



ELDER LAW SECTION E-NEWSLETTER

August 1, 2022

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ELDER LAW NEWS AND HIGHLIGHTS

NOMINATIONS SOUGHT FOR ELDER LAW SECTION AWARDS FOR 2022

The Awards Committee of the Elder Law Section is seeking nominations for Section Awards for 2022 to be presented at the Minnesota CLE Elder Law Institute on October 6, 2022.

Nominations are being sought for the following Awards:

The Mary Alice Gooderl Memorial Award

The Mary Alice Gooderl Memorial Award is presented by the Elder Law Section to acknowledge outstanding contributions to the field of Elder Law by a member of the Elder Law Section, as exemplified by Mary Alice Gooderl, one of the founders of the Elder Law Section. This is the highest Award presented by the Elder Law Section on an annual basis.

The Lifetime Service Award

The Lifetime Service Award is presented to a member of the section who has made outstanding contributions to the Elder Law Section over an entire career or many years of service.

The Elder Law Section Hall of Fame

The Elder Law Section Hall of Fame was started in 2015. The criteria for admission to the Hall of Fame include:

1. Membership in the Elder Law Section.
2. Success in litigation or other public or private advocacy having a substantial positive impact on the elderly or on the way Elder Law attorneys practice Elder Law.
3. Success in persuading CMS, DHS or another government agency to adopt substantial positive changes in medical assistance or other government programs or policies affecting the Elderly.
4. Publication of important works in the literature or other media to educate consumers or Elder Law attorneys regarding any important subject affecting the Elderly.

5. Success in obtaining legislation to protect or improve the rights or condition of the Elderly.
6. Efforts to accomplish the criteria in sections 1 to 4 that fall short of success but still deserve recognition for substantial efforts toward an important goal.
7. Other important activities by Section members that the committee members believe deserve recognition in our Hall of Fame.

Special Recognition Awards

These awards are for special efforts or accomplishments of a more isolated nature that deserve special recognition since the last Awards ceremony.

Nominations will close at 5 pm on Friday, September 9, 2022. Please submit nominations to Julian J. Zweber at 1360 Energy Park Drive, Suite 310, St. Paul, MN 55108-5252, telephone 651-646-4354 or 651-646-4539 (FAX) or julianzweber@qwestoffice.net.

Submitted by Julian J. Zweber, Chair, Awards Committee

MINNESOTA VETERANS HOMES PROPOSED RULES DISAPPROVED

On April 15, 2022, Administrative Law Judge Jessica A. Palmer issued her order rescinding the Minnesota Department of Veteran Affairs Additional Notice Plans and disapproving in toto the proposed changes to the Minnesota Veterans Homes Rules (Minn. R. Ch. 9050). The proposed amendments related to admissions, discharges, and billing procedures. Members of the Elder Law Section along with many stakeholder groups over a three-month period committed significant time to research, raised substantive written objections, and testified at the public rule-making hearing on January 31, 2022. The resulting order found the “Department did not establish that it complied with all procedural requirements of law and rule, or that the proposed rules are needed and reasonable. The Department failed to adequately address all of the regulatory factors required for consideration in the Statement of Need and Reasonableness (SONAR) under Minn. Stat. § 14.131. This is a prejudicial defect and not a harmless error.” Further, the ALJ determined “the MDVA misrepresented its engagement with the public in the development of the proposed rules. The Administrative Law Judge would not have approved the MDVA’s Additional Notice Plan as proposed had she known that the SONAR’s description of the level of prior stakeholder involvement was not true.” The MDVA committed five years to the rule-making process and all involved understand the need to update the rules. The ALJ suggested the MDVA re-engage in outreach efforts with stakeholders, consider the input received, and re-propose rules at a later date. The author reached out to MDVA General Counsel Kristen Root for a status update and received the following response: “The MDVA continues to review its course of action with regard to the proposed amendments to Chapter 9050 following both Minnesota Statute 14.19 and Minnesota Rule 1400.2240.” For those interested in the substantive findings of the ALJ, the order is available at: <https://mn.gov/oah/media/opinion-archive.jsp?id=19-526412>.

Submitted by Cathryn D. Reher, Shareholder, Barna, Guzy & Steffen, Ltd.

Please submit upcoming news and highlights to mcook@vgllaw.com.

AUGUST CLE AND EVENTS

Estate Recovery for Home and Community Based Services

Thursday, August 4, 2022 from 12:00 P.M to 1:00 P.M. | Live Webinar via Zoom

Estate recovery under Medical Assistance involves more than just the nursing home context. This session will review two pending cases involving Estate Recovery litigation in the home and community-based services setting. Each presenter will walk through the procedural posture of their current matter, the issues that are in dispute, the legal support for the elder law client's position, as well as "best practice" tips for elder law attorneys handling estate recovery cases.

This CLE sponsored by the Education Committee of the Elder Law Section.

Presenters:

Mary Frances Price, Moss & Barnett

Laura Zdychnec, Northwoods Law Group P.A.

This CLE is free to Elder Section Members.

Interested attendees may register here: www.mnbar.org/members/cle-events/event?EventID=5417

Long Term Care Planning

Thursday, August 18, 2022 from 12:00 P.M to 1:00 P.M. | Live Webinar via Zoom

According to the Administration for Community Living and the Administration on Aging, individuals turning age 65 have almost a 70% chance of needing long-term care services. With the odds stacked against so many, it is critical that we recognize the importance of working together with our clients, their families, and their other trusted advisors to plan for the inevitable. Long term care planning take can many different forms.

During this CLE sponsored by the Elder Law Section and MN NAELA, elder law attorney Rachell Henning will:

- Identify different perspectives in long term care planning.
- Discuss communication strategies.
- Identify steps in long term care planning.
- Discuss roles for attorneys, financial advisors, family members, and medical providers in long-term care planning.
- Apply concepts to hypothetical scenarios.

Presenter:

Rachell L. Henning, Henningson & Snoxell, Ltd.

This CLE is free to Elder Section Members.

Interested attendees may register here:

www.mnbar.org/members/cle-events/event?EventID=5415

All programming is currently REMOTE-ONLY participation. There is NO in-person attendance.

Please submit upcoming CLEs to mcook@vgllaw.com.

ELDER LAW SECTION ACTIVITIES

ADVOCACY SUPPORT COMMITTEE:

The Advocacy Support Committee meets remotely at the call of the chair.

Upcoming meeting dates to be announced.

AWARDS COMMITTEE:

The Awards Committee Chair is appointed by the incoming Council Chair after the Council Chair takes office each year. The current Committee Chair is Julian J. Zweber. Members of the Committee are appointed each year by the Council Chair on recommendation by the Committee Chair as approved or modified by the Council Chair. The Committee usually meets from July to October of each year, at the call of the Committee Chair. Nominations will be accepted year-round by the Committee from Section members for Section Awards to be presented at the next Elder Law Institute sponsored by MN CLE, usually in October of each year. For more information, please contact Julian J. Zweber at 651-646-4354 or julianzweber@qwestoffice.net.

COMMUNICATIONS COMMITTEE:

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

The Communications Committee will meet on **August 10, 2022 at 8:30 A.M.**

The meeting will be arranged by video chat on Zoom or Microsoft Teams. The meeting link will be emailed to all committee members. Anyone interested in joining the meeting should email Lucas Spaeth at lucas.spaeth@voamn.org for a link to the meeting.

Anyone interested in serving on the committee or suggesting ideas for the newsletter or website may contact Communications Committee chair Lucas Spaeth at lucas.spaeth@voamn.org or (612) 676-6302.

DIVERSITY COMMITTEE:

The Diversity Committee meets with the Education Committee via Zoom at this time. Please see the Education Committee meeting information for meeting times/dates. If you have any questions or would like to join us, please contact the current chair, Maya Missaghi, at maya@mmlawservices.com.

EDUCATION COMMITTEE:

The Education Committee plans CLE seminars sponsored by the Elder Law Section and meets via Zoom on the second Thursday of each month from 9:00 A.M. to 10:00 A.M. Subcommittees of the Education Committee include New Lawyers and Law Students.

The Education Committee will meet next on **August 11, 2022 at 9:00 A.M.**

If you would like to participate, please contact the committee chair, Lauren Fink at lfink@maserlaw.com. Anyone is welcome to join the committee or simply attend a meeting.

GOVERNING COUNCIL:

The Elder Law Section Governing Council is chaired by Callyn Bedker and is currently meeting via Zoom.

The Governing Council will meet next on **August 19, 2022 at 3:30 P.M.**

Please contact Tram Nguyen at tnguyen@mnbars.org or Callyn Bedker at callyn@bedkerlaw.com to receive Zoom instructions to join the meeting.

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 jack@hawkelawgroup.com.

LEGISLATIVE COMMITTEE

The Elder Law Section's Legislative Committee monitors proposed legislation at the state and federal level affecting the Section's membership; reviews legislative proposals put forward by

other Sections and Committees of the MSBA; reviews proposals from other groups, agencies and individuals; keeps Section membership informed of proposed legislation; provides comment and other responses to legislative proposals; makes recommendations concerning support of, or opposition to, legislative proposals; develops relationships with other organizations affected by legislation of interest to the Section; acts as a coordinator for the Section's legislative activities; develops legislative proposals for inclusion in the MSBA legislative agenda; provides witnesses and testimony in support of, or opposition to, legislative proposals; and in general supports the MSBA and the Section's legislative agendas. Members interested in joining the committee or learning more about the legislative issues being reviewed by the committee may contact the Legislative Committee Chair, Suzy Scheller, at (7630 647-0042) or suzy@schellerlegalsolutions.com; or Vice-Chair, Julian J. Zweber, at (651-646-4354) or julianzweber@qwestoffice.net.

Several Elder Law Section only proposals are in effect for the current legislative session. The Elder Law Section is currently supporting proposals to pass new legislation regarding medical assistance treatment of life estates and irrevocable trusts as well as opposing proposed language related to resident trusts. Please contact Suzy Scheller at suzy@schellerlegalsolutions.com with questions or requests for further information.

Please contact Tram Nguyen at tnguyen@mnbars.org to be added to the Elder Law Section Community Forum.

MEDICAL ASSISTANCE COMMITTEE:

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 Callyn Bedker at 507-587-8766 at least 24 hours in advance of the meeting. Topics for the meeting may be submitted to Callyn at callyn@bedkerlaw.com under the subject heading "MA Committee Topic."

The Medical Assistance Committee will meet next on **August 16, 2022 at 3:30 P.M.**

Please note, due to COVID-19, all meetings will be held remotely by telephone at this time.

To attend by telephone, call 1-888-354-0094 at the designated meeting time. When prompted, enter Conference Identification Number [or Participant Code] 8157976029# to be connected to the conference.

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

PRO BONO COMMITTEE:

Please contact Emily Weichsel at 612-524-7356 or emilyweichsel@gmail.com if you are interested in participating in this committee.

STRATEGIC PLANNING COMMITTEE:

The Strategic Planning Committee meets at the call of the Section Chair. Questions may be directed to Callyn Bedker at 507-587-8766 or callyn@bedkerlaw.com.

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

You may email Lucas Spaeth at lucas.spaeth@voamn.org to suggest changes to website content.

Please send E-Newsletter contributions by 10 p.m. on the last day of each month to Maggie Cook at mcook@vglaw.com. The E-Newsletter is distributed on the first Monday of each month. If the first Monday occurs on a holiday, the E-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@mnbars.org.

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