



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

The 20th Annual Elder Law Institute

Choose among:

- ▶ The best national and local speakers including **Gene Coffey**, attorney with the National Senior Citizens Law Center in Washington, D.C. on how the new health care reform legislation impacts seniors!
- ▶ Timely plenary topics!
- ▶ 7 Focused “Short Shots”!
- ▶ 15 Specialized breakout sessions including a Basics track, 1.0 hour of ethics credit, and 2.0 hours of elimination of bias credit!

**Thursday, & Friday
October 7 & 8, 2010**

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

Video replay details inside.

**If you represent
seniors, this is the
one conference
you can't miss!**

(And really –
who doesn't
represent
seniors?)

New this year – “Ask the Answer Man”!

Experienced and knowledgeable Minnesota elder law attorney **Jeff Schmidt** of Schmitz and Schmidt, P.A. in St. Paul will be available throughout the Institute to take your questions. If you stump “The Answer Man”, Jeff can call on the rest of our expert faculty and planners to get you the insight and information you need!

Schedule

Thursday, October 7, 2010

8:15 – 8:45 a.m.
Check-in & Continental Breakfast

8:45 – 9:00 a.m.
Welcome, Introductions and Section Announcements

Jennifer L. Wright, MSBA Elder Law Section Chair

9:00 – 10:30 a.m.
National Health Care Reform and Long Term Care – What Will It Mean for Our Clients?

Gene Coffey of the National Senior Citizens Law Center was at the epicenter as the titans clashed over federal health care reform. This presentation will explore the development and ramifications of the new federal health care laws and provide practical insights into how they will impact our Minnesota clients needing long term care in the years to come.

Gene Coffey

10:30 – 10:45 a.m. Break

10:45 – 12:15 p.m.
National Health Care Reform and Its Impact on Minnesota

The panelists will provide an overview of health reform legislation, discuss its likely impact on consumers, older Americans, those with disabilities, and health care providers, and describe implementation issues in Minnesota.

A. Kimberley Dayton, Michael Zdychnec & a representative from the Minnesota Department of Human Services

12:15 – 12:30 p.m.
Awards Ceremony

Julian J. Zweber

12:30 – 1:45 p.m.
Institute Luncheon
(provided at the live program only)
Minneapolis Marriott City Center Hotel

1:45 – 2:45 p.m.
Breakout Session A

1. **BASICS: The Basics of Medical Assistance Eligibility**

This session will review the basic rules applied to determine eligibility for Medical Assistance for single and married individuals. Notable exceptions to the general rules will also be covered.

Allison J. Frasier & Mary Frances M. Price

2. **Elder Justice: Connecting Public Policy and Legal Practice**

Review of 2010 state legislation; how recent changes in the law in 2009 and 2010 have affected legal practice; a review of the national 2010 Elder Justice Act; and what is on the horizon for future legislation both in Minnesota and nationally.

Iris C. Freeman, Kenneth L. LaBore & Suzy M. Scheller

3. **A Perilous Journey**

The impact of emotional, psychological, and family dynamics in estate and guardianship litigation.

Luther M. Amundson

2:45 – 3:00 p.m. Break

3:00 – 4:00 p.m.
Breakout Session B

4. **BASICS: Medical Assistance Estate Recovery**

Dealing with estate recovery claims can be as complicated and vexing as obtaining medical

assistance benefits in the first place. This presentation will review the federal and state statutes which govern recovery of medical assistance benefits correctly paid and discuss the statutes of limitation applicable to medical assistance claims, use of affidavits of collection, claims in probate and clearance certificates for decree of descent proceeding and Transfer on Death Deeds to make sure that assets do not escape recovery. The presentation will touch on the impact of the recent Barg decision and the 2009 amendments to Minn. Stat. 256B.15 and 519.05, as an introduction to the Medical Assistance Update on Day Two of the Institute.

Allison J. Frasier & Mary Frances M. Price

5. **Elder Facility Admissions Agreements: What Are We Signing?**

What can providers and residents/family members expect by signing an admission agreement? A look at the terms of admissions agreements in nursing home, assisted living, and other care settings, including arbitration provisions, authority of the family member signing the document, responsibilities of the signor, care contracts versus residency contracts, and expectations for care.

Suzy M. Scheller and panelists to discuss both the provider and resident perspective

6. **Elder Law Mediation: Possibilities and Pitfalls**

There is a growing interest in the field of elder law mediation. When disputes arise involving elders' living situation, medical care, assistance with activities of daily living and/or finances, it is often in everyone's interest to resolve these issues without resort to the courts. On the other hand, for the elders involved, their lives, rights and well-being are at stake. How can elders' interests be protected, family and caregiver relationships be preserved, and communications be improved, while conserving elders' resources? Elder law mediation may provide a welcome alternative to elders, families, and care providers struggling with these issues. In this session, we will describe the growing need for elder law mediation, the crucial training, expertise and resources that elder law mediators must have, and important ways to ensure that the well-being of elders involved in elder law mediation is protected.

James M. Crist, Janeen L. Massaros, Jessica S. Ware, & Jennifer L. Wright

7. **Elimination of Bias: Understanding and Working with Clients of Diminished Capacity with Regard to Decision Making**

2-hour session

2.0 elimination of bias credits (applied for)

When a guardian has been appointed, there is a general assumption that the ward loses the right to exercise choice. But is it true? Are there levels of capacity? Are there corresponding levels of choice? Whose choice is it? Dr. William B. Orr will separate the myths from the facts and help practitioners overcome the biases that arise when a client has been declared to have diminished capacity.

Dr. William B. Orr

4:00 – 4:15 p.m. Break

4:15 – 5:15 p.m.
Breakout Session C

(Continuation of Breakout session #7)

8. **BASICS: Navigating Your First Guardianship/Conservatorship Petition**

Topics include initial client consultation, preparing the Petition and related documents, and hearing and post hearing matters.

Lori D. Skibbe

9. **What You Don't Know About Your Insurance Can Kill You**

Personal injury attorney Fred Soucie hears it all the time, "I've got complete insurance coverage." Wrong. Fred will take us down the trail of tears an injured person faces when they find out what their homeowners, auto or general liability insurance really is. It will be an eye opening session about protecting ourselves. Our clients also need to protect themselves from losing their retirement basket.

Fred M. Soucie

5:15 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 5:30 p.m. Must be present to win.

Friday, October 8, 2010

8:30 – 9:00 a.m.
Check-in & Continental Breakfast

9:00 – 10:00 a.m.
Local Efforts in Advance Care Planning

Kent Wilson, MD, Medical Director of Honoring Choices Minnesota (HCM) will talk about Honoring Choices Minnesota and its collaborative, community-wide public health initiative led by the Twin Cities Medical Society. The goal of Honoring Choices Minnesota (HCM) is to assist health care organizations and community partners with the installation of a comprehensive advance care planning program. Edward Ratner, MD, Medical Director, Heartland Health Care and Hospice, Roseville, MN will discuss POLST, "Provider Orders for Life Sustaining Treatment", which is a signed medical order form for patients diagnosed with serious illness, that communicates the patient's end-of-life health care wishes to other health care providers during an emergency. Dr. Ratner will also present his thoughts on Minnesota's need for POLST.

*Edward Ratner, MD & Kent Wilson, MD
Moderated by Kristine E. Mullmann*

Short Shots

These practice snapshot sessions offer a rapid-fire survey of some of those "niggling" issues that arise in the practice of elder law.

10:00 – 10:15 a.m.
UTMA and 529 Accounts for the Disabled Child

Parents and grandparents frequently establish UTMA and 529 accounts for a disabled child. How are these accounts treated for purposes of Medical Assistance and SSI? This short shot will provide you with critical information so that you can properly advise your clients of the risks, rewards and options of these specialized accounts when planning for a child with special needs.

Laura J. Zdychnec

10:15 – 10:30 a.m.
Minor as an IRA Beneficiary – Fixing the Problem

If you died and left \$100,000 of IRA money to your one-year old granddaughter this year, she could withdraw several million dollars from the account during her lifetime. So what is the problem with naming a minor as an IRA beneficiary?

Janet E. Totter

10:30 – 10:45 a.m.
Veterans Homes and Medical Assistance Certification

An update on efforts by the Minnesota Veterans Homes to obtain Medical Assistance certification and the implications for veterans and their spouses.

Cathryn D. Reher

10:45 – 11:00 a.m.

Veterans Benefits – An Overview

There are over 400,000 veterans living in Minnesota. This session will help you to spot potential benefits for these veterans, their spouses and their children. We will review both service connected and non-service connected pension, medical care and health insurance through the Veterans Administration and the Department of Defense, and other benefits such as home loans, home adaptation and burial benefits.

David A. Rephan

11:00 – 11:15 a.m. Break

11:15 – 11:30 a.m.

Paying Pre-Eligibility Medical Expenses with Post-Eligibility Income

Medical Assistance (MA) serves as a safety net for those who can no longer afford their own health care, but some MA clients reach the safety net after accruing months of unpaid medical expenses. Under federal law, State Medicaid Plans must permit MA recipients to deduct reasonable pre-eligibility medical expenses from their post-eligibility income. State plans must articulate limitations defining “reasonable” medical expenses. This short presentation will demonstrate how knowing the function and contents of a Medicaid State Plan can allow you and your client to address unpaid medical bills.

Laura Orr

11:30 – 11:45 a.m.

EW: Should it Stand for “Entangled Web?”

Under the Elderly Waiver program, the income spend down and the asset transfer penalty rules are tangled in ways that can trap an Elder Law planner. This short shot will attempt to help you avoid some of the snares.

Patty Dunlop

11:45 – 12:00 p.m.

The Estate Tax – Do We Know What We Are Doing Yet?

What we know (or don’t know) about the federal estate tax for decedents dying after 2009 and Minnesota’s response. As appropriate or available: a very brief overview of the latest legislation; a quick description of what has been proposed in Congress; rumor, innuendo, speculation and/or prognostication.

Richard D. Hawke

12:00 – 1:00 p.m. Lunch (on your own)

1:00 – 2:00 p.m.

Breakout Session D

10. Ethical Issues in Elder Law

1.0 ethics credit (applied for)

The Student Committee of the MSBA Elder Law Section Governing Council will address a few of the real ethical dilemmas facing elder law practitioners today. This session includes information on topics such as: (1) Who is the client; how to deal with the family members of the elder client (Model Rules 1.6, 1.14 comments 1 and 5); (2) the scope of the lawyer’s duty in dealing with a client with diminished capacity (Model Rule 1.14); and (3) issues with client honesty, the lawyers duty when a client submits false information to the County or State when applying for benefits (Model Rules 3.3 and 4.1).

Adam Heuett, Sarah Leonard, Adam Rohne & Ruthanne Vos

11. Medical Assistance Update

The 2010 Legislature made no changes to basic medical assistance eligibility standards. Significant changes focused on reducing growth in home- and community-based programs and reducing reimbursement rates for medical assistance providers. The biggest developments in medical assistance during the past year centered on estate recovery and the State’s effort to avoid the impact of the recent Barg decision. This session will

discuss these developments and the potential for further litigation to challenge the 2009 amendments to the estate recovery statutes.

Randy F. Boggio, Peter M. Hendricks & Julian J. Zweber

12. Moving in Together – Planning Considerations for Elders and Their Families

When a loved one’s needs change and long term care is required, families often evaluate a number of living arrangements to meet the care needs and financial limitations of the family. This may include the option of extended families merging their resources and moving in together. This session will explore the legal, financial and emotional considerations of these familial co-habitation arrangements.

Kristine E. Mullmann & Mary Frances M. Price

2:00 – 2:15 p.m. Break

2:15 – 3:15 p.m.

Breakout Session E

13. The Elusive Elderly Waiver Benefit

At a time when the State is aggressively limiting nursing home placement in favor of community based care, it is also eviscerating the Elderly Waiver program. This presentation will explore the roadblocks to accessing the Elderly Waiver program and tips for establishing eligibility.

Lisa K. Pluto

14. Suing the Kids

Transfers, hardship waivers, and transferee liability.

JoEllen P. Doebbert

15. Long Term Care Planning for Baby Boomers

Elder law attorneys deal with the here and now. So, how do we advise clients who may be twenty years or more away from needing long term care? The future of long term care services is more uncertain than ever, with demand increasing and available funds decreasing. This session will address the complications facing attorneys now and in the future. Specifically, how to advise the Baby Boomer generation today about planning ahead for long term care in the face of uncertainty, including the role of long term care insurance; the need for elder law attorneys to be actively involved in shaping the future of the long term care system; and how elder law attorneys are likely to be impacted by future changes in the long term care delivery system.

Larry K. Houk & John A. Kantke

3:15 p.m.
Institute Adjourns

3:30 p.m.

Meeting of the Governing Council of the Elder Law Section

The yellow shaded box designates the BASICS track of breakout sessions.

Faculty & Planners

* **Jennifer L. Wright**
Institute Chairperson
University of St. Thomas
School of Law
Saint Paul

Luther M. Amundson
Maser & Amundson PA
Richfield

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

Randy F. Boggio
Garvey & Boggio PA
Bloomington

Gene Coffey
National Senior Citizens
Law Center
Washington, D.C.

James M. Crist
Steinhagen & Crist PLLP
Minneapolis

A. Kimberley Dayton
William Mitchell
College of Law
Saint Paul

JoEllen P. Doebbert
Doebbert Law
Alexandria

Patty Dunlop, LSW
Schmitz & Schmidt PA
Saint Paul

Allison J. Frasier
Maser & Amundson
Richfield

Iris C. Freeman, MSW
Advocacy Strategy
Minneapolis

* **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

Peter M. Hendricks
Garvey & Boggio PA
Bloomington

Larry K. Houk
Houk & Kantke PLLC
Roseville

Adam Heuett
Elder Law Section
Student Committee
Minneapolis

* **John A. Kantke**
Houk & Kantke PLLC
Roseville

Kenneth L. LaBore
Pearson Randall
Schumacher & LaBore PA
Minneapolis

Sarah Leonard
Elder Law Section
Student Committee
Saint Paul

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

Janeen L. Massaros
Southern Metropolitan
Mediation Services
Bloomington

* **Vicki M. McIntyre**
McIntyre Legal Services LLC
Minneapolis

* **Sally K. Mortenson**
Attorney at Law
Burnsville

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

Laura Orr
University of St. Thomas
School of Law
Minneapolis

William B. Orr, MD, Ph.D.
University of Minnesota
School of Medicine
Minneapolis

Lisa K. Pluto
Pluto Legal PLLC
Tyler, Minnesota

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

Edward Ratner, MD
Heartland Home Health
Care and Hospice
Roseville

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

David A. Rephan
Chestnut & Cambronne PA
Minneapolis

Adam Rohne
Elder Law Section
Student Committee
Minneapolis

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

* **Suzy M. Scheller**
Pearson Randall
Schumacher & LaBore PA
Minneapolis

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

* **Lori D. Skibbe**
Henningson & Snoxell Ltd.
Maple Grove

Fred M. Soucie
Soucie Law
Anoka

Janet E. Totter
Guzman Law Firm PA
Apple Valley

Ruthanne Vos
Elder Law Section
Student Committee
Saint Paul

Jessica S. Ware
Ware Mediation
Saint Paul

Kent Wilson, MD
Honoring Choices Minnesota
Minneapolis

* **Laura J. Zdychnec**
Long Reher & Hanson PA
St. Louis Park

Michael Zdychnec
Collaboration Health Care Inc.
Minnetonka

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

* **Planning Committee**



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The 20th Annual Elder Law Institute

October 7 & 8, 2010
Minnesota CLE Conference Center
Seventh Street & Nicollet Mall
Third Floor City Center, Minneapolis

PLEASE "✓" APPROPRIATE BOX BELOW:

LIVE: 10/7-8/2010

\$365 MSBA member \$365 paralegal \$435 standard rate

VIDEO REPLAYS:

\$335 MSBA member \$335 paralegal \$395 standard rate

Location: _____ Date: _____

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

SESSION A: #1 #2 #3
SESSION B: #4 #5 #6 #7
SESSION C: #8 #9 #10 #11 #12
SESSION D: #13 #14 #15
(2-hour session)

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NEW LAWYER DISCOUNT!

I was first admitted to the bar after October 7, 2007, 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 10/15/10)

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COURSE INFORMATION

CREDITS

Minnesota CLE will apply to the State Board of Continuing Legal Education for **10.75 hours of CLE credit**. We will apply for **1.0 hour of ethics credit for breakout session #10** and for **2.0 hours of elimination of bias credit for breakout session #7**. If you claim ethics or elimination of bias credit for this course, you must deduct those special credits from the 10.75 hours of "standard" credit. (For example, if you attend breakout session #10, you may claim a maximum of 9.75 hours of standard credit and 1.0 hour of ethics credit for a total of 10.75 credits). In no case may you claim more than **10.75 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.

Minneapolis – 10/21-22/10

Minneapolis – 11/22-23/10

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

Duluth – 2/3-4/11

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

Mankato – 11/18-19/10

(Day 1 – Registration 12:45; Replay 1:00)
(Day 2 – Registration 8:15; Replay 8:30)
SMRLS Office
12 Civic Center Plaza, Suite 3000

Marshall – 12/9-10/10

(Registration 8:30; Replay 9:00)
Lyon County Government Center
607 West Main Street

Moorhead – 12/2-3/10

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

Saint Cloud Area – 1/20-21/11

(Registration 8:30; Replay 9:00)
Minnesota School of Business
1201 Second Street South, Waite Park

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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