

MSBA ELDER LAW SECTION E-NEWSLETTER
February 5, 2018

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E-Newsletter Editorial Staff:

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NEWSLETTER HIGHLIGHTS

**** This month, the newsletter includes a Pro Bono Spotlight and an Advocacy Support Committee in Action update. Don't miss these contributions, located in the Elder Law Activities section of the newsletter, organized by committee.**

Elder Law Section Survey:

Please seize an opportunity to shape section priorities and benefits by taking the [MSBA Elder Law Section Survey](#). Please allow up to 15 minutes to complete the survey. Any section member who completes the survey may choose to share their name and contact information to be eligible for one of four (4) \$50 Visa gift cards.

Thank you for lending your time and perspectives toward the MSBA Elder Law Section's success in supporting its members and elderly clients.

Call for Nominations and Statements of Interest:

We need you! The Governing Council of the Elder Law Section of the Minnesota State Bar Association needs your energy, your perspective, and your commitment to high quality Elder Law in Minnesota. Nominations are open for two-year terms on the Governing Council and for one-year officer terms for President, Vice President, Secretary and Treasurer commencing on July 1, 2018. We are also accepting nominations for up to four (4) non-voting student members of the Governing Council. Please nominate yourself or others to fill these important positions. You may nominate yourself by submitting a short statement of interest.

Contact: Jeffrey W. Schmidt @ (651) 291-2405 or jschmidt@elderlaw123.com
Amber M. Hildebrandt @ 218-759-1673 or hildebrandt.esq@hotmail.com
Lori D. Skibbie @ (612) 676-6302 or lskibbie@voamn.org

Information about the roles of officers and the Governing Council is available in the section [bylaws](#). Written nominations will be accepted until April 1, 2018. A slate of nominees will be circulated to section members before the section's annual meeting on June 15, 2018. Nominations may also be made on the floor of the Annual Meeting.

Submitted by: Jeffrey Schmidt, jschmidt@elderlaw123.com

MSBA and Elder Law Section Prepare for 2018 Legislative Session:

The 2018 Legislature is scheduled to begin at noon, Feb. 20, 2018. The Session must adjourn by May 21, 2018. Between those two dates the Legislature will consider a bonding bill, supplemental appropriations (or cuts) to balance the budget for the second year of the biennium, tax legislation to conform to recent federal changes, and numerous other bills that could affect the citizens of this State. The MSBA employs paid staff and a lobbyist to monitor activities at the Legislature each session that might be of special interest to attorneys. Each MSBA Section has a Legislative Committee and a Legislative Coordinator.

Since 1992 Julian J. Zweber has been chair of the Elder Law Section's Legislative Committee and has served as the Section's Legislative Coordinator. The MSBA has a Legislative Committee to supervise MSBA legislative activities. The MSBA Legislative Committee prepares the MSBA Legislative Agenda for each session, and monitors legislative activities that might be of interest to MSBA members. The MSBA Legislative Agenda for 2018 is available at <http://www.mnbar.org/>. Log in and then go to "Public," then to "Government Relations" and then to "MSBA Legislative Positions." The MSBA Legislative Committee and its lobbyist keep Section Legislative Coordinators informed regarding introduction of bills and other developments of interest to attorneys at the Legislature.

The Elder Law Section's Legislative Committee and Section's Legislative Coordinator monitor proposed legislation at both the state and federal level affecting the Section's membership; review legislative proposals put forward by other MSBA Sections and Committees; review proposals from other groups, agencies and individuals; keep Section members informed of proposed legislation; provide comment and other responses to legislative proposals; make recommendations concerning support of, or opposition to, legislative proposals; develop relationships with other organizations affected by legislation of interest to the Section; act as a coordinator for the Section's legislative activities; develop legislative proposals for inclusion in the MSBA legislative agenda; provide witnesses and testimony in support of, or opposition to, legislative proposals; and in general support the MSBA and the Section's legislative agendas.

Now is the time to join the Elder Law Section's Legislative Committee if you aren't a member already and you have an interest in following elder law issues at the 2018 Legislative. Members of the Legislative Committee receive information by e-mail to keep them informed of proposals of special interest to the elderly. There are no meetings to attend during session because events move too quickly at the Legislature to accommodate meetings to develop section responses. Responses must come from individual committee members contacting their local

Legislators. To join, please contact Julian J. Zweber at 651-646-4354 or julianzweber@qwestoffice.net. Your participation in the Legislative Committee will be welcome.

Submitted by Julian J. Zweber, ELS Legislative Coordinator

Elder Law 101 CLE: Wills, Trusts, and Elder Law in the Hmong Community:

The MSBA Elder Section is collaborating with the [Hmong American Bar Association](#) (HABA) on the first CLE in a developing series by the MSBA Elder Law Section called "Elder Law 101." This first CLE will provide a brief overview of issues commonly addressed in elder law with a special emphasis on situations that may be encountered while serving the Hmong community.

Thursday, February 15, 2018 from 6 – 7 p.m.

[Hmong Village](#) (Conference Room A18, 1001 Johnson Parkway St. Paul, MN 55106).

Free and open to the public.

RSVPs to haba.minn@gmail.com are appreciated but not required.

The following panelists will discuss the basics of law, ethical obligations, and bicultural nuances to consider when providing legal services in estate planning or elder law.

- Laura Orr, MSBA Elder Law Section Chair, SMRLS Metro Senior Law Project Attorney
- Elizabeth Randa, Attorney
- Eric Lee, Attorney

The covered issues in elder law will be addressed during coming months in greater detail in 1-hour CLE seminars sponsored or cosponsored by the MSBA Elder Law Section at other locations. Stay tuned for announcements of the next Elder Law 101 presentations.

Take 3 Minutes to Help the Elder Law Section Win!

The MSBA has launched a contest among the MSBA Sections. The section that shows the greatest increase of participation in [demographic data](#) collection during the month of February will win \$300 to use at their annual meeting.

To participate, log into your [MSBA profile](#) and answer the four (4) simple questions in the Demographics tab. Participation is measured by number of people who complete ***all four*** demographic questions.

Athena Hollins, the MSBA's Diversity and Inclusion Director, writes, "All of the information collected is completely confidential, and will only be used by the MSBA to gauge the needs of our members, and what we can do to improve the diversity of our membership."

EVENTS SCHEDULED IN THE NEXT MONTH

February 7, 2018 at 9:30 a.m. – Education Committee (teleconference).

February 16, 2018 at 3:30 p.m. – Governing Council (Monroe Village Community Room, Minneapolis)

February 20, 2018 at 3:30 p.m. – M.A. Committee (Monroe Village Community Room, Minneapolis)

ELDER LAW NEWS

The Minnesota Consumer Work Group (made up of members of AARP Minnesota, Alzheimer's Association, Minnesota Elder Justice Center, Elder Voice Family Advocates, and Mid-Minnesota Legal Aid) released its report on January 29, 2018. The report contains numerous public policy recommendations aimed at improving the safety and care of older and vulnerable Minnesotans residing in nursing homes and assisted livings.

The report can be downloaded [here](#).

Please submit news articles of interest to emily.flesch@mitchellhamline.edu.

QUESTIONS AND ANSWERS FROM THE MSBA COMMUNITIES

Q. Mom deeded homestead to son 14 years ago, reserving a life estate. Mom is 75 years old. Son is 45 years old. Both in good health, live at the homestead, and likely will for the foreseeable future. Son gets social security, including some amount of SSI, and is on medical assistance. I do not know the amount of SSDI, and the amount of SSI. The house is worth about \$60,000. If something happened to mom, son could not stay in the home, paying insurance, taxes, utilities, etc. Mom helps him now pay those. For the son, I see options such as:

1. Son could transfer the remainder interest to his three siblings. As the son is under 55 years of age, that should not affect medical assistance. However, he may be subject to a 36-month penalty for the SSI benefit he gets. Maybe the siblings could provide him with payment of some expenses he now pays to make up the loss.

2. Son could sell his life estate and use the monies for prepaid funeral, perhaps better vehicle, household furniture. Could also set up special needs trust, but may not be wise for only \$25,000 as a round number.

A. Son cannot transfer his remainder interest for less than fair value without taking a penalty which would disqualify him for MA home- and community-based services in a roughly equal amount. There is no age limit on penalizing uncompensated transfers. Estate recovery is limited to services rendered in the home setting from age 55 onward; MA eligibility is not. Option No. 2

could be an option if otherwise advisable. Option No. 1 is not, unless the family pays for care during the resulting penalty period.

ELDER LAW CASES

Please submit Elder Law cases of interest to emily.flesch@mitchellhamline.edu

STATUTES, REGULATIONS, BULLETINS

Please submit statutes, regulations, or bulletins of interest to emily.flesch@mitchellhamline.edu

ELDER LAW SECTION ACTIVITIES

ADVOCACY SUPPORT COMMITTEE:

The Advocacy Support Committee will meet on **March 21, 2018** at the offices of Long, Reher, Hanson & Price. Telephone participation is available. Please contact committee chair Laura Zdychnec at lzdychnec@mnellderlaw.com for call-in instructions or more information.

Advocacy Support Committee in Action:

[WAIVER WARS: REMAKING OF MEDICAID WITHOUT CONGRESSIONAL APPROVAL THROUGH SECTION 1115 WAIVERS](#)

An article submitted by Mark Wermerskirchen, mark@mwlawpa.com.

Much is happening with Medicaid. Events since November 2017 have troubling implications for the elderly, disabled, and poor. If you have a passion for litigation and advocacy issues related to Medicaid, Medicare and all matters related to protecting the rights of the elderly, disabled and related populations, join the Elder Law Section's Advocacy Support Committee.

PRO BONO COMMITTEE:

Meetings will be held via teleconference on the third Friday of every other month from 12-1 pm unless otherwise communicated. Upcoming meeting dates:

March 16, 2018 at 12 p.m.

May 18, 2018 at 12 p.m.

Questions may be directed to Maya Missaghi at mayamissaghi@gmail.com.

Pro-Bono Spotlight:

A place to highlight someone else's noteworthy contribution to the Elder Law community and/or the Minnesota community at large.

While many know her by name and reputation, it is with great pride that we count **Suzanne Scheller** among our Section members. While her accomplishments continue to multiply, we would like to highlight her work in helping put together [Elder Voice Family Advocates](#), a volunteer based organization now an important stakeholder in the work being done on the [Elder Taskforce created by Gov. Dayton](#). It is grass roots groups like these that help those in positions of power see what is important to their constituents and Elder Voice has played no small part in bringing about this surge of attention to elder abuse issues.

Not to belabor the point . . . but we are proud of Suzy and congratulate her on this well-deserved recognition of her efforts to help the vulnerable.

Feeling soft-hearted or wishing you could? Try submitting a spotlight on someone else's work or a community service experience you've had recently! At the very least, you can pat yourself on the back for being such a team player. We promise to send back an encouraging email of thanks.

Submitted by: Maya Missaghi, mayamissaghi@gmail.com

COMMUNICATIONS COMMITTEE:

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

March 14, 2018 at 8:30 a.m.

May 9, 2018 at 8:30 a.m.

July 11, 2018 at 8:30 a.m.

September 12, 2018 at 8:30 a.m.

November 14, 2018 at 8:30 a.m.

The meeting location is Schromen Law, 600 Marshall Avenue, Saint Paul, MN 55102.

Anyone interested in serving on the committee or suggesting ideas for the newsletter or website may contact Communications Committee chair Rachel Schromen at rachel@schromenlaw.com or 651-571-2515.

EDUCATION COMMITTEE:

February 7, 2018 at 9:30 am.

Meetings are held via conference call. Please contact Genevieve Gaboriault at gegaboriault@mylegalaid.org to participate.

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 john.j.austin3@gmail.com

MA COMMITTEE:

The 2017-2018 Medical Assistance (MA) Committee meetings will be at 3:30 p.m. on the third Tuesday of even-numbered months.

Upcoming meeting dates:

February 20, 2018 at 3:30 p.m.

April 17, 2018 at 3:30 p.m.

June 26, 2018 at 3:30 p.m.

August 21, 2018 at 3:30 p.m.

October 16, 2018 at 3:30 p.m.

December 18, 2018 at 3:30 p.m.

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 Traci Sherman with Pluto Boes Legal, PLLC, at tsherman@plutoboeslegal.com or 507-247-5900 at least 24 hours in advance of the meeting. Topics for the meeting may be submitted to tsherman@plutoboeslegal.com under the subject heading "MA Committee Topic," or faxed to 507-247-5868.

The Committee is hosted by Estate & Elder Law Service at Monroe Village, 1900 Central Avenue NE, Minneapolis, MN 55418. Parking is available behind the building and along adjacent streets. In-person attendees should enter through the door facing the parking lot behind the building. This door leads directly into the community room.

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

NEW LAWYERS COMMITTEE:

Meetings will be held the second Thursday of even-numbered months at noon. Each meeting has a different topic based upon input from the new lawyers committee. Minutes of past meetings are available. The meetings are formatted so that a seasoned elder law attorney will speak for the first half hour, and the second half hour will be questions and answers.

Upcoming meeting dates will be announced.

Meetings will be held at Chestnut Cambronne PA, 17 Washington Ave N #300, Minneapolis, MN, 55401. Please contact Pook Grathwol at pgrathwol@chestnutcambronne.com or (612) 336-2919.

STRATEGIC PLANNING COMMITTEE:

The next Strategic Planning Committee meeting date is to be announced. Meetings are held at the law office of Maser, Amundson, Boggio & Hendricks, P.A., located at 6601 Lyndale Avenue South, Suite 320, Richfield, MN 55423. Questions may be directed to Brenna Galvin at bgalvin@maserlaw.com.

VULNERABLE ADULT COMMITTEE:

Contact Marit Peterson at marit.peterson@elderjusticemn.org or 651-440-9303, if you are interested in participating in this committee.

GOVERNING COUNCIL:

The Elder Law Section Governing Council will meet at the following dates and times during the MSBA year ending in June 2018:

February 16, 2018 at 3:30 p.m.

April 20, 2018 at 3:30 p.m.

June 15, 2018 at 3:30 p.m.

Meetings will be held at the Monroe Village Community Room. Monroe Village is located at 1900 Central Avenue NE, Minneapolis, Minnesota 55418. Parking is available behind the building and along adjacent streets. In-person attendees should enter through the door facing the parking lot behind the building. This door leads directly into the community room. For further information, please contact Tram Nguyen, section services manager, at tnguyen@mnbarg.org or 612-278-6316.

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

You may email Bridget-Michaele Reischl at bridget@decorolaw.com to suggest changes to website content.

Please send E-Newsletter contributions by 10 p.m. on the last day of each month to Emily Flesch at emily.flesch@mitchellhamline.edu. The e-newsletter is distributed on the first Monday of each month. If the first Monday occurs on a holiday, the 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@statebar.gen.mn.us

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