Message from the Chair

By Elena S. Boisvert.

I am honored to serve as Section chair this year. As elder law and disability rights practitioners, we face challenges not usually encountered by our colleagues. Identifying the client; diminished capacity; difficult family dynamics under extremely stressful circumstances, are problems we address on a daily basis. We are multidisciplinary, working closely with geriatric care managers, social workers and financial planners. We advocate for the most vulnerable among us at the most critical times of their lives under a complicated maze of rules and regulations that are constantly changing. It is an awesome responsibility that is equally rewarding. According to our By Laws, the goals of our Section are:

- To bring together members of the Maryland State Bar Association interested in elder law and disability rights;
- To promote the continuing legal education of the bar in elder law and disability rights;
- To sponsor publications for the benefit of the bar and the public; and
- To promote the delivery of free or reduced fee legal services to low income older adults and persons with disabilities.

To meet those challenges, the Section Council has a number of ongoing and new initiatives.

Our annual Law Day project is in the planning stages. For those who are new to the Section, each year on Law Day, volunteer attorneys, paralegals and law students prepare Health Care Powers of Attorney and other Advance Directives, for Maryland residents at senior centers throughout the State. Stephen Elville has again agreed to serve as chair of that program. In 2014 we expanded the program to include developmentally disabled adults, which effort continues to grow under the able guidance of Marni Greenspoon. The program has enjoyed tremendous success through the years, with more than 600 clients served annually. The project was recognized at the MSBA Annual Meeting last year, when the Pro Bono Resource Center of Maryland granted the Herbert S. Garten Special Project Award to this program. The Section Council is looking forward to an equally successful Law Day 2016. To that end, we invite volunteers to serve as coordinator for Anne Arundel, Harford, Somerset, Wicomico, or Worcester counties. If you are interested in coordinating, or just volunteering a couple of hours of your time, please contact Mary Guay Kramer, mary@elvilleassociates, 443-741-3635.

Laurie Frank will continue to plan and coordinate our CLE efforts. On October 8, we presented a full day program on Housing Options for the Elderly and Individuals with Disabilities: What is Available and How to Pay for It. A comprehensive program on Guardianship is planned for

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the spring; and Hot Topics in Elder Law will be held during the summer. Take advantage of the opportunity to discuss these issues with your colleagues, while benefiting from the knowledge of recognized experts who are volunteering their time for you. We hope to see many of you at our CLE programs. If you are unable to attend the programs, or if there are other topics you want to explore, please visit the MSBA website which has 29 past Elder Law programs available to purchase. As always, if you have an idea for a CLE program, please tell us.

Our Section meetings are being planned by new Council member Terry Douglas. You will have an opportunity to network and to enhance your knowledge at these upcoming meetings. December 8, a lunch and learn, will be devoted to the pitfalls and successes of filing Medicaid applications. Our annual legislative lunch meeting with NAELA is scheduled for February 9 in Annapolis. We are also in the planning stages of an early evening legislative reception to be held sometime in March. We have over 600 Section members throughout the State. Our representatives welcome our input as they struggle with the difficult issues affecting our clients, and together, we can have an impact in Annapolis. I hope that you take advantage of these opportunities to learn about upcoming legislation and to explain to our representatives, the impact that legislative proposals may have on the elderly and disabled.

Obviously, legislation is one of our top priorities. I am delighted that Morris Klein has agreed again to serve as Chair of this important and challenging committee. After the legislative session gets underway, the work of our legislative committee moves very quickly, with the status of bills changing daily. Morris and his committee members do an amazing job of tracking the progress of legislation, and ensuring that our views are heard in a timely manner. One of our key issues this year is to ensure that a testamentary special needs trust for a surviving spouse receiving long term care benefits, will satisfy the elective share, if the State adopts an augmented estate. Without legislation expressly so providing, any election against an augmented estate would automatically void a testamentary special needs trust and subject the elective share assets to a second spend down. We are working closely with the Estates and Trusts Section to draft legislation that will protect these trusts.

Other issues commanding the Council’s attention this year include:

--Guardianship; we are following closely and offering our support to the working group that is conducting a comprehensive review and long overdue reform of the Maryland guardianship laws.

--Financial exploitation of vulnerable adults. This is a growing problem nationwide. The Council has created a subcommittee to review our current laws then make recommendations for appropriate legislation that will help curb this insidious crime, and provide some relief to those who were victimized.

--Of concern to many of us, is the Maryland waiver program. Currently, there are 30,000 people on the waiting list with only approximately 150 slots made available each year. Our clients deserve to receive needed care in the least restrictive setting. The Council supports any effort to expand the program so it actually provides an effective (and generally less expensive) alternative to nursing home care.

None of this work would be possible without the dedication of the Section Council. It is my privilege to work with such a talented group. My job has been made so much easier by the very effective leadership of my predecessor, Jennifer Goldberg. The work of your officers Vice-chair Richard Neuworth, Secretary Mary Aquino and Treasurer Stephen Elsville inspires all of us to give our best to the Section.

Of course, the Council membership changes a bit each year. I want to thank Victoria Grace and Jo Benson Fogel for their invaluable contributions over the years. I also want to thank Bill Gering for continuing to be part of our legislative committee, and Sigrid Haines for continuing as our liaison to the MSBA Health Law Section. I also want to acknowledge our new Council members: Terry Douglas, Karen Ellsworth, Emmett Irwin, and Robin Weisse. We welcome you and are looking forward to working with you.

A very special thank you goes to Camilla O. McRory for undertaking the job of editor of this newsletter. I served as editor for a number of years and am deeply grateful that Camilla agreed to take on this task.

The Council is here for the benefit of the members of your Section, so I invite your suggestions to make the Section more meaningful to you. The work you do has a tremendous impact on the clients you serve and on how we, as a society, treat the elderly and disabled. I look forward to working with you to improve the lives of the clients we serve, both present and future.
We have a growing senior poverty crisis on our hands. An aging population 10,000 people turn 65 every day, combined with staggering income inequality, rising housing and health care costs, and the lingering effects of the recession, mean that millions of seniors are struggling to survive with their homes and health intact. These challenges are felt in states like Maryland, where the poorest 20% lost 6.4% of their income over the past decade.

Growing numbers of seniors combined with rising inequality means the number of hungry and homeless seniors will explode in coming years. Food insecurity among seniors has more than doubled since 2001. Today one in every six older Americans cannot reliably afford food for at least part of the year. The number of homeless seniors is also rising. In 2007 4.1% of Americans over the age of 62 were homeless. In 2013 it was up to 5.4%. By 2050 the number of homeless seniors is expected to top 90,000. Ensuring that fewer seniors experience hunger and homelessness in their daily lives should be a top priority.

Social Security is the most successful anti-poverty program in U.S. history, and is a main source of income for those who paid into the program throughout their working lives. For seniors who do not qualify for the full (or any) Social Security benefit, who worked low wage jobs, and were unlucky enough to have neither a pension nor savings, the Supplemental Security Income (SSI) program is the only thing keeping them from living on the streets. But sometimes SSI is not enough to do even that. The fact that its eligibility rules and income limits have not been updated since its creation in 1972, is a huge problem for the millions relying on SSI as their sole source of income. Today the SSI maximum monthly federal benefit of $733 keeps an individual living alone, at just 75% of the federal poverty line.

In response to this need, some leaders in Washington have joined together to introduce the SSI Restoration Act of 2015, which would make some much needed updates to this crucial program. And the bill is gaining momentum. Introduced in May 2015 by Senator Sherrod Brown (D-OH) and Representative Raul Grijalva (D-AZ), the bill (S 1387 and HR 2442) has gained one dozen Senators, including both Bernie Sanders and Elizabeth Warren, and more than 30 representatives, as co-sponsors. Unfortunately for the nearly 120,000 Maryland residents currently receiving SSI, no member of the Maryland Congressional delegation has yet joined as a co-sponsor.

Most of the SSI eligibility rules have not been updated since the early 1970s when SSI was signed into law. The SSI Restoration Act of 2015 would modestly update some of these rules to be more in line with the economy of today, the value of the dollar, and the needs of older Americans.

The Act provides for several needed updates to the eligibility rules of the SSI program:
- The general income disregard will be increased from $20 to $112 per month, and then indexed for inflation going forward.
- The earned income disregard will be increased from $65 to $364 per month, and then indexed for inflation.
- The asset limit will be raised from $2,000 to $10,000 for an individual and from $3,000 to $15,000 for couples, and then indexed for inflation.
- Individuals who live in households with others, including family members, will no longer be penalized with having their benefits reduced by one-third through the in-kind support and maintenance provision.
- Individuals who transfer assets (even small amounts of money to a family member) will no longer suffer harsh penalties.

For a senior or person with a disability who is receiving only a small amount of Social Security benefits each month, an increase in the general income disregard would provide them with an additional $92 per month in SSI. For example, a widow age 65 or older receiving $550 per month in survivor benefits, may now be eligible to receive $203 monthly in SSI, but that would increase to $295 per month of SSI benefits if the general income disregard were updated from $20 to $112, to reflect inflation since 1972. This would be an increase of over 10% in her monthly income, helping her to pay for adequate food, medicine, transportation, and other necessities. The disregards must also be indexed for inflation going forward, so that they do not lose their value in the future. Another example is the imposition of the in-kind support and maintenance provision, which makes an already difficult

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situation of living on a very low amount of income even worse
for those receiving SSI. If an elderly parent or sibling with a
disability receiving SSI benefits receives assistance of food or
shelter from family members, that SSI beneficiary will likely
be paid at a lower rate. Thus, an SSI recipient living in the
household of another person may be subject to a reduction in
benefits equal to one-third the federal benefit level, or $242,
reducing the SSI benefit down to $491 a month. Because
this rule is quite complex, it imposes an increased financial
burden on SSI recipients and their families, as well as an
administrative burden on already over-burdened local SSA
offices nationwide.

Passing the SSI Restoration Act of 2015 is an important first
step, and gaining co-sponsors for the bill could help raise
awareness among lawmakers and the public of this growing
problem. The Act is not radical. Instead the Act would make
some simple, common sense updates, to a program that is a
last resort for so many. The Act would go a long way toward
making life just a little less frightening and difficult for the
millions relying on SSI. According to the Kaiser Family
Foundation and the US Census, in Maryland alone, there
are 131,959 people over 65 living in poverty (under the
Supplemental Poverty Measure). It is time for the Maryland
Congressional delegation to commit to supporting this
commonsense legislation, to allow these 131,959 Maryland
older adults, and the millions of others across the country, to
age in safety and dignity.

The next CLE is Using and Drafting Trusts. It is being
presented jointly with the E&T Section on FEBRUARY
23, 2016. Mary O'Byrne will be addressing Special Needs
Trusts.

The following CLE will be Guardianship, chaired by An-
gie Grau. There is no date set yet but it will probably the
end of April/early May.

The last one will be Hot Topics, chaired by Morris Klein,
in the end of June/early July.
The Affordable Care Act presented an opportunity for Maryland to rebalance long term care spending away from nursing homes and into home and community-based services. As a result, the Maryland Department of Health and Mental Hygiene (DHMH) chose to expand its Medical Assistance (“Medicaid”) home and community-based programs. With the approval of the Center for Medicaid and Medicare Services (CMS), Maryland launched the Community First Choice (CFC) Program in January 2014 (COMAR 10.09.84.00 et seq.) The CFC allows more people to receive community-based personal care or assistance services. At the same time, CFC also affects and changes several existing Medicaid programs. This article will discuss some of the changes, and some of the resulting problems encountered by clients.

One of the big changes was the merger of the Waiver for Older Adults (WOA) and the Living at Home Waiver (LAH). Many services previously only available through the WOA or LAH waivers are now offered through CFC. Beyond the personal care services of CFC, the services that remain in each waiver have continued as part of a new consolidated waiver called the Home and Community Based Options Waiver (HCBOW), also known as Community Options Waiver (CO) (COMAR 10.09.54.00 et seq.). The medical and financial eligibility criteria remain the same under the merged waiver. The CFC Program also uses one of the same medical eligibility criteria as the waiver which is the nursing facility level of care.

The CO Waiver continues to be available to a limited number of participants and has a registry (waiting list) with approximately 30,000 people interested in applying. Currently very few people, if any, are being invited to apply to the waiver from the registry. Many individuals currently in the community have spent over three years on the waiting list. However, nursing home residents receiving Medical Assistance Long Term Care (MALTC) benefits can apply for CO Waiver benefits without waiting. Persons on the registry do have the option of applying for services under CFC, but the income eligibility criteria is much lower under CFC.

The CFC income eligibility limit is 138% of the Federal Poverty Level (FPL) while the CO Waiver is 300% of the current Supplemental Security Income (SSI) benefit amount. The CO Waiver also has a registry (waiting list) with approximately 30,000 people interested in applying. Currently very few people, if any, are being invited to apply to the waiver from the registry. Many individuals currently in the community have spent over three years on the waiting list. However, nursing home residents receiving Medical Assistance Long Term Care (MALTC) benefits can apply for CO Waiver benefits without waiting. Persons on the registry do have the option of applying for services under CFC, but the income eligibility criteria is much lower under CFC.

The challenge for Maryland is the CFC budget. CFC is a State Plan entitlement which means Maryland cannot put a cap on the number of participants. To work within the confines of the budget, the State adjusted the rates paid to providers. In addition, the Department of Health and Mental Hygiene (DHMH), which operates all of these programs, adopted a new assessment tool called the InterRAI Home Care assessment to determine if a person meets the medical eligibility criteria for any of its Long Term Services and Supports (LTSS) programs such as CFC, CO Waiver and the Community Personal Assistance Services Program (CPAS, formerly called the Medical Assistance Personal Care Program, MAPCP, which will be discussed later in this article). The InterRAI has an algorithm that assigns a participant to one of 23 Resource Utilization Groups (RUGs) with a given budget for each group. The budget is based on a scale of needs and there are seven budget groups. The annual budgets range from approximately $8,336 for Group 1 to $78,269 for Group 7. If a participant cannot be supported in the community within the recommended budget generated by the algorithm, the participant, through their Supports Planner, can request additional funds through an Exceptions Process. According to the Department, the Exceptions Process considers the current level of service of a participant, demonstrated needs, change in circumstance and the health, safety and independence of a participant. The Exceptions Process is found in the State Plan Amendment (not in COMAR) which states an increase in the number of hours of service can be approved based on “medical necessity.”

As a result of the above changes, after the annual assessment, some participants in the Community Options Waiver are receiving termination notices stating they no longer meet the medical eligibility criteria; or stating the number of hours of personal assistance services is reduced. Participants have the right to a fair hearing and if they appeal within 10 days of the date of the denial notice or the termination of benefits, they can request their benefits continue pending the outcome of the hearing (COMAR 10.01.04.00 et seq.) The hearings are adversarial. The DHMH is represented by an Assistant Attorney General with a DHMH doctor testifying as a medical expert in medicine. Sometimes in a termination case, the DHMH will rescind its decision before the hearing when given medical records from treating physicians.
Home & Community-Based Programs...

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supporting the person continuing to meet the medical criteria.

The MAPCP has also been affected by the CFC Program. Effective October 1, 2015, the MAPCP is now called CPAS and services are offered through CFC. The MAPCP offered assistance to people who needed help with at least one activity of daily living (ADL) but did not meet the institutional level of care. Under CPAS, the medical eligibility criteria are unclear. According to proposed regulation changes, a participant shall “be determined by the Department to need personal assistance services.” (42 Maryland Register, January 23, 2015, pages 182-188). The Department states it is making this change to pay for services in a manner that is consistent with the Medicaid Program coverage of personal assistance services under CFC. It remains to be seen how this new regulation, once finalized, will impact low income older adults and people with disabilities.

The Department of Health and Mental Hygiene’s Developmental Disabilities Administration (DDA) operates the Community Pathways waiver (COMAR 10.09.26.00 et seq.) for individuals with developmental disabilities. To be eligible for this waiver, individuals must have a disability, other than the sole diagnosis of mental illness, manifested before age 22, that is likely to continue indefinitely and results in an inability to live independently without supports. As with the Community Options Waiver, there is a waiting list of over 8,000 people. Unlike the Community Options Waiver, however, the DDA waiting list only includes people who DDA has determined meet some or all of the criteria. DDA enrolls people from the waiting list into the waiver based on priority, with those in emergencies receiving services first. As a result, people who need services, but are not in crisis, can spend years on the waiting list without receiving any support services from DDA. Many of these people will be eligible for CPAS and/or CFC and can access these services while waiting for a waiver slot. As of 2015, many people enter the DD Waiver when they qualify as a Transition Youth (TY) at age 21 or 22 because they meet all the criteria and have completed high school. They do not need to be in crisis.

These are only some of the problems facing Marylanders, as the State works to balance long term care spending away from nursing homes and into home and community-based programs. There is clearly a need for personal assistance services for older adults and people with disabilities, to allow them to remain in the community. Time will tell whether Maryland is able adequately to meet its obligations under State and Federal Medicaid law.

News of Interest...

From the Veterans’ Affairs & Military Law Section:

The Homeless Person’s Representation Project (HPRP) just updated their VA Benefits 101 Video Training. The Pro Bono Resource Center (PBRC) hosts the training on their website, and here: http://events.r20.constantcontact.com/register/event?oeidk=a07ebqa2ki4084063ac&llr=56hupukab.

PBRC also hosts HPRP’s Recorded Discharge Upgrade Training here: http://events.r20.constantcontact.com/register/event?oeidk=a07ebqko0q5cl8ae42&llr=56hupukab.
On September 1, 2015, Senator Delores Kelley and the Maryland NAELA Chapter Public Policy Committee met with the key Maryland agencies, regarding fundamental failures in the Home and Community-Based Options Waiver (HCBOW) and Community First Choice (CFC) programs; and the need to pay Guardians of those receiving Medicaid Long-Term Care (MA LTC) benefits. The meeting was attended by the Secretary of Budget and Management for the State of Maryland, David Brinkley, and the Secretary of Health & Mental Hygiene (DHMH), Van Mitchell, to discuss the more than 30,000 Maryland residents who are in need of long-term support and services (LTSS), but who are unable to access Home and Community Based Services (HCBS). Not only are HCBS more desirable than nursing home care, but they are also less costly to the government.

HCBS programs contain institutional costs and can help the state moderate growth of overall Medicaid spending. According to the Maryland Department of Aging’s Analysis of the FY 2016 Maryland Executive Budget, the average annual nursing home cost per senior in 2013 was $72,076 and the average annual HCBS waiver cost per senior was $30,748. Community-based services are a particularly cost-effective investment given that many service recipients would otherwise require nursing home care.

During the meeting, Senator Delores Kelley and the Maryland NAELA Chapter addressed the status of the Maryland Home and Community Based Options Waiver (HCBOW). Although there are 5,405 filled waiver slots, the waiver has been closed to community applicants since 2003. A waiver registry was then created to collect information on individuals interested in applying for waiver services. To access the waiver from the community a person must place her name on the registry then wait for an invitation to apply.

There are currently more than 30,000 people on the registry waiting to receive a waiver slot. As of 30 June 2015, 150 people had been invited from the registry to apply for a waiver slot in 2015. That is a rate of 25 applicants per month. At that rate of 300 people per year, from a 30,000 person registry, that means the registry is effectively a 100 year waiting list. This problem is at least partially the result of an insufficient number of waiver slots, and of the lack of Support Planning Agencies (SPAs) in the Baltimore and Washington areas. SPAs are no longer accepting new applicants because SPAs are not being paid enough. State law allows residents of an institution essentially to bypass the registry, by applying for waiver services from the institution, if the institutional stay is covered by Medical Assistance Long Term Care (MALTC) benefits for more than 30 days. This is known as the Money Follows the Person (MFP) demonstration project, which helps in the transition from an institution to the community. In effect, Maryland is requiring prior institutionalization for eligible community residents to access HCBS. Unfortunately, there is also now a backlog of eligible MFP nursing home residents who are unable to transition from the institution to the community because of the lack of available SPAs.

The failure to provide HCBS, without requiring prior institutionalization, violates Olmstead and the Americans with Disability Act (ADA). A number of lawsuits regarding this problem, have been initiated this year in other states.

For the foregoing reasons, Senator Kelley and the Maryland NAELA chapter requested funding to increase SPAs compensation, and for an additional 10,000 HCBOW slots. In response, DHMH said it will evaluate whether SPA payments can be increased, by county, in an effort to meet the requested $75 per hour for SPAs. DHMH also suggested reducing nursing home beds to fund additional HCBOW waiver slots, but is concerned with the potential political consequences.

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New Guardianship Rules

By Benjamin Woolery

This practice tip is intended to minimize any confusion you might encounter, from some new provisions of our Maryland Rules - well intended as they are, so a little history may help put these changes in context, to allow you to move forward with the positives.

The Rules Committee issued its 187th Report after years of study, then its 188th Report weeks after some Bills were signed into Law by Governor Hogan. The 187th Report makes changes to Title 10 Guardians And Other Fiduciaries as “recommended by registers of wills and Orphans’ Court judges acting as consultants to the Committee” (p.17 of the report). No disrespect is intended by observing that practicing attorneys were not among these consultants. Practicing attorneys were seemingly involved only at the sub-committee levels.

Outlined here are the Rules added or changed by the 187th Report to Title 10, with cryptic side notes:

- 103: Definitions “minor” until 21 if immigrant
- NEW 111: Form for Person &/or Property “Guardianship of Minor” substantially like the form
- NEW 112: Form Person &/or Property “Disabled Adult” substantially like the form
- 201: For “person,” use the Forms of 10-111 & 10-112, & minors “designation of guardian”
- 202: Certificates AND CONSENTS
- 203: Service / Notice {AFFIDAVITS} – contact, locate, identify (or vice versa ?)
- 206: Annual Report – MINORS now too
- 207: strike “(b)” for “(c)”
- 208: strike “(b)” for “(c)”
- 301: “Property” Forms at 10-111 & 10-112, plus Ward’s “Designation of Guardian” (ASTERISK)
- 601: Rule 10-203 for “Absent or Unknown Persons”
- 602: Rule 10-203 for “Absent or Unknown Persons”
- 705: Restricted Accounts – FDIC from $75k to 200k
- 707: Inventory – small changes
- 708: Information Report – huge changes
- 711: strike “(b)” for “(c)”
- 712: strike “(b)” for “(c)”

Scrolling down these, the first few items are self-explanatory, and then you reach 10-202 & 10-203 – starting at page 316 of the 187th Report, then continuing until Page 324, we find an institutionalized scheme for “Minor” cases over Parental service and / or consent. We as practitioners are completely familiar with Process Servers, certified mail “Restricted Delivery,” striving for alternative service sometimes, etc. - these provisions as effective 01 January 2016 elicit data required in our ‘Self-Represented Litigant’ world, in which Court House clerks must help self-represented litigants complete forms without practicing law.

The word ASTERISK denotes a concern over the notion that an Alleged Disabled Adult can “consent” to the creation of a ‘Guardianship’ of her or his person, and/or financial affairs. Is a person who lacks capacity legally able to ‘agree’ to the appointment of a guardian? I think it was from a note in the District of Columbia Bar magazine that I found a comment on this, which goes on to state the following: “See, e.g., In re Guardianship of Macak, 871 A.2d 767, 771-772 (N.J. App. Div. 2005) (holding that “[a]n incapacitated person cannot enter into a consent order declaring him to be incapacitated nor can he consent to the appointment of a plenary guardian”).’ That ‘note’ continued with “An agreement as to who should serve as guardian, however, may be reached in a mediation, subject to court approval, thereby avoiding litigation in as contested guardianship matter where incapacity is not in dispute. In such cases, it is prudent to have a court-appointed attorney or guardian ad litem represent the alleged incapacitated person.” In short, as some have argued in the past, a Jury Trial could be called for so that citizens decide which of us is “incapacitated” since the incapacitated themselves can’t know the answer to these questions themselves.
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Reconcile these ‘designate guardian’ provisions: since Maryland’s statutory form Financial Power of Attorney has language in it whereby the maker can nominate who would be their Guardian, this can work in that fashion; still and all, an Alleged Disabled when suffering the alleged disability cannot sign the ‘Designation of Guardian’ form, right?

The Bottom Line from the 187th Report: revamp your “FORMS” folder -

DHMH stated that they would ?scrub? the registry to determine how many of 30,000 people are still in the community seeking services. Since the meeting, DHMH has completed one ?death match? which entailed cross-referencing people listed on the registry, with a list of people for whom the state has issued death certificates. DHMH has also started removing people from the registry, who have already been through the MFP process. DHMH has stated it will begin to identify people on the registry, who are currently in nursing homes, then will offer them MFP Options Counseling.

Starting in January, the Schaeffer Center at the University of Baltimore will send out letters in waves, several thousand at a time, telling people on the registry to expect a call from Schaeffer that will screen them for services. The Schaeffer Center staff, with the help of autodial technology, will call each person on the list, making three attempts to reach each consumer, then will complete a Level I screen over the phone. After 31 December 2015, the toll-free number for the public to call to add names to the registry, will be closed. Thereafter interested people must call MAP to get on the registry. They will be offered the opportunity to do the Level I screening but, even if they decline, MAP staff will be able to place them on the registry without a score. DHMH has delayed the entire concept of ‘reprioritizing’ the registry, in an effort to determine the most objective approach.

In addition to the problematic status of the HCBOW, Senator Kelley and the Maryland NAELA Chapter discussed obtaining federal financial participation through Medicaid to share in the cost of guardianship proceedings for the elderly and disabled. The motivation behind this policy change is twofold. First, most guardians of the person are public guardians paid by state only funds. Second, guardians of property of long-term care residents frequently retain the ($77) monthly personal needs allowance of the resident in a resident resource account, only later to petition for guardianship commissions or legal fees to be paid from that accumulated personal needs allowance. This leaves unmet, the personal care needs of long-term care residents.

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Many practitioners advised against House Bill 109. It adds another quirky wrinkle to the fabric of our “Guardianship” laws, whether for minors, or adults, or something altogether different. In any event, ironing out these wrinkles is a task our very-own Section Council member Angela Grau of Columbia has taken on recently, chairing an ad hoc Committee that held its initial meeting November 3rd and will meet again during the next Session of our General Assembly. Stay tuned!

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