

The Elder Law Extra

Karren Pope-Onwukwe, *Chair*

Morris Kline, *Vice-Chair*

Nicole Livingston, *Editor*

Message from the Chair...

When the American Bar Association held its annual meeting in Washington, D.C. in the late 1990s I attended an elder law seminar where a gentleman on the elder law panel started his presentation by telling the seminar participants why he was in this particular practice area. He shared with us that he received “psychic income” from his elder law practice. He described this as a feeling of well-being or self-satisfaction that he receives from the work that he does. During this year as chair of the Elder Law Section of the Maryland State Bar Association I have thought many times about the words of that gentleman as I found myself and other Maryland elder law attorneys using our personal strengths to serve a larger purpose.

Uniform Power of Attorney Act. Our section has worked for the past two years with Senator Delores Kelley and Delegate Kathleen Dumais along with the Estates and Trust section, the Bankers Association, AARP, the Uniform Laws Commission and the Attorney General’s office to help Maryland become a leader in defining the law governing the use of power of attorneys. Our anticipated goal is to protect Marylanders against or at the very least decrease the abuse of power of attorneys and increase their acceptance when conducting business. This has been a multi-year endeavor that we have conducted with persistence and professionalism. We are half-way there Senate Bill 150 has passed and now House Bill 852 is before the House Judiciary Committee, we are anticipating a favorable report. Thank you for contacting your senator or delegate in support of these bills.

Disability Law and Elder Law. Our section has taken a leadership role in this matter, we noted that the MSBA does not have a disability law section so we are developing an online survey in an attempt to inform the Association and our section if there is a need for our section to expand its focus to this area

of law. Recently, I became the attorney for a gentleman whose fifty-seven year old wife is in a persistent vegetative state and he is now the caretaker of his wife and his twenty-three year old Downs Syndrome daughter. This type of elder law/disability planning seems to be increasing in frequency in my practice and other colleagues that I talk with. Please take the survey when it lands in your e-mail and encourage your colleagues to complete it also.

Advance Medical Directive/Law Day. Our section participated in the annual Advance Medical Directive Day last year and this year we decided to combine Law Day and Older Americans Month by organizing to help seniors prepare this important document with the assistance of an attorney. On Friday, May 1, 2009 in partnership with our local Area Agencies on Aging, local senior centers, and other partners we will provide this valuable public service. “Living Today for a Better Tomorrow” is this year’s theme for Older American’s month and we believe that our project supports that theme. If you are not registered to volunteer please contact Larry Adashek (410) 415-5880 or larry@adasheklaw.com we are especially in need of volunteers in Western Maryland and on the Eastern Shore.

As I end my year as chair of the elder law section, even though it has been a sacrifice of time, I can confirm that performing acts of altruism or giving makes you feel good about yourself. Volunteering causes you to distract yourself from your own existence, and that seems to be beneficial. It puts meaning in your life. You have a sense of purpose because you matter to someone else. I encourage each of you to find your own form of “psychic income”.

Karren Pope-Onwukwe
Chair

First Maryland Disability Trust (FMDT)

By Mary E. O'Byrne

Maryland has a new pooled asset special needs trust. The First Maryland Disability Trust (FMDT), as authorized under the Social Security Act (42 U.S.C. §1396p(d)(4)(C)) and Maryland regulation (COMAR 10.09.24.08-2B(6)(b)), is now accepting beneficiaries.

Operated by First Maryland Disability, Inc., a Maryland non-profit organization with 501(c)(3) status, FMDT serves the state's disabled population by offering a way to preserve an individual's assets while permitting him or her to qualify for public benefits such as Supplemental Security Income (SSI) and Medicaid (also known as Medical Assistance.) These programs have strict limits on income and assets but provide for only the most basic needs, hence a special needs trust allows funds to be preserved for an individual's supplemental needs over time.

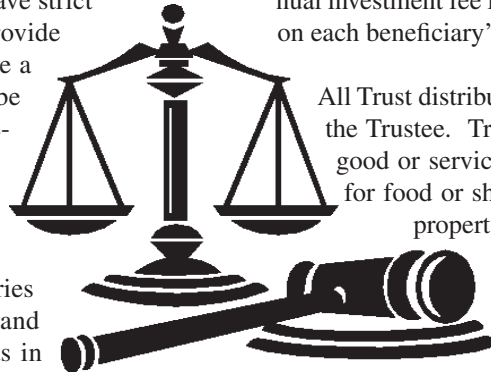
Each individual who joins FMDT has his or her own account, but the accounts for all of the beneficiaries are pooled together for investment and management purposes. The funds in the beneficiary's account are used for his or her needs not met by SSI or Medicaid, or other programs. At the beneficiary's death, funds remaining in the account may go either to repay the State of Maryland for the Medicaid benefits paid over the individual's lifetime and any remaining account assets can be paid out to his or her beneficiaries, or, if the beneficiary has chosen to do so, funds may be retained by FMDT to benefit other people with disabilities.

FMDT accepts new beneficiaries from any source, but most commonly by referral from attorneys, advocacy and public agencies, and the Maryland courts. FMDT does not provide legal advice and requires that all potential beneficiaries must first meet with an attorney experienced in special needs planning prior to signing the joinder agreement.

FMDT is open to any individual, regardless of age or type of disability, who has assets which would make him or her ineligible for benefits, such as SSI and Medicaid, and who wishes

to place these assets in trust for his or her lifetime. A beneficiary over the age of 65 may be ineligible for certain benefits (such as SSI) for a period of time due to the transfer of assets into the trust. If the beneficiary does not already have a care manager, FMDT will arrange for one to meet with that beneficiary to assess his or her current and future needs.

M&T Bank is the financial partner for FMDT, providing custodial services and account management. At this time, individual accounts will be held in money market funds. The one-time enrollment fee is \$1,000.00; the annual trustee fee is the greater of \$300 or .75% of the principal; the annual investment fee is \$300.00; and the fee per check drawn on each beneficiary's account is \$7.00.



All Trust distributions are made at the sole discretion of the Trustee. Trust funds can be used to purchase any good or service for the beneficiary. But distributions for food or shelter – rent, mortgage, property taxes, property insurance, utilities, heating fuel, water, sewage and garbage removal – may reduce or even eliminate the beneficiary's income benefit. FMDT staff will review all requests to determine if a reduction in benefits may result.

FMDT was the brain child of Ron M. Landsman and Jason A. Frank, who long recognized the need for more planning options for Maryland's disabled population. In 2005, Frank and Landsman drew together a group of elder law and disability law attorneys from across the state to form FMDT's board of directors. In the future, it is anticipated that the board will expand to include representatives of disabilities organizations and family members of individuals with disabilities. Current board members and officers include Michael W. Davis, Laurie S. Frank, Louise Gonzales, Mindy Morrell, Morris Klein and Ellen Callegary. Mary E. O'Byrne serves as the Executive Director. The firm of Frank, Frank & Scherr, LLC, located in Lutherville, Maryland, is providing staff and operational support on a pro bono basis to FMDT for the present.

For more information about FMDT, please contact Mary E. O'Byrne, at 410-296-4408 or 410-337-8900.

Visit [www.msba.org/sec comm/sections/elder/](http://www.msba.org/sec_comm/sections/elder/) for all the latest updates!

Continuing Care Retirement Community Contract- 101

By: Jeffery Myers

Continuing care retirement communities (CCRCs) seem similar with their campuses of “apartments,” dining facilities, assisted living, and nursing care, but they can be very different. A common saying within the industry is “If you’ve seen one CCRC, you’ve seen one CCRC.” As an attorney it is your job to make sure your clients appreciate the differences between CCRCs they are considering.

Many continuing care retirement communities refer to their contract or agreement as the “Residence and Care Agreement.” Continuing care agreements can vary significantly from community to community, and the scope of the care offered at different communities can be quite different. For example, nursing care can range from full coverage in an on-site health center at no additional charge to simply priority admission to an off-site nursing facility on a fee-for-service basis.

A. The Three Basic Contract Types.

CCRC contracts can be classified into three basic types:

- (1) Extensive (frequently called Type A),
- (2) Modified (called Type B), and
- (3) Fee-for-service (called Type C).

When a client brings a CCRC contract to you it will not be labeled by type. (That would be too easy.) You will want to study it and the related disclosure statement to determine which kind it is. It may take a careful reading to categorize it properly. The identifying characteristics are set forth below.

1. Extensive.

An Extensive or Type A contract is one where:

- (1) the entrance fees and monthly fees completely cover
 - (a) shelter;
 - (b) residential services and amenities; and
 - (c) long term care services (assisted living and nursing home care); and
- (2) there is little or no increase in the monthly fee regardless of the level of care. Under an extensive agreement a resident’s monthly fee basically remains unchanged when the resident moves to the assisted living or the nursing home portion of the community. For example, in an extensive agreement community the monthly fee might be \$3,750 per month regardless of whether the resident is in independent living, assisted

living, or the nursing home portion of the community. Thus, an extensive agreement acts somewhat like a long-term care insurance policy.

(There may be periodic, e.g., annual, increases of monthly fees across all levels of care to address increased operating costs and inflation. This is true regardless of contract type.)

2. Modified.

Under a modified contract the entrance fees and monthly fees completely cover shelter and certain residential services and amenities, but only provide a limited amount of long term care (assisted living and nursing home care) with little or no increase in the monthly fee, e.g., 90 days of nursing home care, after which the resident pays the prevailing daily charge.

3. Fee-For-Service.

A fee-for-service contract covers shelter and certain residential services and amenities in return for the entrance and monthly fees, but the resident pays extra for any assisted living or nursing care at the time the services are used and at the then prevailing rates. In a fee-for-service agreement, a resident has to pay whatever the monthly fee for assisted living or nursing home care is when the resident needs those services. It will be higher than the monthly fee to stay in an independent living unit. For example, in a fee-for-service community a resident’s monthly fee might be \$1,800 per month in an independent living unit, but \$4,000 per month in an assisted living unit, and \$6,000 per month if in nursing care. All of these monthly fees are subject to increase from time to time.

B. Pros and Cons of the Three Different Types.

All other things being equal, entrance fees and monthly fees in a fee-for-service contract are typically the lowest because there is no guaranteed price for long-term care services. Many people are attracted to fee-for-service contracts because the initial financial requirement (i.e., the entrance fee) is lower and their obligations are limited to the charges for the services that they actually use. Individuals in fee for service communities assume the risk of needing and paying for long-term care. Unless they have private long term care insurance, these future costs cannot be accurately predicted.

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Long Term Care Residents Need Your Help

By: Jennifer Goldberg

Elder law attorneys know that our clients are often in declining health and need special assistance. Practitioners who work with older clients regularly develop the skills necessary to effectively communicate with those clients and serve them well. Here's an opportunity to put those skills to use. Legal Aid's Long Term Care Assistance Project has many opportunities for pro bono lawyers to become involved with clients in the most dire circumstances. Whether you seek to assist through mediation, an administrative hearing, or a court case, you will be providing a voice for vulnerable individuals who have nowhere else to turn.

What kinds of clients need your help? The list is long, but here are just a few examples of where your pro bono advocacy could make the difference. In the fall of 2008, Legal Aid began noticing a sharp increase in calls from patients in chronic hospitals. The Department of Health and Mental Hygiene changed the criteria under which patients could receive ventilator services in chronic hospitals funded by Medical Assistance, with over half of the 200 patients in chronic hospitals getting denial notices. Unfortunately, as these patients were discharged to nursing homes, many did not receive the services they needed, resulting in immediate rehospitalizations and even deaths.

Legal Aid is representing a number of these clients in their administrative hearings who appealed DHMH's decision. With the assistance of Frank, Frank & Scherr, we also filed a lawsuit against DHMH in Baltimore City Circuit Court

for violating the Administrative Procedure Act, because they did not go through the proper procedures in promulgating the new criteria. Our clients include highly fragile patients with complex medical conditions who are dependent on ventilators for respiration. Now, more patients in chronic hospitals are calling our office than we can help.

We also represent many nursing home residents who are in danger of involuntary discharge from nursing facilities. For example, we represented a 62-year-old woman with advanced dementia who had resided in the same nursing home for four years. The nursing home issued a 30 day notice of involuntary discharge following a meeting with the daughter, who was serving as the resident's health care surrogate, because they felt that the daughter had become too adversarial. We were able to settle the matter prior to the appeal hearing because we helped both sides realize they had lost sight of the person whose rights were being affected - the nursing home resident. Our advocacy on her behalf shifted the focus and made the parties come together in a more cooperative effort to provide the necessary care and services to the client.

Whether you are a newer advocate or an experienced elder law practitioner, Legal Aid will provide the guidance, mentoring, and sample materials for you to handle long term care cases effectively, and you will know that your work makes an enormous difference. For more information, contact Supervising Attorney Harbour Partesotti, hpartesotti@mdl.org; or (301) 560-2162.

Secretary of Aging, Gloria Lawlah, addressing the Elder Law Section meeting in Annapolis.



Delegate Kathleen Dumais at the Elder Law Section Meeting in Annapolis



Senator Delores Kelley and Karren Pope-Onwukwe discussing SB 150 and HB 852 with constituents



Maryland Secretary of Aging Gloria Lawlah

Realistic Estate Planning

By: George Meng

After 36 years handling the results of the estate planning of many lawyers and too many people who thought they could do it without the help of a lawyer, I believe it worthwhile to revisit some of the things many of us take for granted.

1. Should it be a Will or a Trust - The number one reason for most people to consider a Trust instead of a Will is to avoid probate. But what might be a good idea now may very well turn into a bad idea years from now. I am seeing an increasing number of people who have no real property in another State and no reason for estate tax planning, but have Trusts that were established years ago. These Trusts include estate tax planning provisions that no longer make sense. They do nothing but confuse the situation. Invariably, assets exist that were not transferred into the Trust. Thus, Trustee is faced not only with the tasks associated with closing down the Trust but also with the tasks of probate. The time for handling it all and the work involved in the end was increased - the precise opposite of the original intent.

In recommending estate planning, we must look into the future and ask whether what we recommend makes sense **for the particular individuals involved**. Do they understand, what funding the Trust is all about? Are they likely to remember about the Trust the next time they buy a vehicle, open a bank account, or buy stock? Will they follow our advice to periodically review the Trust with a lawyer for necessary changes? Is their personality suited to a Trust that requires maintenance or would they be better with a Will that they can sign and forget?

2. No Bond !! - I admit that my form basic Will provides that the PR serve without bond. The issue of bond for the PR or the Trustee is becoming more significant. The bonding agencies and the carriers are tightening their requirements and for good reason. In my experience, the level of theft, negligence, and simply poor management of probate estates and Trusts is increasing. Theft is no longer uncommon and it is most often carried out by someone close the beneficiaries. The tasks involved in handling a probate estate or the closing of a Trust are often mundane. But, there are always some that require specialized knowledge. We

seem to think that any adult can handle these tasks. That is simply not reality. I visit the Orphans' Court in Prince George's County frequently. It is rare to see a docket that is not filled with Show Cause Order hearings. I often sit in and listen to these hearings. Many times I see people who should never have been selected as Prs.

To reverse the position many of us have had for years and change our forms by deleting the bond waiver, is too simple a solution. We owe it to our clients to explain the issues surrounding the choice to waive bond for a PR or Trustee. And, having reviewed the issues with our clients, when they make the choice to require bonding, we must delve into the question of whether the right person has been chosen to act as PR or Trustee.

3. We Have Wills and Trusts Witnessed for a Reason - Those of us with even minimum experience can often spot a potential Will or Trust contest. A typical example is the elderly person who wants to make a change to a long standing distribution plan by distributing to a new person in their life. As lawyers, we are in the best position to do what is necessary to avoid the contest. It starts with spending the necessary time with your client. And, **keep notes**. The lawyer will almost always be the star witness. If you did not take notes, lost your file, or took only a few minutes with your client, then you will be a lousy witness. And, you will be a witness even if you did not sign the Will or Trust as a witness.

Select witnesses who are likely to be alive when the time comes for their testimony. And one final note - if you cannot read a witness' signature have them block print it and provide an address and any other information that might assist someone to find them.

4. Co-PRs or Co-Trustees - In my experience, providing for Co-PRs or Co-Successor Trustees is almost always a mistake. Whenever a client expresses the desire to name more than one, I find that it results from a desire to avoid disputes among people, usually siblings, who have a history of disputes. There must be another solution. If there is a history of dispute, seek for someone who is likely to be a calming influence.



Elder Law Section Law Day Volunteer Event

The Elder Law Section Council of the Maryland State Bar Association is sponsoring a statewide free preparation of Health Care POAs and Living Wills / Advance Directives in Senior Centers throughout Maryland on Law Day, Friday, May 1, 2009. In 2008, Law Day efforts took place in several counties. Attorneys assisted seniors through their local senior centers in the preparation of Health Care POAs and Advanced Directives.

This year, the Elder Law Section is striving to reach out to the entire State. Our goal is to place at least one attorney in each of the 122 senior centers in the state to provide this service. Volunteer attorneys are our key to success. Coordinators and volunteers are in place for Baltimore City and nearly all of the counties throughout the state. Individual attorneys continue to sign up for this pro bono opportunity. All attorneys, regardless of areas of practice, are invited to volunteer. If attorneys are less familiar with this area of practice, coordinators are working to pair them with others who have more experience.

Coordinators are working with their volunteers to match them with centers. Senior centers are handling time slot bookings for individuals, generally one-half hour per client. If a center is not open on May 1, coordinators are arranging an alternate date.

Law Day information has been sent to Jill Hall, president of the Maryland Association of Senior Centers. The Association's email list includes the Area Agency on Aging Directors in each county and Baltimore City, along with 200 staff working in Senior Centers across the state.

For general information about Law Day, contact Lawrence Adashek, PA, 410-415-5880 or e-mail larry@adasheklaw.com

To volunteer in a specific county, please contact the county coordinator:

County/City Coordinators for Law Day 2009
3/10/09

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Cecil County
No coordinator / no volunteers

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Western Maryland

Allegheny County
No coordinator/ no volunteers

Garrett County
No coordinator/ no volunteers

Washington County
No coordinator / 1 volunteer



MICPEL PROGRAMS

MICPEL, The Maryland State Bar Association Section of Elder Law
In Cooperation with the University of Maryland School of Law and the University of Baltimore School of Law
Present:

ELDER LAW IN MARYLAND EVENING SERIES - Course #09-8028 12 CLE Hours

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FACULTY

Jason A. Frank, Esq.

Frank, Frank & Scherr, LLC

Mr. Frank's practice focuses on Elder Law including medical assistance eligibility, asset management, medical decision-making, guardianship, and the legal issues arising from age-related disabilities. He also serves as an Assistant County Attorney representing the Baltimore County Department of Aging. A Co-Founder and Past Chair of the Elder Law Section of the Maryland State Bar Association, Mr. Frank is also the past President of the Maryland/D.C. Chapter of the National Academy of Elder Law Attorneys, Inc. Mr. Frank is the author of *Elder Law in Maryland: Third Edition* (LexisLaw Publishing Co., 1999), the text used in this course. He has also just published *Maryland Medicaid-Long Term Care* (George T. Bisel Company, Inc. 2009).

WHAT YOU WILL LEARN AND WHY YOU SHOULD ATTEND

Elder Law in Maryland is a six-week comprehensive course presenting an overview of the legal issues that arise during the representation of an elderly client. Join Jason A. Frank as he explains the basic concepts necessary to properly advise older clients on estate and long-term care planning issues. Topics to be covered include: Medicaid long term care eligibility requirements; Medicaid waivers; federal entitlements (Social Security, Medicare, VA, and SSD benefits); elder abuse; guardianship; asset management; elderly housing; health care decision making, and Older Americans Act programs and other components of the Public Aging Network in Maryland. Each registrant will receive *Elder Law in Maryland, Third Edition* with the new 2008 Supplement by Jason A. Frank as well as supplemental course materials. This is a limited enrollment course – advance registration is required. Registrations must be received by March 23 in order to guarantee receipt of the course materials. A minimum of fifteen registrants is required for this course.

Each registrant will receive *Elder Law in Maryland, Third Edition* with new 2008 Supplement by Jason A. Frank as well as supplemental course materials.

SAVE the Date: June 25, 2009: *HOT Topics in Elder Law*

NEW BOOK:

Maryland Medicaid- Long-Term Care

Written By Jason A. Frank

“This clear, practical guide to Medicaid is full of answers for any busy Maryland elder law attorney.”

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GET QUICK ANSWERS TO CRITICAL QUESTIONS

- How does the Deficit Reduction Act of 2005 impact Maryland?
- What assets are at risk of nursing home costs?
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1. Overview of Maryland Medicaid
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9. Citizenship and Alienage Requirements
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13. Achieving Resource Eligibility
14. Spend-Down
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17. Medical Assistance Estate Recovery Program
18. Property Not Liable to Repay the Department
19. Payments Eligible for Estate Recovery
20. Appeals
21. Fair Hearings

ABOUT THE AUTHOR

Jason A. Frank’s elder law practice focuses on aging and elderly persons planning for the future, assisting families planning for the long term care of other family members who are mentally or physically disabled, and estate planning. Mr. Frank serves as the Assistant Baltimore County Attorney for the Baltimore County Department of Aging. He authored "Elder Law in Maryland," Lexis Law Publishing Co., Third Edition, 2005 and has contributed articles to The Maryland Bar Journal, NAELA Journal, and The Elder Law Advisory.

Mr. Frank was a cofounder of the Elder Law Section of the Maryland State Bar Association and served as Chair of the Elder Law Section Council. He is a member of the National Academy of Elder Law Attorneys and past President of the Maryland Chapter. In 2008, Baltimore Magazine named Mr. Frank a “Super Lawyer” and he is honored with Martindale Hubbell’s highest lawyer rating of “AV.” He graduated from the New York University School of Law and has taught at the University of Baltimore Law School, Towson University, The Johns Hopkins University, the Maryland Institute for Continuing Professional Education of Lawyers, and the University of Maryland School of Law.

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Marketing Your Law Firm

By Michael G. Day

Since the creation of our profession, lawyers have struggled with the concept of marketing legal services. Until the last 30-40 years, lawyers were strictly barred from any overt marketing including:

1. Directly soliciting clients;
2. Suggesting that they had capabilities higher than other attorneys;
3. Offering free legal services without an attorney/client relationship; and
4. Using media to market legal services.

In the last 30 years, lawyers have been permitted to engage in ever increasing levels of marketing their services.

Elder law, as a new practice area as compared to mature areas such as divorce, real estate and personal injury, offers a unique opportunity to market legal services. To reach clients in a mature practice area, the marketing plan would need to be extensive and over an extended time period to educate prospective clients about the need for services provided by the practitioner.

Elder law practitioners do not currently need to compete over market share. Elder law's largest challenge is ignorance on every level, including the public, CPAs, financial planners, brokerage houses, friends, neighbors and relatives. The targeted market is underserved and any practitioner who is qualified and committed should be able to generate a substantial practice in the area. Therefore, the first objective is educating the targeted market that opportunities to improve a difficult situation exist, followed by establishing that the practitioner is the person to address the problem.

Lawyers' initial forays into marketing began with yellow page ads, followed by television, radio and print advertisements. In developing marketing strategies, few law practices could afford mass media advertisements. A notable exception was personal injury lawyers who could generate large fees that would offset the costs associated with mass media advertising. Without large fee opportunities, advertising was on a smaller scale focusing on both effectiveness and cost.

In today's climate, successful marketing strategies to reach the largest number in the target market must include:

1. Opportunities to hear your message;
2. Cost effectiveness in spreading your message.

Generally, television advertising for lawyers is both expensive and fragmented. The audience is variable depending on the programming and time of day. Additionally, it is difficult

to reach the targeted market without also paying for access to non-targeted market segments. For an effective penetration without excessive costs, advertising with the air stations and cable systems is very difficult, if not impossible.

Radio advertising is considerably less expensive than television advertising. Radio is simpler to produce, has higher frequency advertising and can be targeted to specific audiences. Radio spots can be flexible in both content and duration. Many stations produce 3-5 minute segments with the option for the lawyer to participate. Radio allows for more in-depth discussions because most listeners are performing other activities as they listen. As a regular advertiser, most stations allow the lawyer to be the designated "go to" person for quotes on news stories related to elder law.

Print media advertising has a longer shelf life than radio and television. Most newspapers and locally produced magazines search for quality content which usually does not require any cost for the lawyer. Free-lance writers can be hired to assist with drafting articles.

Many service organizations seek out presenters with relevant messages for their regular meetings. Start by asking a member of the organization to contact the program chairperson regarding your proposed presentation. Your presentation should cover a topic of interest and show that you are current and knowledgeable. Do not sell your firm; instead position yourself as the person with the solutions. The presentation must fit the organization's time constraints and include ample content, humor, handouts and visuals.

The principal objective of elder law marketing is to create name identification of the firm or lawyer, to attach a face and personality to the services offered and express genuine interest in helping with elder law issues.

Any Ideas?

Please contact the editor, Nicole Livingston, at Nicole@sinclairprosserlaw.com for article suggestions and member news for the next newsletter.



NAELA NEWS

You're Invited!

NAELA 2009 Summer Special Needs Program

May 27-30, 2009

Arizona Grand Resort – Phoenix, Arizona

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Elder Law Section Meeting



WHERE?

Brown Bag Lunch at
Maryland State Bar Association
520 W. Fayette St
Baltimore, MD 21201

WHEN? May 7, 2009- 12:00

TOPIC? Ombudsman Program
What They Can Do For You?

WHO? Debbi Sokolow, Maryland
State Long Term Care Ombuds-
man Program.



In contrast, while entrance fees and monthly fees under an extensive contract typically are the highest, the basic services covered include long term care, i.e., assisted living and nursing care. Extensive contract residents form a risk pool. The risk of covering the cost of long term care in this scenario shifts somewhat to the provider. As with any risk pool, some residents may receive services worth more than what they paid in; others may receive less. Using actuarial analyses, providers predict the health care utilization patterns of the community. The actuarial studies serve as a basis for quanti-

fying future liabilities and for setting fees. Statutorily required updates of the actuarial studies encourage providers to retest their pricing at regular intervals.

It is difficult, if not impossible, to predict which contract type will be a better bargain for a particular consumer over the long run. If a resident needs little if any assisted living or nursing home care, then generally a fee-for-service contract would be the better deal. On the other hand, if a resident needs a lot of care in assisted living or the nursing center during the course of the agreement, an extensive agreement could be the better bargain.

MSBA Elder Law Section Summer Annual Meeting

Friday, June 12, 2009
11:00 a.m. – 1:00 p.m.

*Elder Law Attorneys are from Mars/Litigators are from Venus:
The Elder Law THAT Litigators Will Be Glad They Know*

Learn answers to the question “why elder law issues are relevant and important to litigators?” and “How pertinent litigation practices can assist elder law attorneys?” A renowned group of scintillating panelists will discuss the wisdom of collaboration between elder law attorneys and litigators, addressing issues concerning capacity, conflict of interests/ethical matters, managing Medicaid and Medicare liens when settling a personal injury case, and structuring personal injury settlements in ways that will not disqualify your client from public benefits

Sponsored By: Elder Law Section

Program Chairs: Camilla McRory, Esq. and Leslie Fried, Esq.

Speakers: Robert D. Ahlstrom, Esq., Robert D. Ahlstrom P.A., Ann Karwacki Goodman, Esq., Miles & Stockbridge, Charlie Sabatino, Esq., ABA Commission on Law & Aging