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The 2016 Minnesota

ELDER LAW INSTITUTE

*Where we're at,
 what's new,
 and where
 we're heading...*



NEW LAW & DEVELOPMENTS

- **All New MA**
- New Spousal Impoverishment
- Latest on Annuities and Estate Recovery
- New Eligibility Policy Manual
- ABLE Accounts & SNTs
- Legislative & Caselaw Update – including new rules for calculating protected assets and UTC ramifications

HELPFUL & PRACTICAL SESSIONS

- Person-Centered Planning
- Dementia, Capacity and Competency
- Advising Clients re: Digital Assets
- Lots of Sessions on MA, Guardianship / Conservatorship, Fiduciaries, Beneficiaries and Protecting Clients
- The Future of Elder Law Practice
- HWS Contracts
- And much, much more!

GENERAL INFORMATION

DATE & LOCATION

October 6 & 7, 2016
Minnesota CLE Conference Center
600 Nicollet Mall, Suite 370
Third Floor City Center, Minneapolis

CANCELLATION / NO-SHOW POLICY

Paid registrants who cancel their registration at least 3 business days before the program will receive a full credit on their account; if fewer than 3 business days, a \$25 administrative fee will be deducted. Paid registrants who fail to attend will receive access to the electronic materials. Passholders may purchase the materials at 50% of the full retail price.

ACCOMMODATION

If you have a disability and need an accommodation in order to attend, please 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.

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Minnesota CLE is applying to the Minnesota State Board of CLE for **12.0 standard CLE credits**. The maximum number of total credits an attendee may claim for the 2016 Elder Law Institute is 12.0 credits.

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*Where we're at, what's new,
 and where we're heading...*

October 6 & 7, 2016
 Minnesota CLE Conference Center
 Minneapolis

Thursday & Friday, October 6 & 7, 2016
 Minnesota CLE Conference Center, Minneapolis

THURSDAY, OCTOBER 6

8:30 – 8:55 a.m.
CHECK-IN & CONTINENTAL BREAKFAST

breakfast sponsored by 

8:55 – 9:00 a.m.
WELCOME & INTRODUCTION

9:00 – 9:20 a.m.
The State of Elder Law (the Section and the Practice) in Minnesota
Jeffrey W. Schmidt

9:20 – 9:50 a.m.
The New Spousal Impoverishment: Overview of the Most Significant Change to Medical Assistance in a Decade

Learn what has changed about spousal impoverishment rules for married couples, who it will impact, when the changes take effect, and how to help those affected.

Cathryn D. Reher

9:50 – 10:00 a.m. BREAK

BREAKOUT SESSION A

101) Beneficiary Designation Analysis

How to avoid bad tax and medical assistance consequences from potential mistakes; using clever beneficiary designations to create opportunities; how to use appropriate beneficiary designations in multiple scenarios; and interpreting and using various beneficiary designation forms that are commonly used.

Bryan Jamison

102) Tips for Using MyMnConservator and What to Expect from a CAAP Audit

Get answers to “How do I...when reporting information in MyMnConservator”; preparing for your CAAP audit, tips and tricks; court requirements/deadlines; alternatives to conservatorship; and ask the auditor and CAAP Manager.

Laura M. Bendson & Cate Boyko

103) MA Basics – ABC’s of MA for Non-MA Attorneys

When to start thinking about MA eligibility; who administers MA nationally and at the state level; MA in a nursing home vs. MA in Assisted Living and Memory Care; when to apply for MA; and a review of gifting prohibition and acceptable expenditures.

John A. Kantke

104) Let’s Get Digital – How the Law Is Playing Catch Up: Discussing the RUADAA and Advising Clients on Protecting Digital Assets

The current state of the law; why this is a “big deal”; ways to advise clients on handling digital assets outside of their estate plan; ways attorneys can draft digital asset management into an estate plan; and issues or examples that can arise if attorneys choose to ignore digital assets management.

Michael S. Divine & Jennifer Rutz

10:45 – 10:55 a.m. BREAK

BREAKOUT SESSION B

201) Statutory Traps for Guardians and Conservators

A survey of guardianship/conservatorship statutes that should be on your client’s radar; tips to help your client avoid professional embarrassment and financial exposure; how to respond to your client’s violation of a statute.

James M. Crist & Eric Jonsgaard

202) Medical Assistance Eligibility 101

General eligibility for MA; eligibility for individuals 65+; nursing home eligibility; home and community-based waiver programs; and detailed examples.

Lauren L. Fink & Brenna Galvin

203) Application of Landlord-Tenant Law to Assisted Living and Supportive Housing Facilities

Senior housing facilities often provide both housing and care-based services. The law mandates, accordingly, that they follow the regulatory regimes for both. The intersection of the two can pose unique challenges for seniors and facilities alike.

Genevieve E. Gaboriault

204) The Case for Emotional Intelligence (EQ): The What, Why and How

What is a working definition for EQ; exploring the impact the EQ can have on client relationships, colleague relationships, ethical considerations and the bottom line; identifying practical ways to improve one’s EQ; and resources for learning more about EQ.

Mary Joki Ebb

11:40 – 11:45 a.m. BREAK

11:45 a.m. – 12:15 p.m.

Game of Tomes – HCPM v. EPM

Comparing and contrasting the HCPM and the EPM and tips on searching the new EPM.

Amber M. Hildebrandt

12:15 – 12:45 p.m.

LUNCH (boxed lunches provided by Minnesota CLE)

12:45 – 1:15 p.m.

Top Ten (or more) Tips to Effectively Appeal a Medical Assistance Denial

Mark L. Anderson & Laura J. Zdychnec

1:15 – 1:20 p.m. BREAK

BREAKOUT SESSION C

301) POA – Powers and Limits: Absolute Power Corrupts Absolutely

When to use a statutory short form durable POA; using a general POA; abuses of Power by Attorney-in-fact; revocation in writing; recording a Power of Attorney; and new changes to the statute.

Margaret (Pook) M. Grathwol

302) Planning for Medical Assistance in Wisconsin – Life Is Sweeter Over the River!

How does Wisconsin medical assistance differ from Minnesota; how is the nursing home admission process different; should I recommend my client move to Wisconsin; non-MA considerations; and resources available for attorneys/clients.

Jennifer A. O’Neill

303) An Introduction to Pet Trusts – Planning for Fido’s Future

The history of pet trusts; why use a pet trust; an overview of Minnesota’s new statute; and drafting considerations when preparing one.

Charles D. Roulet

304) Identifying and Shepherding Financial Exploitation Claims – Where Did the Money Go, Why, and Can We Get It Back?

What questions to ask to identify financial exploitation; the elements in the current law to support civil financial exploitation; the prevalence and distinctions between administrative, criminal, and civil financial exploitation, including the paths of litigation such as in employee licensing appeals, attorney misconduct, and criminal appeals; the pros and cons of informal means to recover funds based on case examples, and of formal legal claims to recover funds based on case examples; and what is the future of financial exploitation claims and possibilities of strengthening such claims.

Suzanne M. Scheller

2:05 – 2:15 p.m. BREAK

BREAKOUT SESSION D

2:15 – 2:45 p.m.

401) Finding Fiduciaries: Considerations for Choosing Trustees, Agents and Personal Representatives

Who should serve as fiduciary; should client appoint co-fiduciaries; naming successor fiduciaries; removing and replacing fiduciaries; considerations in choosing corporate or professional fiduciaries; using trust protectors to monitor, remove and appoint fiduciaries; special considerations for choosing fiduciaries and cases of chronic illness or extended periods of incapacity.

James T. McNary

402) MA Homestead Planning

When is the home “unavailable” for MA asset counting purposes; what are the exceptions when there is no MA transfer penalty if the home is transferred; pros and cons of using a life estate in MA planning; related tax issues; and comparison to VA treatment of the home for pension applications.

David A. Rephan

403) Asset Transfers and Reduction of Assets – Planning Beyond the Burial! How to Advise Your Clients to Preserve Assets and Obtain Eligibility

What counts as a gift for purposes of medical assistance planning; the look-back period, including transfer penalties; familiarize yourself with exceptions to the transfer rules; identify planning strategies for reduction of assets, including annuity planning and applying the rules to real-life scenarios.

Lauren L. Fink & Brenna Galvin

2:45 – 2:55 p.m. BREAK

2:55 – 3:25 p.m.

SNTs & ABLE Accounts

Special/Supplemental/Pooled Trust provisions in the new Eligibility Programs Manual and the Social Security Administration’s updated Program Operations Manual System (POMS) and the current status of establishing an ABLE account in Minnesota.

Laurie A. Hanson

3:25 – 4:00 p.m.

Statutory and Rule Changes Re: MA Estate Recovery


New legislative changes as of June 1, 2016; and changes found in the new Eligibility Programs Manual as of June 1, 2016.

Randy F. Boggio

4:00 – 5:00 p.m. INSTITUTE RECEPTION

FRIDAY, OCTOBER 7

8:30 – 9:00 a.m. CONTINENTAL BREAKFAST

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9:00 – 10:00 a.m.

Legislative and Case Law Update

The 2016 Legislature passed several significant changes to the MA eligibility rules. These changes include new community asset limits, new rules for calculating protected assets, and new rules to disregard community spouse retirement plans in case of hardship for the home and community based programs. Lastly, some restrictions were placed on MA estate recovery to reduce claims for recovery of some benefits. This session also covers amendments to the Probate Code, the new Trust Code and other items of interest to the Elder Law bar. Recent court decisions that affect estate planning also will be included.

Julian J. Zweber

10:00 – 10:10 a.m. BREAK

BREAKOUT SESSION E

501) Divorce as a Long-Term Care Planning Strategy – Even More Disillusioned with Dissolution

One year ago, community spouses acquired the ability to annuitize excess available assets. As a result, marriage dissolution lost some of its appeal as a long-term care planning strategy. This year, with additional changes to the spousal impoverishment rules, the calculation changes once again. This session provides a refresher on basic family law/divorce principles for Elder Law attorneys, and weighs the pros and cons of divorce vs. spousal impoverishment in light of the most recent changes in the law.

Mark L. Anderson & Dana K. McKenzie

502) Housing with Services Lease Agreements – What Do You Need to Know? – A Primer on HWS Contracts

Learn applicable statutes; identify standard HWS lease agreement language; and know the process for lease termination.

April J. Boxeth

503) Foundations of Guardianship/Conservatorship Representation: What You Need to Know Before Representing Families or Professionals in Guardianship/Conservatorship Matters

Contents of petitions and alternatives to guardianship/conservatorship; proceeding prior to the hearing; hearing – contest and uncontested; burden of proof and priority of appointment; and powers and duties and ongoing issues.

Joseph E. Borer

504) Health Care Directives, Do Not Resuscitate (DNR) Orders, and Physician Orders for Life-Sustaining Treatment (POLST)

Melissa Hagstrum Bayne

10:55 – 11:05 a.m. BREAK

11:05 – 11:35 a.m.

Veterans Program LTC Planning

Mary Frances M. Price

11:35 a.m. – 12:05 p.m.

Person-Centered Planning and Supported Decision Making

The Center for Medicare and Medicaid Services now requires basic person-centered planning for all people receiving home and community-based services. In addition, Supported Decision Making, a person-centered approach to guardianship and substituted decision making, is on the rise. Some jurisdictions are even passing Supported Decision Making statutes. But talk to different people in long-term care services and you may get several different answers for what these practices actually entail. This session will highlight the various developments in person-centered planning and supported decision making and suggest how these changes will affect Minnesotans who receive long-term care services and supports.

Sean B. Burke

12:05 – 12:30 p.m.

LUNCH (boxed lunches provided by Minnesota CLE)

12:30 – 1:00 p.m.

The Future of Elder Law Panel

Sean B. Burke, Peter M. Hendricks, Mary Frances M. Price & Lori D. Skibbie
Jeffrey W. Schmidt (moderator)

1:05 – 2:05 p.m.

The Confusion of Old Age: Recognizing Dementia and Cognitive Disability for Attorneys

Early signs and symptoms of dementia versus normal aging; the process of diagnosing Alzheimer’s and other diseases that cause dementia; plus cognitive disability and how it can affect professional competency.

Dr. William B. Orr, Ph.D., M.D.

2:05 – 2:15 p.m.

LCL, Lawyers with Dementia-Related Concerns and Some Resources

David P. Fitch

2:15 – 2:30 p.m. BREAK

2:30 – 3:30 p.m.

Capacity, Competency, and Informed Consent: Medical Perspective for the Legal Environment

The clinical process of evaluating a person’s cognitive capacities; elements of informed consent (clinic perspective); and applying clinical opinions of cognitive capacity to legal tests of competency.

Dr. William B. Orr, Ph.D., M.D.

3:30 – 4:30 p.m.

MA Planning with Annuities

Basic requirements for MA compliant annuities; how to determine if annuity planning is appropriate for your client; and a discussion on situations where annuity planning may be contraindicated.

Lisa K. Pluto

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