

## Bar Associations in Focus on Aging and the Law

### Medicare Part D: A Crash Course for Practitioners

Two-Hour Teleconference and Live Audio Webcast

Thursday, March 2, 2006, 1:00-3:00 p.m. ET

Brought to you by the American Bar Association Commission on Law and Aging, the Health Assistance Partnership of Families USA, the Center for Medicare Advocacy, Inc., with the American Bar Association Health Law Section, Standing Committee on Pro Bono and Public Service, and the ABA Center for Continuing Legal Education

Register Online Now at:

<http://www.abanet.org/cle/programs/t06mpd1.html>

**This training, which offers CLE credit, presents a great opportunity for individual pro bono service and could also be used to jump start a bar association project. Please share the announcement with your state and local bar elder law sections and committees.**

This teleconference will provide legal practitioners with the nuts-and-bolts knowledge and skills needed to begin counseling individuals on Medicare Part D options and solutions to individual coverage issues. Issues to be covered include:

- ◆ Who needs a prescription drug plan and who does not?
- ◆ What are the drug coverage options and costs?
- ◆ When is the initial enrollment window/subsequent windows?
- ◆ Who is penalized for late enrollment and how much?
- ◆ Who is automatically enrolled and what to watch out for?
- ◆ Plan “lock-ins” and opportunities to change plans

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**Free step-by-step tool to help beneficiaries choose the Medicare coverage that meets their needs (see page 47).**

### *Partnerships in Law and Aging/ Predatory Lending*

## Fair Lending Outreach to Elders

By Kerstin Arusha

Eighty-year-old Ms. Williams owned her home for more than 40 years. Because of her limited social security income, she refinanced her home to get some additional funds. However, the mortgage payments proved hard to make on her income and she fell behind. A “foreclosure rescue” business approached Ms. Williams, falsely convinced her that she was about to lose her home, and offered to “save her” by refinancing the home under their name. Scared and worried about the losing her home, Ms. Williams signed the papers without understanding that she signed the title of her home to this business. The business then leased the home back to her as a tenant, with a rental rate nearly double her original mortgage payments. Meanwhile, Ms. Williams’s name was still on her original mortgage, even though she no longer owned the home. When Ms. Williams could not pay the “rent,” the business evicted her from her own home. This is a true story—one that occurs frighteningly often.

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*Kerstin Arusha is the directing attorney of the Fair Housing Law Project, a program of the nonprofit Law Foundation of Silicon Valley. Ms. Arusha and her staff represent victims of housing discrimination and predatory lending scams in Santa Clara County, Calif. Contact [kerstina@lawfoundation.org](mailto:kerstina@lawfoundation.org) for more information.*

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## Medicare Part D Crash Course

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- ◆ Formularies, prior-authorization, tiered coverage, step-therapy
- ◆ Eligibility for low income subsidies (“Extra Help”)
- ◆ Using the online Part D Plan Finder
- ◆ Nursing home resident drug coverage issues
- ◆ Exceptions, appeals procedures, trouble-shooting

### Join Our Expert Faculty

Program Moderator: **Charles P. Sabatino**, Director, ABA Commission on Law and Aging, Washington.

Program Faculty: **Leslie Fried**, Project Director, Medicare Advocacy Project, ABA Commission on Law and Aging and the Alzheimer’s Association, Washington; **Vicki Gottlich**, Senior Policy Attorney, Center for Medicare

Advocacy, Inc., Washington; and **Hilary Dalin**, Medicare Coordinator, Health Assistance Partnership (HAP), a project of Families USA, Washington.

### For More Information and to Register

Online: <http://www.abanet.org/cle/programs/t06mpd1.html> or by phone: 800.285.2221 option “2,” weekdays from 8:30 a.m. to 6:30 p.m. ET. Use Reference Event Code “CET6MPD” and Source Code “TCE6EMPD1” when registering.

### Teleconference/Live Audio Webcast Tuition

#### TWO TUITION OPTIONS:

\$125 Primary registrant

\$75 Each add’l registrant using the same phone line, or

#### FREE TUITION, as follows:

This training represents a special effort to help meet the unprecedented demand for Part D counseling offered by State Health Insurance Programs (SHIPs). Thus, the \$125 tuition for this program is waived for all registrants who make a commitment to provide pro bono assistance to a local SHIP or similar program. All you will need to do is confirm within one week of the teleseminar that you have contacted a local program and made a mutually acceptable arrangement to provide pro bono support. SHIP contact information will be provided in the materials.

Staff of Title III and Legal Services Programs are deemed to meet the pro bono requirement.

Cancellations and requests for refunds will be honored on the following basis: 2 business days or more, 100% refund; 1 business day or less, 100% refund minus a \$25 administrative fee. Substitute registrants are welcome. Scholarship applications are available upon request.

### Earn MCLE Credit

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\*States Not Accrediting ABA TeleConferences: DE, IN, KS, OH, PA.

For NY licensed attorneys: This non-transitional CLE program has been approved for experienced NY licensed attorneys in accordance with the requirements of the New York State CLE Board for 2.0 total NY MCLE credits.

### Unable to Participate Live?

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BAR ASSOCIATIONS IN FOCUS ON AGING AND THE LAW  
NEWSLETTER OF THE AMERICAN BAR ASSOCIATION  
COMMISSION ON LAW AND AGING

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## Fair Lending Outreach

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Predatory lending practices toward seniors are a pervasive problem. The Fair Housing Law Project, in collaboration with several other organizations, launched the Fair Lending Outreach to Elders project to prevent and combat brokers and lenders who prey on seniors. This report explains the unique community need, the program and its outcome, and the lessons learned for the future.

**S**anta Clara County elderly homeowners are increasingly at risk for abuse because of their most valuable asset—their home. Home prices in Santa Clara county have skyrocketed.<sup>1</sup> As a result, many seniors who purchased their houses more than 20 years ago, can have significant equity in their home. This equity could be used to support them during retirement and as a buffer for catastrophes.

Unfortunately, unscrupulous mortgage brokers see that equity as a plum ripe for picking. Seniors who lack financial sophistication are convinced to take out new loans at exorbitant rates, involving extremely high fees (in some cases more than \$30,000 for a refinance loan). The number of seniors owing money on their homes increased by 37 percent between 1990 and 2000.<sup>2</sup> Many seniors are victimized by home improvement scams, where the equity is stripped and given to “contractors” who never finish the alleged home repairs.

Seniors are also subjected to “deed theft” scams, where they believe they are refinancing their home, but instead are tricked into signing over their deed and becoming tenants in their own homes. Poor eyesight, diminished capacity, and health problems all contribute to the vulnerability of seniors to these scams.<sup>3</sup> Abusive lending practices have terrible consequences for the homeowner and for the stability of the community. Statistical research has shown that predatory lending costs homeowners in San Jose, California, more than \$110 million per year in fees and stripped equity.<sup>4</sup> These consequences hit seniors particularly hard. Once in a predatory home loan, seniors are often unable to keep up with the payments on a fixed income, leading to default, foreclosure, and, in some cases, homelessness.

As of 2000, some 218,931 seniors lived in Santa Clara County. That number is projected to grow to 288,500 by 2010.<sup>5</sup> One-third of seniors are over 75 years of age. Twelve percent live with two or more disabilities. In addition, Santa Clara County has a diverse senior population. Seniors are 20.4 percent Asian/Pacific Islanders and 12.4 percent Latino.

Fifteen percent of the county’s seniors earn less than \$15,000 annually. More than 23 percent live alone (41 per-

cent of those over 75 years old). More than 80 percent of these seniors own a home. Low-incomes, isolation, and limited English are a recipe for financial abuse. Given these vulnerabilities and the value of their homes, seniors in Santa Clara County are a prime target group for predatory lending.

Research in the subject area supports these observations. Studies have shown that an elderly borrower is three times more likely to receive a high-cost refinance loan than a similarly situated younger borrower.<sup>6</sup> Holding income, credit-worthiness, and housing market factors constant, predatory lending was 25 percent to 31 percent higher in elderly neighborhoods.<sup>7</sup> Seniors who are Latino have added risk factors. In Santa Clara County, high cost loans occurred in 23 percent of all refinance loans to Latinos, but just 11 percent of refinance loans to whites.<sup>8</sup> When comparing high-income Latino borrowers in San Jose to low-income white borrowers in San Jose, those Latino borrowers were still 33 percent more likely to get costlier subprime loans, indicating that race, rather than objective criteria, is driving lending decisions.<sup>9</sup> Once victimized by a predatory loan, other parts of their lives fall apart. All of their money goes to the exorbitant mortgage payment, leading to unpaid bills and cut-off utilities. Seniors who were financially stable suddenly need linkages with benefits and social services.

Many more seniors lose their equity and their homes each year, often with nothing done in response. This stems from two problems. First, the problem is significantly underreported. Experts state that financial abuse occurs at rates between four and five times higher than is reported.<sup>10</sup> Seniors may not realize what has happened, may be physically or mentally incapable of reporting, or may be embarrassed about being defrauded.<sup>11</sup> By the time social services realize the problem, the senior has already lost the home.

Second, the existing services are limited, underfunded, and separate. The support system existing for seniors has not historically addressed predatory lending. Many agencies were unfamiliar with each other’s work. As a result, even seniors receiving social services were not necessarily connected to needed legal help to combat predatory lending.

**T**he Fair Housing Law Project (FHLP) offers legal education and representation to victims of housing discrimination, including predatory home mortgage lending. The project is part of the umbrella organization Law Foundation of Silicon Valley, a 501(c)(3) not-for-profit. The FHLP’s mission is to ensure that households may live in the housing of their choice, regardless of their race, national origin, age, disability, or other arbitrary characteristics. The FHLP has been at the forefront of anti-predatory lending

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## Fair Lending Outreach

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efforts in Santa Clara County. In 2001, FHLP spearheaded an initiative of more than 25 grassroots and governmental entities to combat predatory home lending practices in our area. The FHLP has a staff of five attorneys and two legal assistant/outreach coordinators.

With a grant from the Partnerships in Law and Aging Program of the ABA Commission on Law and Aging and the Borchard Foundation Center for Law and Aging, FHLP initiated a project to enhance senior awareness of the dangers of predatory lending. The FHLP partnered with several agencies focused on serving seniors, including AARP and Senior Adults Legal Assistance, to bridge the gap between predatory lending services and the senior service network. The partnership focused on three main areas:

- ◆ direct educational presentations to seniors,
- ◆ training for staff of senior service providers, and
- ◆ distribution of educational materials.

During the year of the project's funding, FHLP conducted seven educational presentations directly to seniors. The

### *Funding Opportunity*

## **Borchard Foundation Academic Research Grants**

**The Borchard Foundation Center on Law & Aging annually awards up to four grants of \$20,000 each.**

Applications for the grant are due March 15, 2006, and selections will be made by June 1, 2006.

The grant purpose is to further scholarship about new or improved public policies, laws, and/or programs that will enhance the quality of life for the elderly. Each grant recipient is required to publish an article on the subject of their research in a top flight journal.

The request for proposals, which includes information on how and who is eligible to apply, the application, and prior recipients can be found on the Web at: <http://www.borchardcenter.org/argp.html>.

presentations occurred at the following locations: East San Jose Senior Center; Santa Clara County Department of Aging; Santa Clara Senior Center; Mexican Heritage Plaza; Gilroy Resource Center; Catholic Charities: Eastside Neighborhood Center (English-speaking group); and Catholic Charities: Eastside Neighborhood Center (Spanish-speaking group).

These presentations reached a total of 111 seniors. The FHLP staff, bilingual in Spanish, explained the warning signs of predatory lending, key legal protections, how to protect oneself from becoming a victim, and the resources available for those already victimized. Typically, these presentations

**Seniors have difficulty self-identifying as victims of predatory lending. Many were reluctant to appear “dupes” and did not disclose the problem until their house was already lost. Universal screening is considered a best practice for uncovering financial abuse of the elderly.**

lasted between 45 to 60 minutes, followed by a question and answer session. In one case, the workshop involved panels of participants and lasted all morning.

The project also trained nonprofit agency staff to recognize predatory lending targeting seniors. The FHLP conducted four staff trainings, including two to legal service attorneys, one to staff attending a financial education fair, and one to a social service agency for seniors. A total of 28 staff members were trained. These trainings typically lasted one to two hours, and included reviews of the applicable laws, ways to recognize predatory lending, and recourses available to victims.

Participants in presentations and trainings were asked to fill out both pre- and post-tests. These tests contained questions about legal rights pertaining to predatory lending. The pre- and post-tests were compared. If participants did better on average in the post-tests than in the pre-tests, they were considered “more educated” as a result of the presentation. Of the participants trained, 91 percent were “more educated,” according to the testing.

The FHLP and its project partners also distributed educational brochures to seniors and agencies serving seniors. The project distributed approximately 500 brochures to community centers, service agencies, government offices, and other locales likely to reach seniors.

The project was successful in both educating seniors about predatory lending and increasing senior access to legal services on that issue. During the term of the grant, 43 percent of FHLP's predatory lending cases were seniors. The project alerted social service staff members to the problem of predatory lending, thereby increasing referrals to appropriate legal help.

This project resulted in important conclusions for FHLP, especially regarding work with seniors. First, we found it challenging to find effective venues for our educational presentations. Seniors were reluctant to attend a specially-scheduled workshop at a location they did not already visit. On the other hand, presentations held at senior centers in conjunction with pre-existing social activities met resistance from seniors who preferred the social activity. For example, we learned that it is impossible to attract attention for predatory lending when a senior dance is imminent! In general, presentations before or after a scheduled group (but not a wildly popular activity) at a senior center worked best.

We also learned that seniors have difficulty self-identifying as victims of predatory lending. Many were reluctant to appear “dupes” and, thus, did not disclose the problem until their house was already lost. Universal screening is considered a best practice for uncovering financial abuse of the elderly.<sup>12</sup> Elderly clients may not volunteer the problem, but will respond to direct questions, which both eliminate the stigma and raise awareness of the issue.<sup>13</sup> In the future, we would like to work with senior organizations to implement a universal screening tool to identify those at risk of predatory lending before it is too late.

The FHLP’s increased senior clientele led to important conclusions. Seniors facing predatory lending often have multiple concurrent needs, including financial management, benefit support, assistance with disabilities, and grief counseling. The attorneys handling their predatory lending cases could not adequately address all of these needs. In addition, project staff learned of the importance of social work services available for these victims. As shown by the growth of multidisciplinary teams addressing elder abuse, combining outreach, social work, and legal services can be an effective method of combatting predatory lending. A study of multidisciplinary teams found that involvement of legal expertise was crucial.<sup>14</sup> Addressing problems in a holistic manner, coupling legal assistance and social work, reduces duplication of effort and leads to better outcomes.<sup>15</sup> The FHLP project intends to work in partnership with social work providers to better assist seniors in the future.

In summary, the Fair Lending Outreach for Elders project was a crucial first step in connecting seniors to existing predatory lending prevention services. Significant numbers of seniors and social services staff were educated about the warning signs of predatory lending. This led to increased legal services for senior victims.

## Notes

1. Sue McAllister, *Santa Clara County Home Prices Sizzle*, San Jose Mercury News (July 20, 2005).

2. Tamara Draught and Heather McGee, *Retiring in the Red, the Growth of Debt Among Older Americans*, in *Borrowing to Make Ends Meet* 7 (Feb. 2004).
3. David Wood, Financial Markets and Community Investment, Testimony Before the Special Committee on Aging, *Federal and State Agencies Face Challenges in Combating Predatory Lending* (Feb. 2004); Richard Bonnie and Robert Wallace, Eds., *Elder Mistreatment: Abuse, Neglect, and Exploitation in an Aging America* (National Research Council, 2003).
4. ACORN, *Stolen Dreams: Predatory Lending in San Jose* (April 2003).
5. The statistics in this paragraph are from the U.S. Census, County of Santa Clara Demographics Table (2000).
6. Neal Walters and Sharon Hermanson, *Subprime Mortgage Lending and Older Borrowers* (AARP, March 2001).
7. National Community Reinvestment Coalition, *The Broken Credit System: Discrimination and Unequal Access to Affordable Loans by Race and Age* 7 (2003).
8. Jean Crawford and Heidi Li, *Santa Clara County Anti-Predatory Lending Homeowner Protection and Employment Initiative* (Aug. 2002).
9. Center for Community Change, *Risk or Race? Racial Disparities and the Subprime Refinance Market* (May 2002); SCC FMTI report (2002).
10. National Center on Elder Abuse, *National Elder Abuse Incidence Study 1-9* (1998); Lori Stiegel, *Financial Abuse of the Aging: Risk Factors, Screening Techniques, and Remedies* (ABA Commission on Law and Aging).
11. *Id.*
12. Stiegel, at 3.
13. *Id.*
14. Pamela Teaster and Lisa Nereberg, *A National Look at Elder Abuse Multidisciplinary Teams* (National Committee for the Prevention of Elder Abuse, 2004).
15. See, e.g., Tanya Neiman, *Creating Community by Implementing Holistic Approaches to Solving Clients’ Problems*, 19 J. of Poverty Law 23 (May-June 1999).

## New Resource

### Twenty Common Nursing Home Problems—And How to Resolve Them

The National Senior Citizens Law Center is pleased to announce the publication of *Twenty Common Nursing Home Problems – and How to Resolve Them*. The guide explains the relevant law and offers clear instructions on how to obtain the high-quality care to which residents are entitled. The guide covers issues relating to quality of care, Medicare, Medicaid, health care decisionmaking, admissions, evictions, and other topics. It is appropriate for consumers, advocates, and others.

Additional information and an excerpt are available at [www.nslc.org/news/06/20comm\\_nhprob.htm](http://www.nslc.org/news/06/20comm_nhprob.htm).

## Scholarships Available to Attend the 2006 National Aging and Law Conference

### Applications due March 10, 2006

The AARP Foundation has made a generous donation to fund scholarships for several participants to attend the 2006 National Aging and Law Conference (NALC) being held on April 20-23, 2006, in Crystal City, Virginia. Scholarships may cover tuition, lodging and/or airfare, depending on need.

Consideration will be given to all applicants; however, priority will be given to applicants who:

- ❖ Have not previously attended the NALC
- ❖ Demonstrate financial need
- ❖ Provide legal services and advocacy to older clients

To apply, download a scholarship application from the National Legal Training Project Web site at [www.aarp.org/nltp](http://www.aarp.org/nltp). E-mail your completed application to [anadavis@aarp.org](mailto:anadavis@aarp.org) or fax to (202) 434-2110.

## Fellowship Opportunity

### John Heinz Senate Fellowship Program

The John Heinz Senate Fellowship Program, created in 1992, is designed as a career development opportunity for professionals in the field of aging, and provides experience in the development and advancement of public policy and legislation to improve the quality of life for older Americans.

The fellowship is for one year (September 2006 - August 2007), and the successful candidate will work in a U.S. Senator's office or with Senate Committee staff. Fellows are paid an annual stipend not to exceed \$53,300 plus standard federal government benefits.

#### Applications are due March 25.

Information about the program is on-line this year, and is at <http://www.heinzfamily.org/programs/senatefellowship.html>

The contact person is Kim O'Dell at 412-497-5790, or by e-mail at [fellow@heinzoffice.org](mailto:fellow@heinzoffice.org)

## Top 10 Resolutions from White House Conference on Aging

The 2005 White House Conference on Aging officially closed on Wednesday, December 14, 2005. Delegates in attendance, including Director of the ABA Commission on Law and Aging **Charles P. Sabatino**, and Commissioner **Jorge J. Lambrinos**, selected the top 50 resolutions to present to the president and Congress, and participated in working groups to develop strategies for implementing the resolutions. The top 10 resolutions as voted by the delegates are:

1. Reauthorize the Older Americans Act Within the First Six Months Following the 2005 White House Conference on Aging
2. Develop a Coordinated, Comprehensive Long-Term Care Strategy by Supporting Public and Private Sector Initiatives that Address Financing, Choice, Quality, Service Delivery, and the Paid and Unpaid Workforce
3. Ensure that Older Americans Have Transportation Options to Retain Their Mobility and Independence
4. Strengthen and Improve the Medicaid Program for Seniors
5. Strengthen and Improve the Medicare Program
6. Support Geriatric Education and Training for All Healthcare Professionals, Paraprofessionals, Health Profession Students, and Direct Care Workers
7. Promote Innovative Models of Non-Institutional Long-Term Care
8. Improve Recognition, Assessment, and Treatment of Mental Illness and Depression Among Older Americans
9. Attain Adequate Numbers of Healthcare Personnel in All Professions Who are Skilled, Culturally Competent, and Specialized Geriatrics
10. Improve State and Local Based Integrated Delivery Systems to Meet 21st Century Needs of Seniors

For a full listing of the 50 resolutions, see on the Web : [www.whcoa.gov](http://www.whcoa.gov).

## *Funding Opportunity*

### **2006-2007 Borchard Fellowship in Law & Aging**

The Borchard Fellowship in Law & Aging affords one year for two law school graduates interested in, and perhaps already in the early stages of pursuing, an academic and/or professional career in law and aging, the opportunity to pursue their research and professional interests. During the fellowship period, the center's executive director and research associates stand ready to assist each fellow with the further development of his/her knowledge, skills, and contacts. A fellow's activities and projects must be supervised by a licensed attorney and/or a legal services organization. A fellow is expected to provide the center's executive director with monthly activities reports.

Examples of activities by recent Borchard fellows include:

- ◆ Writing and publication of law review articles on law and aging issues;
- ◆ Writing and publication of state-specific, consumer-oriented handbooks on legal issues affecting older persons;
- ◆ Teaching elder law and related courses at law schools where fellows reside;
- ◆ Development of an interdisciplinary elder law clinical program at a major public university law school;
- ◆ Development of a mediation component for a legal services program elder law hotline;
- ◆ Organizing and/or attending national conferences on law and aging issues;
- ◆ Providing supervised pro bono legal representation of older clients.

The fellowship is \$36,000 and is intended as a full-time position only. All fellowship projects and activities must be supervised by a licensed attorney and/or a legal services organization. Fellows may live and work where they choose in the United States; fellows must be either U.S. citizens or legal residents of the U.S.

The fellowship period runs from July 1 to June 30 each year, or for the calendar year beginning the month after the fellow's completion of a state bar examination.

Applicants must submit a completed application form, a current curriculum vitae, a letter of support from the proposed supervisor, and two other letters of support. Fellowship application information and form are available at [www.borchardcenter.org](http://www.borchardcenter.org).

Completed applications should be sent to:

The Borchard Foundation Center on Law & Aging  
1414 East 4500 South, Suite 2  
Salt Lake City, Utah 84117

Applications must be post-marked by April 15, 2006. Selections are made by June 1, 2006. For further information, please contact: Mary Jane Ciccarello, phone (801) 272-3514, e-mail: [mjc@elderlawutah.com](mailto:mjc@elderlawutah.com).

## **12th Annual n4a Aging Policy Briefing**

**May 1-3, 2006, Washington**

Join other aging and health and human services professionals at n4a's 12th Annual n4a Aging Policy Briefing in Washington. The briefing will provide you with the information you need to advocate effectively year-round. You'll also get in-depth insight into the political and legislative agendas in Washington and how they will impact your state and local services.

To be an effective advocate every aging professional must stay informed about Congress, the critical issues that are expected to top their agenda...and the issues that we must get on that agenda!

### **Schedule At-a-Glance**

#### **Monday, 5/1: Afternoon of Advocacy.**

Dust off or polish up your advocacy skills with our afternoon opener.

**Tuesday, 5/2: Aging Policy Briefing.** Get the latest insights from administration officials, congressional staff, and aging-policy analysts on what the 2nd session of the 109th Congress holds for aging advocates in this day-long briefing on Capitol Hill. Special emphasis on Older Americans Act reauthorization, Medicare Part D, Medicaid reform and more.

**Wednesday, 5/3: Capitol Hill Day. Put your advocacy into action!** Meet with your Senators, Representatives and/or their staff to advocate for national aging policies that will enable older adults to remain in their homes and communities.

To learn more and to register, visit the Aging Policy Briefing Web page: <http://www.n4a.org/getintheact2006.cfm>, or to register via fax or mail, contact Rhoda Seay at 202-872-0888.

## Practical Presentations for Elder Law Day

Law Day is an ideal time for sponsoring programs to educate older Americans about their rights and call attention to legal resources available to seniors in the community. Since May is Older Americans Month, it is also a good time to sensitize attorneys to the concerns of the elderly and encourage them to volunteer in reduced fee or free legal programs for those with limited income.

### Program Suggestions

There are many ways to plan a special elder law day program or to incorporate seniors into ongoing Law Day programs.

- **Seminars for Seniors**  
Present a seminar, with keynote speakers and workshops. Offer seminars and materials in languages other than English.
- **Phone-In Programs**  
Sponsor a toll-free call-in just for seniors.
- **Mock Trials**  
Hold a mock trial of a case regarding termination of life support for an incompetent person.

Other program suggestions include courthouse tours, cable TV programs, special luncheons, and ask-a-lawyer programs at malls, senior centers, or nursing homes. Program topics might focus on wills, health care power of attorney, reverse mortgages, telemarketing fraud, trusts, or guardianships.

### Planning Tips

Keep in mind when planning a program that transportation can be a problem for many senior citizens. Choose a location that is well known, close to public transportation, and easily accessible for those with disabilities. Check to make sure the room has good lighting, comfortable seating, an adjustable temperature setting, and an adequate sound system.

Consider scheduling your program in the morning or mid-day rather than late afternoon or evening. Avoid programs that are too long or include too many different speakers.

If your program includes opportunities for seniors to meet with an attorney, try to arrange the room to ensure privacy for each participant and to reduce background noise. Ask volunteers to speak in a low-pitched voice and to sit so people can see their lips. Avoid having people face a source of glare, such as a window, and consider extending the length of individual conferences from 15 minutes to a half hour or even 45 minutes, if possible.

### Elder Law Day is May 1, 2006

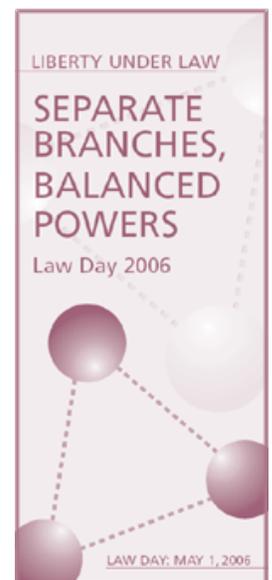
Offer handout materials in a larger typeface for participants to take after the program and include a list of area organizations that offer low-cost legal services.

**Contact the ABA Commission on Law and Aging for program ideas and additional handout materials.**

Remember that age bias is deeply ingrained in our society and can interfere with your program's success. While designing materials or making room arrangements to compensate for possible hearing or vision loss, avoid adopting a patronizing attitude. Help volunteers recognize "age-ist" stereotypes and check their own pre-existing perceptions. Recruit attorneys who specialize in elder law to brief volunteers or ask someone who regularly works with seniors to address your group prior to the program.

With careful planning and enthusiastic volunteers, you can sponsor a Law Day project that will be appreciated by seniors and the community groups that serve them. An elder law program can generate positive media coverage for your organization while creating opportunities for members or potential members to serve the community. Your members may find the interaction between seniors and volunteers to be a learning experience for both groups.

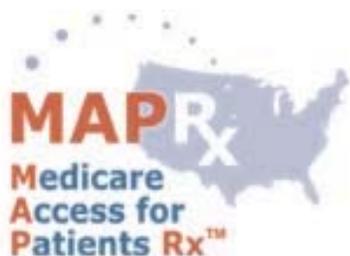
**How will your group use this year's theme of "Separate Branches, Balanced Powers" to expand knowledge about the rights of elders and to meet their law-related needs? E-mail *Bifocal*, at [Philpotj@staff.abanet.org](mailto:Philpotj@staff.abanet.org), with your project ideas and we'll share them in upcoming issues.**



## *New Resource/Medicare Prescription Drug Coverage Enrollment*

### **Free Tool to Help Beneficiaries Choose Medicare Rx Coverage**

As millions of seniors and people with disabilities are trying to determine the Medicare prescription drug plan that is best for them, Medicare Access for Patients-Rx (MAPRx) released RxCompare™, a free guide that helps users determine if they need to enroll in a Medicare prescription drug plan and to more easily compare their drug plan options to find the best plan for them.



RxCompare™ is available in PDF format on the Web at: [www.maprx.info](http://www.maprx.info).

RxCompare™ works with Medicare's online Prescription Drug Plan Finder, information provided by individual plans, or by customer service representatives at 1-800-MEDICARE. It includes drug plan worksheets, to help users compile relevant information about plans they are considering, and a drug plan comparison chart, to compare the key components of those plans. In addition to easy-to-follow instructions for completing the worksheets and comparison chart, RxCompare™ also offers answers to frequently asked questions, definitions of key terms, and guidance on making a final decision and enrolling.

The guide presents the three basic questions each beneficiary has to ask themselves to determine if they need to enroll in a prescription drug plan and whether or not they can apply for extra help in paying for coverage. It also provides critical information to dual eligible individuals about enrollment and payment under Medicare prescription drug coverage.

The guide can be used by a beneficiary and/or caregivers in a variety of settings, including:

On-line: (whether on a home computer, a library, or at numerous sites across the country where volunteers are assisting beneficiaries in this process);

Telephone assistance: with 1-800-MEDICARE service representatives or Part D plan operators; or

Face-to-face assistance: with state and local SHIP counselors.

The guide is available in a large print version, and in a Spanish-language version.

MAPRx is a coalition of patient, family caregiver, and health professional organizations committed to safeguarding the well-being of people with chronic diseases and disabilities under Medicare Prescription Drug Coverage. See list of member organizations at [www.maprx.info/about\\_us.html](http://www.maprx.info/about_us.html).

## **GET CONNECTED TO ELDERBAR**

Join Elderbar, the listserv that brings together public sector law and aging advocates and the private bar. Elderbar is for you if you are a:

- ◆ Title III B legal services provider, legal services developer, long-term care ombudsman, or other Older Americans Act-funded elder rights advocate;
- ◆ Legal Services Corporation, other non-profit, or public sector legal advocate;
- ◆ Law school elder law or clinical staff;
- ◆ Bar association elder law section or committee leader; or
- ◆ National law and aging advocate.

Elderbar will give you the opportunity to communicate across the boundaries of the law and aging networks and the public and private sectors. You will be able to share ideas and information about bar sections and committee structures and activities, and to learn what others are doing in the face of funding shortages and practice restrictions to meet the legal needs of older people. Elderbar is a project of the ABA Commission's National Legal Assistance Support Center. It is a closed list; messages can only be posted and read by members.

To subscribe, please send your name, e-mail address, and professional affiliation to Stephanie Edelstein at [selstein@staff.abanet.org](mailto:selstein@staff.abanet.org).

## New Resource/Guardianship

### 2005 Annual Adult Guardianship State Legislative Update

#### ABA Commission on Law and Aging

In 2005, at least 14 states passed a total of 24 adult guardianship bills—as compared with 19 bills in 14 states passed in 2004.

This year, New Jersey enacted the first major reform of the state’s guardianship laws in more than 30 years. Six states made changes in their public guardianship programs, including legislation in Texas providing for extensive reform and reorganization of adult protective services and guardianship; as well as the creation of a public guardianship program in Georgia. Two states (Texas and New Jersey) initiated guardian certification/registration programs, and one state (Idaho) included certification in a pilot program. In addition, a number of states strengthened the monitoring and accountability of guardians, while others made procedural changes or addressed the powers and authorities of guardians.

**View the complete report on the Web site of the ABA Commission on Law and Aging at: <http://www.abanet.org/aging/guardianship/06/gdlegisupdate0106.doc>**

If you know of additional state guardianship legislation enacted in 2005, please contact Erica Wood, ABA Commission on Law and Aging, e-mail: [ericawood@staff.abanet.org](mailto:ericawood@staff.abanet.org), or phone: (202) 662-8693.

#### Legislation At-a-Glance

State	Bill Number	Provisions
Arkansas	HB 1752	Requires certain disclosure by guardian of veteran.
Colorado	HB1013	Requires prospective guardian to file criminal history record check.
Connecticut	SHB 6849	Addresses temporary conservatorship.
Connecticut	SHB 6851	Requires court approval for placement of ward in skilled or intermediate care facility.
Georgia	HB 394	Establishes system of public guardians.
Idaho	HB 79	Sets out duties & powers of guardian ad litem.
Idaho	HB 80	Sets out requirements for conservator’s report.
Idaho	HB 82	Revises procedures for appointment of temporary guardian/conservator.
Idaho	HB 131	Establishes pilot project on reporting & monitoring system.
Iowa	HF825	Creates office of substitute decision makers.
Minnesota	HF 2156	Addresses certain conservatorship transactions.
Nevada	AB 151	Concerns county public guardianship programs.
New Hampshire	SB 59	Makes revisions in guardian’s annual report requirements.
New Jersey	SB 221	Establishes registration requirement for private professional guardians.
New Jersey	SB 224	Makes comprehensive revisions in guardianship law, including emphasis on limited guardianship and revisions in powers and duties of guardian.
New York	A5323	Allows guardians of individuals with developmental disabilities to make decisions to withhold or withdraw life-sustaining treatment subject to strict controls.
North Dakota	SB 2028	Provides for system of guardianship services.
North Dakota	SB 2029	Sets out procedure for appointment of successor guardian.
North Dakota	SB 2030	Revises requirements for guardian’s report.
Texas	SB 6	Makes substantial changes in state’s guardianship and elder abuse systems.
Texas	HB 1191	Concerns ward’s request for termination or modification.
Texas	HB 230	Concerns removal of guardian who has neglected ward.
Texas	SB 346	Concerns removal of guardian who fails to return inventory.
Virginia	SB 719	Addresses public guardianship in uncovered areas of state.
Washington	SHB 1876	Concerns voting rights for individuals under guardianship.

## *Survey Question for State Elder Bar Sections and Committees*

### **What Are the Advantages, and Disadvantages, of a Combined Elder/Disability Bar?**

The ABA Commission on Law and Aging has received a request for information from state and local bars that have chosen to establish an Elder-Disability Law Section or Committee rather than a discrete Elder Law Section, as well as from those that have considered the issue and have decided against it. If the bar section or committee in your jurisdiction falls into either of these categories, we would greatly appreciate your response to the following questions:

1. What state is your section/committee in?
2. What is your bar section or committee name?
3. What is the year your section/committee was created?
4. How many members?
5. If a combined elder/disability entity, what are the advantages?
6. If a combined elder/disability entity, what are the disadvantages?
7. If the entity is elder law only, have you considered expanding to include disability issues and advocates? If you have, and decided against doing so, what were the reasons for that decision?
8. Other thoughts?

Please e-mail your survey responses to Stephanie Edelstein at [sedelstein@staff.abanet.org](mailto:sedelstein@staff.abanet.org). Survey respondents will automatically receive a summary of the survey responses.

**If you have a query for state elder bar sections and committees that you would like to have published in an upcoming issue of *Bifocal*, e-mail your question to Jamie Philpotts at [philpotj@staff.abanet.org](mailto:philpotj@staff.abanet.org).**

## **Subscribe to *Bifocal***

The ABA Commission on Law and Aging is pleased to announce that its newsletter *Bifocal* is now distributed six times a year and in a PDF format utilizing listserve technology. Subscribers receive their subscriptions electronically—with expanded content, substantive articles by experts in the field, new columns of interest to law and aging advocates, as well as reports on state elder bar activities, funding and other opportunities, law day ideas, reviews of pertinent resources, and contacts for technical assistance.

## **It's Free!**

The ABA Commission on Law and Aging is distributing this new information service for free to legal services providers, elder bar section and committee members, private practitioners, judges, court staff, elder advocates, policymakers, law schools, clinics, and libraries, and other professionals in the law and aging network.

## **E-mail Now to Receive Your Complimentary Subscription**

Send an email to: [Bifocalnewsletter-subscribe-request@mail.abanet.org](mailto:Bifocalnewsletter-subscribe-request@mail.abanet.org). Include your name, title, and professional affiliation.

# 6th Annual National Aging and Law Conference

Elder Rights: Building on the Past, Strengthening our Future

April 20 - 23, 2006  
Arlington, VA

Sponsored in part by  AARP  
FOUNDATION

We are proud to announce the Sixth Annual National Aging and Law Conference, sponsored by the AARP Foundation, ABA Commission on Law and Aging, the Center for Social Gerontology, the Center for Medicare Advocacy, National Academy of Elder Law Attorneys, National Consumer Law Center, National Association of State Units on Aging, and the National Senior Citizens Law Center.

The conference affords advocates an exciting opportunity to identify creative approaches to the emerging legal needs of older persons and serves as a catalyst for valuable collaborative cross-disciplinary advocacy initiatives. Highlights of this year's conference include:

- A pre-conference day on April 20 with sessions on the “nuts and bolts” of aging and law topics;
- 50+ workshops and roundtables focusing on cross-cutting issues in the law; and
- Opportunity to network with legal services and aging advocates nationwide.

Participants represent Administration on Aging-funded and Legal Services Corporation-funded legal assistance providers, the private bar, law school faculty, state and area agency staff, trainers, social services providers, long-term care ombudsmen, and state and federal legislative staff.

Visit the NALC 2006 Web site at <http://nalc.grovesite.com/> to register online and to learn more about the conference including: NALC scholarships; the pre-conference; the main conference and schedule; the town hall event; invited speakers; hotel accommodations and dining information; and sponsors.

## NALC Town Hall Meeting With National Academy of Elder Law Attorneys

On Thursday, April 20, 2006, from 3:00 p.m. to 5:00 p.m., NALC attendees are invited to participate in a lively “Town Hall Meeting” with the attendees of the National Academy of Elder Law Attorneys (NAELA) conference, which is being held in Washington during this same time period. Representatives from the Centers for Medicaid and Medicare (CMS) will participate in the meeting.

This meeting is designed to promote a dialog. It will be of value to those who advise elderly and disabled individuals and their families as they sort out participation in Part D. While program implementation is in its early stages, lessons learned will be important for future enrollees and clients. In addition to common enrollment questions, the program will discuss concerns such as selecting a Part D plan for nursing home and assisted living residents that meets the needs of both resident and facility; identifying persons for making enrollment decisions on behalf of a resident who lacks decision-making capacity; and avoiding potential gaps in coverage for residents who qualify for Medicaid after May 2006.

This program will be held at the site of the NAELA conference, the Hyatt Regency Hotel near the U.S. Capitol in Washington. Free buses will be available to shuttle NALC attendees to this site.

After the meeting attendees are invited to join NAELA attendees at a joint reception. In addition, NALC 2006 attendees will be able to attend designated sessions of the NAELA conference at no additional charge.