEWSLETTER
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E-Newsletter Editorial Staff:

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ITEMS OF INTEREST

THE BARG SAGA CONTINUES

Petition filed for review of Court of Appeals decision in Estate of Perrin;

At 4:29 p.m. on May 19, 2011, the last day for filing a petition for review, a petition was filed on behalf of the Commissioner of Human Services requesting the Minnesota Supreme Court to review the Court of Appeals' decision in *In re Estate of Richard L. Perrin*, Appellate Court File No. A10-1352. The filing of the petition starts an additional delay before the issues originally raised in the *Barg* case, *In re Estate of Barg*, 752 N.W.2d (Minn. 2008), can be considered finally resolved.

The Court of Appeals held that the District Court did not err in applying the doctrine of collateral estoppel to disallow and deny in full Hennepin County's MA claim for recovery of medical assistance benefits paid for a predeceased spouse from the estate of the community spouse. The community spouse's estate, at the time of his death, did not include any property owned by the pre-deceased spouse at the time of her death.

At issue in the appeal was 1) whether Minn. Stat. § 519.05 (2008), the general spousal liability statute, provided a separate and independent basis of recovery of medical assistance benefits provided for the predeceased spouse; and 2) whether the District Court erred by applying the decision in *In re Estate of Barg*, 752 N.W.2d (Minn. 2008) and the doctrine of collateral estoppel to disallow and deny Hennepin County's claim in full. The Court of Appeals affirmed the District Court on all issues.

Here is the link to the Court of Appeal's decision:

<http://www.lawlibrary.state.mn.us/archive/ctappub/1104/opa101352-0419.pdf>

The Estate now has 20 days to file a response. The Supreme Court can then take as much time as it deems necessary to decide whether or not to accept the case for review. Review from the Court of Appeals in a case like this is entirely discretionary.

The Estate is represented by Attorney David E. Culbert of Edina, Minnesota, and the Commissioner of Human Services and Hennepin County are represented by Assistant

Attorney General, Cynthia Jahnke.

Submitted by Julian J. Zweber, Esq.
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REMINDER: ELI PLANNING COMMITTEE

Our upcoming planning meeting is May 25! The 2011 ELI Planning Committee will meet over the summer to develop the program for this year's ELI, which will be held on October 6-7, 2011. The ELI Planning Committee will meet at the Minnesota CLE offices in St. Paul from 11:00 a.m. to 1:00 p.m. on May 25, and June 22, 2011. A box lunch will be served at all meetings.

Anyone interested in serving on the ELI Planning Committee, submitting ELI program ideas, or speaking at the ELI, may contact the 2011 Elder Law Institute Chair, Suzy Scheller, at
suzy@schellerlegalsolutions.com

LINK OF THE WEEK

Report to Minnesota State Legislature on Alzheimer's Disease

A report entitled “**Preparing Minnesota for Alzheimer’s: The Budgetary, Social and Personal Impacts**”, dated January 15, 2011, has recently been posted on the Elder Law Section website. This report was prepared by The Minnesota Board on Aging on behalf of the Alzheimer’s Disease Working Group.

Charles M. Denny, Jr., Chair, Alzheimer’s Disease Working Group said in his introductory statement, “It has been a unique honor and a privilege to serve on the Alzheimer’s Disease Working Group. Ninety-two individuals from all walks of life and from every corner of Minnesota labored over fifteen months to examine the needs of Minnesotans with dementia, the special needs of their caregivers, the present practices of the Minnesota medical community, and the community resources available to patients and caregivers. Six expert teams conducted numerous meetings to develop recommendations for improving our state’s capacity to address the current needs of nearly 100,000 Minnesotans with Alzheimer’s and to prepare the state for an ever larger proportion of our citizens who will be afflicted by this disease.

We are proud of our work as it represents the thinking of some of the nation’s best researchers, clinicians, professional care providers, as well as the inputs of those suffering from the disease and the concerns of their caregivers.”

The report is available at: <http://www.mnbar.org/sections/elder-law/RGM.asp>

Submitted by **Vicki M. McIntyre, Esq.**
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ELDER LAW NEWS

Cuts to training could lead to doctor shortage in rural Minn.

<http://minnesota.publicradio.org/display/web/2011/05/20/rural-minnesota-doctors-cuts-shortage/>

Advocates upset over budget cuts to services for disabled

<http://minnesota.publicradio.org/display/web/2011/05/19/minn-budget-disability-programs/>

Judge forgives second jail stint for Albert Lea nursing home workers

http://www.twincities.com/ci_18079707?nclick_check=1

Senior citizen transit facing cuts as needs increase

<http://minnesota.publicradio.org/display/web/2011/05/19/elderly-transit/>

Our view: Where do Grandpa and Grandma go?

http://www.winonadailynews.com/news/opinion/article_95aca55c-8004-11e0-be59-001cc4c002e0.html

Who will care for Mom and Dad? Nursing homes in financial crisis

<http://www.echopress.com/event/article/id/84774/>

MINNESOTA CASES

There are no Minnesota Cases to report this week.

STATUTES, REGULATIONS, BULLETINS

There are no Statutes, Regulations or Bulletins to report this week.

UPCOMING EVENTS AND CLE PROGRAMS

**Minnesota State Bar Association
Probate & Trust Law Section Conference**

June 6 & 7, 2011

Contact Information: <http://www.minncle.org/seminardetail.aspx?ID=100641101>

Ramsey County Bar Association

Dealing with Elderly Parents

June 8, 2011

Contact information:

https://netforum.avectra.com/eWeb/DynamicPage.aspx?Site=RCBA&WebCode=EventDetail&evt_key=50a28f4a-6eda-49a1-80d0-2f2aae562239

Minnesota State Bar Association

2011 Elder Law Institute

SAVE THE DATE: October 6 and 7, 2011

The Elder Law Institute (ELI), a collaboration between the MSBA's Elder Law Section and Minnesota Continuing Legal Education, is an annual conference designed to provide educational and networking opportunities for attorneys and others interested in the practice of Elder Law. The ELI offers a wide range of educational programming, ranging from discussions of nursing home and Medical Assistance issues to legislative updates and policy analysis. ELI Attendees receive from nine to eleven Continuing Legal Education credits, depending upon the length of the conference.

Stay tuned for more information and online registration.

ELDER LAW SECTION ACTIVITIES

MA COMMITTEE MEETING: The next MA Committee meeting will be at 3:30 p.m. on Tuesday, June 28, 2011. Topics for the meeting may be submitted to MA Committee Chair, Cathryn Reher, at creher@mnelderlaw.com, or faxed 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. Please be reminded that the meeting location is: Estate & Elder Law Services (formerly MAO Legal Services), Monroe Village, 1900 Central Avenue NE, Suite 106, Minneapolis, Minnesota 55418. There are a few parking spaces behind the building and lots of street parking. People should walk to the back of the building and come to the back door which faces directly into the meeting room.

GOVERNING COUNCIL: The next meeting of the Elder Law Section Governing Council will be 3:30 p.m. on Friday, June 17, 2011, in conjunction with the Elder Law Section Annual Meeting. The meeting will be held at Estate & Elder Law Services (formerly MAO Legal Services), Monroe Village, 1900 Central Avenue NE, Suite 106, Minneapolis, Minnesota 55418. There are a few parking spaces behind the building and lots of street parking. People should walk to the back of the building and come to the back door which faces directly into the meeting room. For further information, please contact Jennifer Wright, Chair, at jlwright1@stthomas.edu.

ELDER LAW SECTION ANNUAL MEETING: The 2011 Annual Meeting of the Elder Law Section will be held at 3:30 p.m. on Friday, June 17, 2011, at the offices of Estate & Elder Law Services (formerly MAO Legal Services), located at Monroe Village,

1900 Central Avenue NE, Suite 106, Minneapolis. Please note the meeting date and location changes. There are a few parking spaces behind the building and lots of street parking. People should walk to the back of the building and come to the back door which faces directly into the meeting room. For further information, please contact Jennifer L. Wright at jlwright1@stthomas.edu.

DON'T FORGET THAT THE ELDER LAW WEBSITE IS A GREAT RESOURCE. Here's what you can find on the Website: Links to the DHS Health Care Programs Manual, the DHS Bulletin on treatment of uncompensated transfers, the Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, legislative summary; Practice Links to organizations such as NAELA, ABA Commission on Law and Aging, 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://www.mnbar.org/sections/elder-law/index.asp>

Please send E-Newsletter contributions by 10 p.m. on Sunday of each week to Marjorie Austin at mj@mjaustinlaw.com.

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Elyse Farnsworth at efarnsworth@statebar.gen.mn.us.

Current and prior E-Newsletters are posted on the website for the MSBA Elder Law Section and are available at: <http://www2.mnbar.org/sections/elder-law/newsletter.asp>.