



Co-presented by Minnesota CLE and
the Elder Law Section of the MSBA

Elder Law 2009

The 19th Annual Elder Law Institute

It's STILL the Economy!

Guiding Older Clients through Trying Times

A special thank you to
Barnes & Thornburg LLP,
for sponsoring featured
guest speaker **Jane Brody**,
Personal Health Columnist
for *The New York Times*.

**Special Bonus for the first
300 Institute registrants:**

A complimentary copy of Jane
Brody's *GUIDE TO THE GREAT
BEYOND – A Practical Primer to
Help You and Your Loved Ones
Prepare Medically, Legally, and
Emotionally for the End of Life!*



NEW topics!

12 NEW breakout sessions including a BASICS track!

SAME GREAT INSTITUTE, including the
“Ethics Hotseat” for 1.0 hours of ethics credit!

Thursday & Friday, October 8 & 9, 2009

Minnesota CLE Conference Center
Seventh Street & Nicollet Mall; Third Floor City Center; Minneapolis

The Schedule

This purple shaded box designates the new BASICS track of breakout sessions.

Thursday, October 8

8:15 – 8:45 a.m. CHECK-IN & CONTINENTAL BREAKFAST

8:45 – 9:00 a.m.

Welcome, Introduction and Section Announcements
– Vicki M. McIntyre, MSBA Elder Law Section Chair

9:00 – 10:00 a.m.

Seeking Long-term Care: What you Need to Know Before, During, and After Admission

Ken LaBore and Suzy Scheller will start the day by discussing how elder law attorneys may guide their clients through the complexities of housing and care options. The presentation will inform attendees about the best ways to assist clients and families in selecting a long-term care facility, monitoring ongoing care, and following up on issues that may arise during residence. Utilizing information from the *Elder Care Guide*, Ken and Suzy will answer questions such as: What factors should the client consider before choosing a particular housing or care option? How may elders and family members stay involved in the caregiving process? And how should loved ones evaluate the standards of care and respond to substandard care, when something goes wrong?

– Kenneth L. LaBore & Suzanne M. Scheller

10:00 – 10:10 a.m. Break

10:10 – 11:10 a.m.

Jane Brody's Guide to Preparing for the End of Life

Bestselling author and *New York Times* health columnist Jane Brody will provide practical advice for attorneys and their clients on taking care of critically important medical, legal, and emotional issues that typically arise at or near the end of life. During her presentation, Ms. Brody will offer guidance from her newest book, *Jane Brody's Guide to the Great Beyond*, which *Publishers Weekly* calls "an instructive, inspiring, and reassuring work full of compassion and humor." Don't miss Ms. Brody's straightforward, informative and entertaining presentation about the journey to the inevitable.

(As an **added bonus**, the first 300 Institute registrants will receive a free copy of Ms. Brody's book courtesy of **Barnes & Thornburg LLP**.)

– Jane Brody

11:10 – 11:20 a.m. Break

11:20 a.m. – 12:20 p.m.

Ethics Hotseat: Dealing with Clients' Financial Issues When Times are Tough

1.0 ethics credit applied for

Back by popular demand, Eric Cooperstein and Jennifer Lammers will present hypothetical situations involving the client financial issues that elder law attorneys face in a recessionary environment. What is the attorney to do when the client's son, with a valid power of attorney, is squandering the client's assets? What may an attorney ethically do to get paid if the client's retirement fund is depleted? The audience will vote on options for handling a variety of financial situations; after the vote totals are revealed, Eric and Jennifer will discuss the ethically "right" answers, with suggestions for the audience on the best ways to handle difficult ethical issues.

– Eric T. Cooperstein & Jennifer A. Lammers

12:20 – 1:25 p.m.

INSTITUTE LUNCHEON (provided at the live program only)

Radisson Plaza Hotel Minneapolis

12:45 – 1:15 p.m. Awards Presentation

Breakout Session A

1:25 – 2:20 p.m.

1. BASICS: Medical Assistance

Medical Assistance is the "tail that wags the dog" when it comes to long term care planning. Fraught with rules, exceptions, and pitfalls, and subject to frequent legislative change, MA laws can be improperly interpreted or inconsistently applied by the local agencies responsible for administering the Program. This session covers the status quo of basic Medical Assistance law including eligibility, asset reduction, spousal impoverishment provisions, and the effect of uncompensated transfers. Stuart and Mark will present real world examples of various planning scenarios, along with practice tips and suggestions for solving simple and complex planning situations.

– Mark L. Anderson & Stuart E. Schmitz

2. When You or Your Client are the Headline

Veteran media lawyer and crisis communications specialist Amy Rotenberg will provide participants with an understanding of the U.S. media, and how to handle media inquiries and interviews concerning legal or crisis matters. Amy will also discuss effective strategic communications planning, how lawyers can control the message and flow of information to the media and other stakeholders, and how to effectively protect communications and strategies from discovery.

– Amy K. Rotenberg

3. VA Benefits as Alternative Payment Source

Individuals may pay for long-term health related expenses from four main sources: (1) private funds; (2) insurance; (3) Medical Assistance; and (4) Veterans benefits. This session will focus on Veterans benefits as an alternate payment source for health-related expenses. Mary Frances and Todd will explain the difference between Federal and State Veterans benefits, outline the service criteria to qualify for various benefits, offer suggestions for advising clients on accessing benefits, and provide an overview of the asset and income requirements for Veterans and their spouses to qualify for additional support for payment of health-related expenses.

– Todd Kubinski & Mary Frances M. Price

4. Geriatric Care Managers: The Bridge in Health Care Management

Geriatric Care Managers (GCMs) are health and human services specialists who help families care for older relatives, while encouraging as much independence as possible. The GCM acts as a guide and advocate – identifying problems and offering solutions, from assessment of an aging parent's need to addressing the life change of a family affected by Alzheimer's Disease, Parkinson's, or other symptoms of dementia. This session will explore what a Geriatric Care Manager is, the types of services a GCM provides, and how elder law attorneys may integrate a GCM into their practice.

– Kathleen Dempsey & Cathryn D. Reher

2:20 – 2:30 p.m. Break

Breakout Session B

2:30 – 3:25 p.m.

5. BASICS: Powers of Attorney

Powers of Attorney are one of the most powerful – and most often misused – tools for dealing with basic incapacity planning; use of a Power of Attorney may raise a variety of complex practical and legal issues. In this session, attorneys will learn how to draft POAs, how to make them effective, and how to revoke them. In addition, the session will explore other issues relating to POAs, including representing attorneys-in-fact, determining when use of a POA is not advisable, and suggesting other estate planning tools that might be more appropriate.

– Susan T. Peterson

6. Caring for the Caregiver

Elder Law attorneys often work with families who are providing care to a chronically ill, disabled, or aging person. In many cases, there may be only one primary caregiver within the family. Although attorneys tend to focus the planning process on the aging, disabled or ill person, the process should include the needs of the loved ones who are providing care. What happens if the caregiver becomes so stressed that s/he breaks down and can no longer provide necessary care? This session will focus on identifying when a caregiver is under stress and suggest resources that the practitioner can recommend to make sure the caregiver is receiving the necessary support.

– Cindy Dubansky & Krista O'Connor

7. Special Needs Settlement Planning

Special Needs Settlement Planning is the integrated, comprehensive, multi-disciplinary process of managing the legal needs, financial challenges, and government programs of a client who has a disability and will receive a tort, divorce, retroactive benefit, or other settlement. While the settlement process can be a multifaceted mess of issues and programs that routinely get in each other's way, the size, shape and benefit of the settlement can be influenced and improved when all ducks are in a row. This session will assist attorneys with understanding and planning for settlements related to Social Security Disability, Medicare conditional payments and set asides, Medical Assistance assignments and liens, Qualified Settlement Funds, Special Need Trusts, and more.

– Jeffrey W. Schmidt

8. Solving the Legal Reverse Mortgage Puzzle

Reverse mortgages are a hot topic, much talked about but often puzzling to clients and attorneys alike. This session will help to unravel the puzzle of myths and truths as well as the positives and negatives surrounding reverse mortgages. Attendees will learn how to identify when a reverse mortgage is right for a client, how a reverse mortgage can be used as an estate planning tool, and why a reverse mortgage shouldn't be considered a last resort. Beth Paterson, a leader in reverse mortgage legislation, will also discuss how legislation could impact seniors and the reverse mortgage industry.

– Beth Paterson & Laura J. Zdychnech

3:25 – 3:35 p.m. Break

Breakout Session C

3:35 – 4:30 p.m.

9. BASICS: Health Care Directives

While Minnesota law allows clients to state their health care wishes and to appoint an agent to make health care decisions for them if they become unable to speak for themselves, only a fraction of older individuals have actually completed a health care directive. This session will provide information to attorneys about answering common questions regarding health care directives, offering assistance to clients in completing a directive, answering medical questions about common treatment decisions, and guiding end-of-life discussions with clients and their families.

– Margaret M. Grathwol & Kristine E. Mullmann

10. MA Treatment of the Homestead

The presence of real estate in a client's portfolio offers a variety of sometimes complex planning opportunities for estate and elder law attorneys. This session will review the Medical Assistance treatment of real estate, including the homestead, cabins, and other jointly-held property. The session will also provide a detailed look at the tax implications of real estate transfers, opportunities and limitation of rental property for MA clients, review of medical assistance liens, creditor issues, taxation of homestead property, planning to keep real estate in the family, and more.

– Sarah J. Rowley

11. Pearls of Wisdom: What Would June or Ward Cleaver Do?

This session will address practice tips which two seasoned estate planning and elder law attorneys, Tom O'Connell and Stuart Bear (who combined have over 60 years of legal experience), have successfully employed in their own practices. Topics include developing and maintaining the relationship with clients; substantive issues regarding the titling of assets, real estate and beneficiary forms; drafting tips; document storage and retention; dealing with dysfunctional families; and approaches to fee arrangements.

– Stuart C. Bear & Thomas R. O'Connell

12. Pro Bono Opportunities in Elder Law

Providing pro bono services to the elderly is an increasingly important component of any elder law practice. This session will offer information about opportunities to provide pro bono services to elders in need, and will explore resources useful to pro bono efforts. During this presentation, selected representatives will discuss the goals and missions of their organizations or programs and explain how attorneys may become more involved in volunteer assistance efforts.

– Kristina Ebbott, Jennifer Olin & Laura Orr

4:30 p.m.

INSTITUTE RECEPTION (provided at the live program only)

Join us for food, drinks and great PRIZES! We will be collecting your business cards at the reception for a drawing at 5:00 p.m. Be there to win a complimentary registration for next year's Elder Law Institute, plus other great prizes including gift certificates for your favorite stores and services. Must be present to win.

Friday, October 9

8:30 – 9:00 a.m. CHECK-IN & CONTINENTAL BREAKFAST

9:00 – 9:45 a.m.

What's New with Guardianships and Conservatorships: Legislation and More

Guardianships and conservatorships are meant to protect the personal and financial interests of incapacitated individuals, including older adults. In this presentation, Mary Watson, past president of the Minnesota Association for Guardianship and Conservatorship (MAGiC), will discuss new developments affecting the interests of clients in need of a surrogate decision-maker, including the impact of Minnesota's newly-adopted Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act, which becomes effective on January 1, 2010.

– *Mary R. Watson*

9:45 – 10:30 a.m.

What's New with Trusts and Public Assistance: Rules, Legislation, and More

Over the past year, much has changed: in January, the Social Security Administration changed the Program Operations Manual System (POMS) governing trusts and public assistance for the first time in nine years; the Minnesota Department of Human Services (DHS) changed trust and transfer rules in its manual without warning or process; the Appeals Division of the DHS continues to uphold DHS policy; the Legislature amended the trust and transfer rules concerning special needs trusts and pooled trusts; and the Court of Appeals issued the *Wilcox* decision in May. In this presentation, Laurie Hanson will discuss and analyze the impact of these changes.

– *Laurie Hanson*

10:30 – 10:45 a.m. Break

10:45 – 11:30 a.m.

2009 Revisions to the Vulnerable Adult Act

Minnesota first created a report and response system for maltreatment of the elderly and persons with disabilities in 1980. The Vulnerable Adult Act was substantially revised in 1995. This session is an overview of the Vulnerable Adult Justice project, a broad stakeholder group of public and private agencies and associations that advanced the 2009 initiative, as well as a review of the changes in Chapter 119, Laws of Minnesota 2009. Iris D. Freeman, MSW, Adjunct Professor in the Center for Elder Justice and Policy at William Mitchell College of Law, served as Legislative Coordinator for the effort. Her presentation will highlight the changes made to tackle financial exploitation of vulnerable adults, as well as issues and future directions for streamlining the reporting system.

– *Iris C. Freeman*

11:30 a.m. – 12:15 p.m.

Legislative Update

In this session, Elder Law Section Legislative Coordinator Julian Zweber will explain which 2009 MA eligibility and estate recovery amendments are effective now, later, and perhaps never. During 2009, Governor Pawlenty proposed cuts and changes to funding, while the American Recovery and Readjustment Act of 2009 provided billions in federal dollars to states where MA eligibility policies and procedures were left unchanged. As a result, the 2009 legislature postponed the proposed MA eligibility modifications until January 1, 2011, and expanded MA estate recovery for estates of MA recipients who die on or after July 1, 2009. Julian will clarify the impact of these and other legal developments on elder law attorneys and their clients.

– *Julian J. Zweber*

12:15 – 12:30 p.m.

Whence Elder Law? Musings on the Future of the Practice

Attorney, teacher, lecturer, and author Kris Maser will close the Institute with thoughts about the future of the practice of elder law and the role of elder law attorneys in an aging society.

– *Kris L. Maser*

12:30 – 2:00 p.m.

Luncheon for Elder Law Planners and General Counsel Members followed by a Meeting of the Governing Council.

• **Vicki M. McIntyre**
Institute Chair
McIntyre Legal Services LLC
Minneapolis

• **Mark L. Anderson**
Schmitz & Schmidt PA
St. Paul

• **Stuart C. Bear**
Chestnut & Cambronne PA
Minneapolis

• **Jane Brody**
New York Times Health Columnist
New York

• **Eric T. Cooperstein**
Attorney at Law
Minneapolis

• **Kathleen Dempsey**
Pathfinder Care Management
Minneapolis

• **Cindy Dubansky, MSW**
Maser & Amundson PA
Richfield

• **Kristina Ebbott**
Student, William Mitchell College of Law
St. Paul

• **Iris C. Freeman, MSW**
Advocacy Strategy
Minneapolis

• **Margaret M. Grathwol**
Attorney at Law
Excelsior

• **Lori L. Guzman**
Guzman Law Firm PA
Apple Valley

• **Laurie Hanson**
Long Reher & Hanson PA
St. Louis Park

• **Richard D. Hawke**
Attorney at Law
Roseville

• **Todd Kubinski**
Community Veterans Services Office –
Scott County
Shakopee

• **Kenneth L. LaBore**
Pearson Randall Schumacher & LaBore PA
Minneapolis

• **Jennifer A. Lammers**
Briggs & Morgan PA
Minneapolis

• **Kris L. Maser**
Maser & Amundson PA
Richfield

• **Kristine E. Mullmann**
Estate Crafters
Brooklyn Park

• **Thomas R. O'Connell**
Collins Buckley Sauntry & Haugh
St. Paul

• **Krista O'Connor**
Elder Care Partners
West St. Paul

• **Jennifer Olin**
Student, University of St. Thomas
School of Law
Minneapolis

• **Laura Orr**
Student, University of St. Thomas
School of Law
Minneapolis

• **Beth Paterson**
Prestige Mortgage LLC
St. Paul

• **Susan T. Peterson**
Henningson & Snoxell Ltd.
Maple Grove

• **Mary Frances M. Price**
Maser & Amundson PA
Richfield

• **Cathryn D. Reher**
Long Reher & Hanson PA
St. Louis Park

• **Amy K. Rotenberg**
Rotenberg Associates LLC
Minneapolis

• **Sarah J. Rowley**
Barnes & Thornburg LLP
Minneapolis

• **Suzanne M. Sandahl**
Sandahl & Associates
Richfield

• **Suzanne M. Scheller**
Pearson Randall Schumacher & LaBore PA
Minneapolis

• **Jeffrey W. Schmidt**
Schmitz & Schmidt PA
St. Paul

• **Stuart E. Schmitz**
Schmitz & Schmidt PA
St. Paul

• **Mary R. Watson**
William M. Hansen & Associates
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• **Laura J. Zdychnec**
Long Reher & Hanson PA
St. Louis Park

• **Julian J. Zweber**
Attorney at Law
Saint Paul

• **Planning Committee**



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Elder Law 2009

October 8 & 9, 2009
Minnesota CLE Conference Center
Minneapolis

PLEASE "✓" APPROPRIATE BOX BELOW:

LIVE: 10/8-9/2008

\$345 MSBA member \$345 paralegal \$415 standard rate

VIDEO REPLAYS:

\$305 MSBA member \$305 paralegal \$370 standard rate

Location: _____ Date: _____

PLEASE "✓" INSTITUTE BREAKOUT CHOICES (1 PER SESSION):

SESSION A: #1 #2 #3 #4

SESSION B: #5 #6 #7 #8

SESSION C: #9 #10 #11 #12

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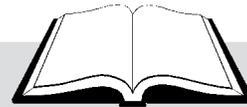
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NEW LAWYER DISCOUNT!

I was first admitted to the bar after October 8, 2006, and have deducted \$60 from the registration fee marked at left.



PROGRAM MATERIALS:

I cannot attend. Please send me the following:

_____ copy(ies) of the written materials at \$110 each. (available 10/19/09)

Cost of book(s) \$ _____

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CREDITS

Minnesota CLE will apply to the State Board of Continuing Legal Education for **9.0 hours of CLE credit**. We will apply for **1.0 hours of ethics credits** for the 11:20 – 12:20 p.m. session on October 8th entitled "Ethics Hotseat". If you claim ethics credit for this course, you must deduct those special credits from the 9.0 hours of "standard" credit. (For example, if you attend the ethics session on Day 1, you may claim a maximum of 8.0 hours of standard credit and 1.0 hours of ethics credit for a total of 9.0 credits). In no case may you claim more than **9.0 credits total** for this seminar.

VIDEO REPLAYS

Replays will show plenary sessions plus the most popular topic from each breakout session – topics will be determined at a later date. Lunch is not included at the video replays. Schedule times for replays may differ from the live presentation due to abbreviated lunch and break periods. Start times are as indicated below. Please register at least one week in advance to secure your copy of the course materials on the day of the seminar. Replays with an asterisk (*) will be showing the entire 9 hour replay on the single date listed.

Minneapolis – 10/22-23/09

(Registration 8:30; Replay 9:00)
Minnesota CLE Conference Center
Seventh Street & Nicollet Mall
Third Floor City Center

Minneapolis – 11/17-18/09

(Registration 8:30; Replay 9:00)
Minnesota CLE Conference Center
Seventh Street & Nicollet Mall
Third Floor City Center

Duluth – 1/21-22/10

(Registration 8:30; Replay 9:00)
Radisson Hotel Duluth—Harborview
505 West Superior Street

* **Hibbing – 11/13/09**

(Registration 8:45; Replay 9:00)
St. Louis County Courthouse
1810 12th Avenue East

* **Mankato – 12/4/09**

(Registration 8:15; Replay 8:30)
SMRLS Office
12 Civic Center Plaza, Suite 3000

* **Moorhead – 11/12/09**

(Registration 9:00; Replay 9:15)
Moorhead Public Library
118 Fifth Street South

* **Park Rapids – 11/20/09**

(Registration 8:45; Replay 9:00)
Hubbard County Courthouse
301 Court Street

* **Saint Cloud – 11/13/09 & 11/16/09**

(Registration 8:45; Replay 9:00)
Kelly Inn
Highway 23 & Fourth Avenue South

CANCELLATION / NO-SHOW POLICY

Paid registrants who cancel their registration at least 72 hours before the program will receive a full credit on their account; if fewer than 72 hours, a \$25 administrative fee will be deducted. Paid registrants who fail to attend will receive the written materials. Passholders may purchase the course materials at 50% of the full retail price.

ACCOMMODATION

If you have a disability and need an accommodation in order to attend, contact Minnesota CLE at 2550 University Avenue West, Suite 160-S, Saint Paul, MN 55114 or call us at 651-227-8266 or 800-759-8840.

QUESTIONS?

Please call Minnesota CLE at **651-227-8266** or **800-759-8840** or visit us online at **www.minncle.org**.

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